

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 9 April 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 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.

**MEMBERS ABSENT:**

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHAN YUEN-HAN, J.P.

**PUBLIC OFFICERS ATTENDING:**

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

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

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

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.  
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

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

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE

DR THE HONOURABLE PATRICK HO CHI-PING, J.P.  
SECRETARY FOR HOME AFFAIRS

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

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

### **CLERKS IN ATTENDANCE:**

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

**Subsidiary Legislation/Instruments***L.N. No.*

Import and Export (General) (Amendment) (No. 2)

Regulation 2003 ..... 93/2003

Immigration (Anchorages and Landing Places)

(Amendment) (No. 2) Order 2003 ..... 94/2003

**Other Papers**

No. 73 — Audited Statement of Accounts of the Hong Kong Rotary Club Students' Loan Fund together with the Director of Audit's Report for the year ended 31 August 2002

No. 74 — Audited Statement of Accounts of the Sing Tao Foundation Students' Loan Fund together with the Director of Audit's Report for the year ended 31 August 2002

No. 75 — Summary and Revenue Analysis by Head,  
General Revenue Account,  
Estimates for the year ending 31 March 2004

No. 76 — Approved Estimates of Income and Expenditure for  
financial year 2003/2004,  
Securities and Futures Commission

**WRITTEN ANSWERS TO QUESTIONS****Applications for Legal Aid in Proceedings Concerning Human Rights**

1. **MS CYD HO:** *Madam President, with regard to the applications, since the enactment of the Hong Kong Bill of Rights Ordinance (BORO) (Cap. 383), for legal aid in proceedings relating to breaches of the BORO and/or inconsistency with the International Covenant on Civil and Political Rights (ICCPR) as applied to Hong Kong, will the Government inform this Council of:*

- (a) the number of applications in each year and the relevant provision(s) of the BORO and/or the ICCPR cited in each application;*
- (b) the number of successful applications and, among them, the number of applications in which the limit of financial resources imposed on legal aid applicants was waived by the Director of Legal Aid under section 5AA of the Legal Aid Ordinance (Cap. 91);*
- (c) the number of rejected applications and the reason(s) for rejection; and*
- (d) the number of appeals against the rejection and the appeal results?*

**CHIEF SECRETARY FOR ADMINISTRATION:** Madam President, based on the computer records kept by the Legal Aid Department, the information as requested is set out in the table at Annex.

Application for Legal Aid in Civil Proceedings relating to breaches of the BORO (Cap. 383) and/or inconsistency with the ICCPR

		1992 <sup>1</sup>	1993	1994	1995 <sup>1</sup>	1996 <sup>1</sup>	1997	1998 <sup>1</sup>	1999 <sup>1</sup>	2000 <sup>1</sup>	2001	2002
(a)(i)	No. of applications	1	1	5	15	5	15	2	12	4	1	3
(a)(ii)	Relevant provisions	Not cited in most applications. The provisions subsequently identified or relied upon as being relevant were Articles 20, 21 and 22 of the BORO and Articles 23, 24 and 26 of the ICCPR, which cover rights in respect of marriage and family; rights of children; right to participate in public life; and equality before and equal protection of law.										
(b)(i)	No. of successful applications	0	0	3	8	1	2	0	0	1	1	0
(b)(ii)	No. of successful applications included in b(i) in respect of which waiver of upper financial eligibility limit was exercised	0	0	0	1	0	1	0	0	0	1	0
(c)(i)	No. of applications refused	0	1	2	6	3	13	1	9	1	0	3
(c)(ii)	Grounds of refusal	Mainly that there was no reasonable grounds for taking the proceedings and/or it was not reasonable to grant aid in the particular circumstances of the cases concerned.										
(d)(i)	No. of legal aid appeals	0	1	0	3	1	6	1	0	0	0	2
(d)(ii)	Outcome of legal aid appeals											
	Allowed		1									
	Dismissed				3	1	6	1				1
	Hearing Adjourned											1

<sup>1</sup> The differences between the total number of applications and the sum of successful applications and applications refused in these years are due to the fact that some applications were subsequently withdrawn.



**Ferry Service Between Kowloon and Macao**

2. **MR LEUNG FU-WAH** (in Chinese): *Madam President, it has been reported that, immediately following the announcement by Shun Tak-China Travel Ship Management Limited to cease operating the ferry service between Macao and China Ferry Terminal at Tsim Sha Tsui, Kowloon with effect from 11th last month, the remaining sole operator of the route raised its fares for the service, leaving the consumers no other choice but to bear the higher fares. It is learnt that operators concerned need not apply for any licence or sign any contract with the Government for operating the ferry service. All they have to do is to apply to the Marine Department for permission to use the terminal facilities. Regarding this arrangement, will the Government inform this Council:*

- (a) of the criteria adopted for setting this arrangement;*
- (b) whether the same arrangement applies to other cross-boundary ferry services; if not, of the reasons for the difference in arrangement; and*
- (c) whether the Administration will review the relevant arrangement; if not, of the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President, all cross boundary passenger ferry services to/from Macao and mainland cities are operated by private companies on commercial principles at the Macau Ferry Terminal in Sheung Wan and China Ferry Terminal in Tsim Sha Tsui. The operators determine the destination, operating hours, service frequency and fares for their routes in the light of market demand and apply to the Marine Department for use of terminal facilities such as berthing slots.

According to the Shipping and Port Control Ordinance (Cap. 313), the Marine Department is responsible for monitoring vessel and passenger safety as well as safe operation of vessels in the terminals. Upon receiving applications from the operators, the Marine Department will vet the applications according to the following principles:

- the vessels to be used will operate safely in the berths and will not affect other vessels and passenger safety;
- the availability of berthing slots;
- should there be more than one application for the same berthing slot, the Marine Department will try to strike a compromise amongst the applicants. Failing which, the applications will be processed on a first-come-first-served basis; and
- supporting document showing permission given by the relevant authorities outside Hong Kong for the proposed ferry service.

Cross boundary ferry services have always been operated on a free market basis with the Government ensuring vessel and passenger safety through monitoring by the Marine Department. Adjustments to routes, frequency of services and fares are commercial decisions of the operators. Competition exists between the different companies offering similar services from different terminals. Such an arrangement has been working well. It is able to meet the traffic demand to/from Macao and mainland cities and provides flexibility for business operations.

### **Towngas's Share of Domestic Gas Market**

3. **MR FRED LI** (in Chinese): *Madam President, a recent investment research report pointed that the Hong Kong and China Gas Company Limited (Towngas) achieved a hefty 34% return on fixed assets last year, and the firm's share of the piped-gas market has already reached 70%. In this regard, will the Government inform this Council:*

- (a) *whether it has examined Towngas' current share of the domestic gas fuel market and estimated the firm's respective shares in five and 10 years;*
- (b) *whether it has assessed if monopoly has already existed in the domestic gas fuel market; if the assessment result is in the affirmative, of the follow-up actions it will take;*

- (c) *of the detailed content and scope of the study being conducted to examine the viability of introducing a common carrier system for natural gas, with a view to providing an additional choice in domestic gases; and*
- (d) *whether, apart from entering into an Information and Consultation Agreement with Towngas for the purpose of increasing the transparency in tariff setting mechanism and justifications thereof, it will consider regulating Towngas' permitted level of return, gas tariff and related matters; if it will, of the details of its consideration; if it will not, the reasons for that?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese) Madam President, Towngas does not have a franchise or any exclusive right to supply gas in the territory. It operates in an open market environment and is a publicly listed company. In 2000, Towngas accounted for about 63% of the energy sold in the domestic water heating and cooking fuel market. As the company operates in an open market environment, its future market share will, among others, depend on the changing market conditions. The Government does not have a forecast of the company's market share in the coming five or 10 years.

From the energy users' perspective, a choice exists and there is competition among Towngas, liquefied petroleum gas (LPG) and electricity. The scale of operation or a major market share *per se* does not determine whether a business is anti-competitive or not. The Government has no plan to regulate Towngas' rate of return or the tariff of Towngas.

The Government and Towngas have recently entered into a new Information and Consultation Agreement (ICA) relating to Towngas' core gas business and gas-related activities in Hong Kong to increase transparency in the Towngas' tariff setting mechanism. Under the new ICA, the company will provide the Government annually with its planned capital investment and expenditure on network repairs and maintenance in the coming financial year and

the actual expenditure on these items in the preceding year. At the same time, to increase transparency, the company will provide information to the public in its annual publication (that is, Towngas Corporate Information) on its operational efficiency, environmental awareness, and measures to enhance safety of the public and the gas supply system.

The primary objective of the Government's energy policy (including gas supply) is to ensure that consumers enjoy reliable and safe supplies of energy at reasonable prices. One key factor for the development and introduction of natural gas to Hong Kong at the household level is the availability of reliable, secure and affordable supply. We will continue to monitor the development of supply sources close to Hong Kong and conduct further detailed studies as appropriate.

### **Mobile Library Service**

4. **MR FREDERICK FUNG** (in Chinese): *Madam President, regarding the mobile library service provided by the Leisure and Cultural Services Department (LCSD), will the Government inform this Council of:*

- (a) the number of times the service was used in each of the past five years;*
- (b) the existing number of vehicles deployed to provide the service and the annual operating expenditure in this respect;*
- (c) the existing number of staff deployed to provide the service and their total remuneration each year;*
- (d) the unit cost of the service, and how it compares with the respective unit costs of district libraries and small libraries; and*
- (e) the criteria for determining the locations for providing the service, and whether it has regularly assessed the effectiveness of the service; if it has, of the results of the last assessment?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President, my replies to the Honourable Frederick FUNG's question are as follows:

- (a) In the past five years, 2.83 million patrons used the mobile library services, and some 4.41 million items of library materials were borrowed. A detailed breakdown by year is at Annex.
- (b) At present, the LCSD manages eight mobile library vans, providing lending services at 73 mobile library stops throughout the territory and the outlying islands. The annual total operating expenditure of the eight mobile library vans and their related offices, including expenses for staff, electricity, vehicle maintenance and fuel, and so on, is about \$10.30 million.
- (c) The eight mobile libraries are now manned by 50 staff members including drivers, assistant librarians and library assistants, and so on, and the annual staff cost involved is about \$8.73 million. Besides providing front-line mobile library services, our staff are also required to perform preparatory work and render logistical support every day, including replenishing or changing books, handling new books and arranging block loan for organizations, and so on.
- (d) The annual recurrent expenditures of a district library and a small library, including expenses for electricity, maintenance of building and internal facilities, staff, and so on, are about \$6.45 million and \$1.63 million respectively. As for mobile library services, the annual operating expenditure of a mobile library van and its related office, including expenses for staff, electricity, vehicle maintenance and fuel, and so on, is about \$1.29 million.
- (e) Mobile libraries are mainly provided to supplement the district library services. At present, the LCSD sets up mobile libraries in densely populated areas without static libraries in the vicinity or in remote areas in order to provide convenient lending services to the residents. Their target users are mainly children, housewives and the elderly.

The services and usage of mobile libraries are reviewed from time to time. When a new library is opened, the LCSD will also review the actual demand for mobile library services in the vicinity. If circumstances permit, the existing mobile library stop will be relocated. In the past year, five mobile library stops were relocated or added.

An overall review of the current mobile library services was conducted in late 2002. The findings indicated that an average of some 400 items of library materials were borrowed daily from the existing mobile library stops and the usage was satisfactory. The review also revealed that there was a need to provide additional mobile library services in some areas. In view of this, the LCSD is planning to provide an additional mobile library (the 9th one) to ease the demand for public library services in individual areas. The new mobile library, which is expected to start operation in late 2003, will provide six to nine additional stops.

Annex

#### Profile of the Mobile Library Services

<i>Year</i>	<i>No. of Patrons</i>	<i>No. of Items of Library Materials Borrowed</i>
1998	452 987	722 078
1999	537 800	799 863
2000	631 083	919 016
2001	606 058	927 637
2002	604 300	1 042 202
Total	2 832 228	4 410 796

#### Payment of A&E Charges by Cash in Foreign Currencies

5. **MR MICHAEL MAK** (in Chinese): *Madam President, it has been reported that the Hospital Authority (HA) accepts payment of accident and emergency (A&E) service charges by cash in foreign currencies by patients or their family members. In this connection, will the Government inform this Council:*

- (a) *of the number of cases so far in which the payment of A&E service charges was made by cash in foreign currencies and the amount involved;*
- (b) *whether the HA has received any counterfeit foreign currency notes; if it has, of*
- (c) *whether the HA has considered accepting other payment methods (for example, payment by credit card, Octopus card, and so on); if it has, of the details; if not, the reasons for that; and*
- (d) *which other public medical institutions and public utilities companies also accept cash in foreign currencies for payment?*

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

Madam President,

- (a) All public hospitals managed by the HA accept cash in foreign currencies for payment of all hospital services. Since the introduction of fees for A&E service on 29 November 2002, seven cases were settled in foreign currencies, involving a total amount of about \$4,000.
- (b) So far, public hospitals managed by the HA have not received any counterfeit foreign currency notes.
- (c) Apart from cash, all public hospitals of the HA also accept payment by Easy Pay System (EPS). Settlement of hospital charges by credit card has been implemented in two hospitals, namely, the Pamela Youde Nethersole Eastern Hospital (PYNEH) and Princess Margaret Hospital (PMH), and will be rolled out to other hospitals in the coming months. If a patient is unable to settle the hospital charges by cash, EPS or credit card (in the case of PYNEH and PMH), a bill will be issued to the patient who may settle the bill by cash, cheque, Payment by Phone Service or credit card (for PYNEH and PMH).

- (d) The Department of Health in general does not accept foreign currency for payment of consultation fees. Acceptance of foreign currency will however be considered on a case by case basis. The Water Supplies Department, electricity companies and gas companies do not accept foreign currencies for payment of bills.

### **Amendment to Domestic Violence Ordinance**

6. **DR LAW CHI-KWONG** (in Chinese): *Madam President, according to the Domestic Violence Ordinance (Cap. 189), only when the stalker and the victim are couples or cohabitants may the latter apply to the Court for an injunction restraining the other party from molesting. One of the recommendations in the Report on Stalking, released by the Law Reform Commission of Hong Kong in October 2000, was that the Ordinance be amended along the lines recommended by the English Law Commission, which included allowing an application for a "non-molestation order" be made by a person who is "associated with" the respondent (such as his/her former cohabitant or relative) so as to strengthen protection for family members. In this connection, will the Government inform this Council:*

- (a) *whether it will adopt the recommendation to amend the Ordinance; if so, of the details of such amendments and the timetable; if not, the reasons for that; and*
- (b) *of the reasons for not having decided on how to implement the recommendations of the Report; and of the time when the decision will be made?*

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

- (a) We are examining comprehensively the recommendations made by the Law Reform Commission in its Report on Stalking, including its suggestion that the Administration should consider whether the Domestic Violence Ordinance (Cap. 189) should be reformed.



Decision has yet to be made on whether and how the recommendations will be adopted.

Meanwhile, there is a continuum of welfare services available to help those in need and at risk. The Government has in place a three-pronged, multi-disciplinary and inter-sectoral strategy in tackling the problem in collaboration with non-governmental organizations and professionals.

At the primary level, efforts have been stepped up to strengthen preventive work through large-scale public education and more targeted family education and early identification of families at risk through outreaching efforts, for example, through the "Empowering Families to Face Challenges" and "Strengthening Families and Combating Violence" publicity campaigns.

At the secondary level, we have launched 15 Integrated Family Services Centre pilot projects providing a full range of resource, support and counselling services, in addition to Family Service Centres throughout the territory.

At the tertiary level, specialized service units have been made available to provide crisis intervention, for example, five Family and Child Protective Services Units staffed by experienced social workers which provide a package of "one stop" service to victims of child abuse, spouse battering and their family members, and the Family Crisis Support Centre.

On the law and order side, protection is offered to every individual in the society, irrespective of his/her relationship with the offender. Criminal offences such as assault and intimidation are provided in various ordinances such as the Offences Against the Person Ordinance (Cap. 212) and the Crimes Ordinance (Cap. 200).

- (b) The Administration is studying carefully the contents of the Law Reform Commission's report, in particular its recommendations and the views collected during the public consultation. Views

expressed are very diversified and range from support to the proposal of introducing anti-stalking legislation to concerns of possible infringement of press freedom, and to a lesser extent, strong reservations on the need of new legislation. The Administration needs to consider in depth all these views and hopes to come to a view on the way forward as soon as possible.

### **Provision of Basic Banking Services to PRH Residents**

7. **MR ALBERT CHAN** (in Chinese): *Madam President, many residents and shop owners of the newly completed public housing estates, including Yat Tung Estate at Tung Chung, Tin Yuet Estate, Tin Chak Estate, Tin Heng Estate and Tin Yat Estate at Tin Shui Wai, have approached me recently, complaining about the lack of bank branches or automated teller machines (ATMs) in their estates. The lack of such facilities not only causes inconvenience to the residents, in particular the elderly recipients of the Comprehensive Social Security Assistance, but also affects the business of shop owners as the residents may run out of cash. In this connection, will the Government inform this Council whether:*

- (a) it is aware of the problem and has taken any remedial measures;*
- (b) the Housing Department (HD) will consider providing rental waiver and improving the design of shopping centres so as to encourage banks to install ATMs in the housing estates; and*
- (c) it will amend the licensing conditions for banks to the effect that there will be a bank branch or an ATM in every housing estate to ensure that basic banking services are available to the residents?*

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

- (a) The HD reserves premises in the shopping malls of public housing estates for the provision of banking facilities. With banks adopting

a more cautious attitude in business expansion in recent years, despite that the HD has repeatedly tendered out banking premises in new public housing estates, such as Yat Tung Estate in Tung Chung, as well as Tin Yuet Estate, Tin Chak Estate, Tin Heng Estate and Tin Yat Estate in Tin Shui Wai, no bids have been received.

To attract banks to provide services in public housing estates, the HD has implemented the following measures:

- (i) identifying smaller premises or suitable locations for ATMs having regard to banks' preferences and latest business requirements;
  - (ii) allowing a more flexible mode of banking operation by permitting supermarkets and convenience stores to set aside a part of their shop premises for the provision of ATMs at low rents; and
  - (iii) continuing to encourage banks to set up branches or ATMs as soon as possible in new public housing estates through close liaison, meetings and site visits.
- (b) The rents of Housing Authority's commercial premises are determined by free tendering. Banks set their bids having regard to market conditions and the business environment. In fact, due to the current economic situation and general lack of interest among banks in bidding for new premises, the rents for banking premises in public housing estates have decreased. It is therefore unnecessary to provide rent concessions to banks.

As regards mall design and selection of premises for provision of banking services, the Housing Authority consults the banking industry when planning shopping centres and identifying banking premises to ensure that the industry's requirements are met. Design factors do not come into the banks' decisions on whether or not to establish business in new public housing estates.

- (c) The provision of banking services in individual public housing estates is the commercial decision of the banks. It is not appropriate for the Administration to interfere with such decisions through amending the licensing conditions or other regulatory measures. Under free market mechanism, banks determine how best to respond to customers' demands in the light of their own corporate business strategies. Nevertheless, the Administration notes Members' concern about the lack of banking services in new public housing estates. The Hong Kong Monetary Authority will relay Members' views to the Hong Kong Association of Banks.

### **Skills Upgrading Scheme**

8. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, the Skills Upgrading Scheme (SUS) launched in September 2001 provides opportunities for in-service workers of 14 designated industries to pursue further studies at present. The courses are drawn up jointly by representatives from employers, employees and training institutions, whilst the course fees are mainly subsidized by the Government. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of courses relating to information technology (IT) which are provided for the designated industries under the Scheme, and the respective numbers of trainees in such courses;*
- (b) *of the criteria for determining the industries eligible for joining the Scheme; and the reason(s) for not including IT industry as one of those industries; and*
- (c) *whether it will review the criteria stated in part (b); if it will, of the details of such review; if not, the reasons for that?*

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

- (a) A total of 40 courses relating to IT are provided for the 15 designated industries currently under the SUS. The details are at Annex. As at 31 March 2003, some 2 050 participants have enrolled in these courses.
- (b) The SUS aims to provide focused skills training for in-service workers with secondary or lower education level to upgrade their skills, so as to maintain their competitiveness in the labour market.

Any industry wishing to provide skills upgrading training for the respective workers within the industry can apply to the SUS Steering Committee to join the Scheme. When considering the applications, the Steering Committee will generally take into account the following factors:

- (i) the future of the industry and its importance to the development of the Hong Kong economy;
- (ii) whether a large number of low skill and low education workers in need of skills upgrading are employed; and
- (iii) whether the employees and employers in the industry are willing to actively participate in course development so that courses to be offered are of quality, be able to gain recognition in the industry and ultimately be conducive to the promotion of lifelong learning among the workers.

If the IT industry wants to provide focused skills training for its in-service personnel with secondary or below education level, it can submit an application any time for joining the Scheme.

- (c) The SUS has a specific objective and specific target participants, and the criteria for determining the industries eligible for joining the Scheme are very clear. We have no plan at present to review the criteria stated in (b).

## SUS Courses relating to the IT

<i>Industry</i>	<i>Course Title (Translation)</i>
Printing	<p>Introduction to Basic Computer Operations (PC) (II)</p> <p>Digital Printing and Publishing Technologies (II)</p> <p>Computer Scanning (II)</p> <p>Basic Computer Publishing for Small Prints – PageMaker (II)</p> <p>Basic Computer Publishing for Small Prints – QuarkXpress (II)</p> <p>Basic Computer Graphics – FreeHand (II)</p> <p>Basic Computer Graphics – Illustrator (II)</p> <p>Basic Computer Graphics – CorelDraw (II)</p> <p>Basic Computer Photo-Editing (II)</p> <p>File Output Checking – Preflight (II)</p> <p>Production of Large Prints Using Computer (II)</p> <p>Management and Emergency Handling of Digital Publishing Systems (II)</p> <p>Intermediate Computer Production of Small Prints – PageMaker (II)</p> <p>Intermediate Computer Graphics – FreeHand(II)</p> <p>Intermediate Computer Graphics – Illustrator(II)</p> <p>Intermediate Computer Photo-Editing – Photoshop (II)</p> <p>Digital Flow Management – PostScript &amp; PDF (II)</p> <p>Computer Outputting Technologies (II)</p> <p>Production and Publishing of E-Books (II)</p> <p>Internet Publishing Technologies (II)</p> <p>Digital Printing Technologies (II)</p> <p>Basic Networking Strategies (II)</p>
Chinese Catering	Basic Computer Training
Import and Export	Introduction to E-Commerce
Clothing Apparels and Textiles	<p>Application of Computer-assisted Design Softwares (II)</p> <p>Computer Concepts and Applications (II)</p> <p>Application of Computer-Assisted Clothing and Fashion Design Softwares (II)</p> <p>Searching Textile and Clothing Information on Internet (II)</p> <p>Word-processing for Merchandisers, Secretaries and Executives in the Clothing Industry (II)</p> <p>Spreadsheet for Merchandisers, Secretaries and Executives in the Clothing Industry (II)</p> <p>Powerpoint for Merchandisers, Secretaries and Executives in the Clothing Industry (II)</p>
Transport	<p>Application of Information Technology in Sea Transport Industry</p> <p>Application of Information Technology in the Storage Industry</p> <p>Application of Information Technology in the Land Transport Industry</p>

<i>Industry</i>	<i>Course Title (Translation)</i>
Electrical and Mechanics	Basic Computer Drafting for E & M Projects Computer Drafting for E & M Projects
Property Management	Introduction to Computer Operations of Intelligent Property Management
Real Estate Agency	Application of Web Resources for Real Estate Agents
Building Maintenance and Decoration	Fundamental Computer Drafting for Building and Decoration
Beauty Care	Basic Computer Operations for the Beauty Care Industry

40 courses in total

### **Design of Bus and Tram Stops/Termini**

9. **DR RAYMOND HO** (in Chinese): *Madam President, regarding the design of franchised bus stops and termini as well as tram stops and termini, will the Government inform this Council whether it knows:*

- (a) if franchised bus companies and the Hong Kong Tramways Limited (HKTL) have respectively carried out works to improve the outward appearance of their stops and termini over the past three years; if so, of the details of such works;*
- (b) if the answer to item (a) is in the negative, whether the relevant companies have any plans to carry out the works mentioned above; if so, of the details of their plans; if not, the reasons for that; and*
- (c) the existing number of tram stops which are not provided with station name plates and track-side platforms for boarding and alighting, and whether the HKTL has any plans to provide these facilities at such tram stops?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**  
(in Chinese): Madam President, franchised bus operators have an ongoing

programme to carry out refurbishment and beautification works at bus termini. Since 2000, a total of 38 bus termini have been refurbished. Improvement works include refurbishment of queue railings, shelters, regulators' office, and so on. In the past three years, the bus operators also provided bus shelters at 679 bus stops.

The Transport Department (TD) also has started a programme to upgrade the physical appearance of public transport interchanges (PTIs) through improvement to ceilings, walls, lighting and passenger waiting areas. Improvement works have already started at Lam Tin PTI and Tin Hau PTI. There are plans to improve another five PTIs at Admiralty (East), Tsuen Wan MTR station, Cheung Sha Wan Plaza, Lok Fu and Yen Chow Street in 2003-04.

On the other hand, since 2000, the HKTL has refurbished the tram shelters at four tram stops and constructed new shelters at another two tram stops. The HKTL also plans to improve the tram terminus at Shau Kei Wan.

Of the existing 122 tram stops, the HKTL has provided name plates at 24 of them. The TD is discussing with the HKTL possible plans to provide name plates at the other tram stops.

A total of 111 tram stops are already provided with passenger waiting platforms. Owing to site constraints, it is not feasible to provide such facilities at the remaining 11 tram stops. In pursuance of the Johnston Road Pedestrian Scheme, one tram stop at Johnston Road has been relocated to a widened pavement to enable passengers to board the trams directly from the pavement. Similar improvements will be made in 2003 to three other tram stops on Johnston Road, which are not provided with passenger waiting platform. Improvements to the remaining seven tram stops which are without passenger waiting platform will be pursued when suitable opportunity arises.

### **Furnishings and Installations of Shop Premises in PRH Estates**

10. **MR LAU KONG-WAH** (in Chinese): *Madam President, will the Government inform this Council whether, before handing back the shop premises*



*in public housing estates to the Housing Department (HD) upon cessation of business operation, shop operators are required to remove all the furnishings and installations in these premises;*

- (a) if so, of the reasons for that; and*
- (b) if not, whether the decision on the removal or otherwise of the furnishings and installations in the relevant shop will be made according to the new shop tenant's wish, with a view to reducing waste and saving public expenditure; if not, the reasons for that?*

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

Madam President, the furnishings and installations handed down by shop operators after their removal may not meet the needs of new, in-coming tenants. Hence, under the tenancy agreement, outgoing tenants are required to remove all fittings and return the premises in their original state to the HD.

Taking into account outgoing tenants' wish to save demolition costs, and that retention of the fittings may help new tenants to start their businesses, the HD will exercise discretion in considering an outgoing tenant's request to hand down the fittings. Generally, fittings which are in good conditions and safe can be retained provided that the outgoing tenant undertakes not to charge the new tenant. If the fittings are already old or unsuitable, the HD will require the outgoing tenant to remove them in accordance with the tenancy agreement so that the HD will not need to incur additional costs for removing unsuitable fittings before re-letting.

**Provision of Holiday Bungalows for Civil Servants**

11. **MS EMILY LAU** (in Chinese): *Madam President, regarding the holiday bungalows provided for hire by civil servants as part of staff welfare, will the executive authorities inform this Council:*

- (a) of the government departments currently providing holiday bungalows for hire by their staff; the location and the time of*

*completion or acquisition of each of the holiday bungalows; as well as the ranks of the staff eligible for hiring such bungalows;*

- (b) of the average occupancy rate and the maintenance cost of such holiday bungalows in each of the past three years; and*
- (c) whether they have reviewed if the provision of such welfare meets the needs of staff and is cost-effective; if a review has been conducted, of the results?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President, in line with the practice in many large private enterprises, the Government provides holiday home facilities for hire by civil servants as part of staff welfare to enable them to relax and enjoy their leisure time in the countryside. The provision of such welfare is kept under review to ensure that it meets the needs of staff and is cost-effective.

Against this background, my reply to the question raised by the Honourable Emily LAU is as follows:

- (a) The government departments currently providing holiday home facilities for civil servants at public expense include the Civil Service Bureau, the Customs and Excise Department (C&ED), the Correctional Services Department (CSD) and the Water Supplies Department (WSD). The holiday home facilities provided by the Civil Service Bureau are available for hire by all civil servants and pensioners, while those provided by the other three departments are for the exclusive use by their respective serving staff and pensioners. Details of these facilities are set out in Annex A.

The Government has never purposely built any holiday home facilities for the Civil Service. With the exception of the two leased facilities at Hilltop Country Club and Harbour Plaza Resort City, all existing holiday home facilities were formerly departmental or project quarters, which were converted into holiday bungalows for staff as they were no longer required for their original purposes.

- (b) The occupancy rate and maintenance cost of holiday home facilities for civil servants in each of the past three years are set out in Annex B.

In 2001-02, the average occupancy rate of holiday home facilities for civil servants is above 60%, exclusive of the CSD's holiday bungalow on Hei Ling Chau and the WSD's holiday bungalow at Cheung Sha. The low occupancy rate for the CSD's holiday bungalow on Hei Ling Chau is attributable to its remote location, but its maintenance cost is also very low. The WSD's holiday bungalow at Cheung Sha primarily serves as quarters for staff on duty during the typhoon season, and therefore the occupancy rate is relatively low.

The maintenance costs for the Civil Service Bureau's holiday bungalows at Cheung Sha and Tai Mei Tuk in 2001-02 are higher than those in the previous years, mainly because major maintenance works were carried out and electrical appliances and furniture were replaced in that year. As for the WSD's holiday bungalow at Cheung Sha, major maintenance works were also carried out in 2000-01.

- (c) Since the provision of holiday home facilities is part of staff welfare, we cannot measure its value merely from the cost-effectiveness point of view. For the past three years, the occupancy rate of the holiday home facilities provided by the Civil Service Bureau for hire by all civil servants ranges from 55% to 75%. During weekends and public holidays, the occupancy rate even exceeds 90%. In view of the present economic situation, we decided not to renew the lease contract of Hilltop holiday suites after its expiry in June this year so as to demonstrate our determination to reduce government expenditure. The holiday bungalows at Cheung Sha and Tai Mei Tuk will remain available for hire by civil servants. As in the case of other civil service benefits, we shall continue to keep the present arrangement under review so as to ensure that the provision of holiday home facilities meets the needs of staff and is cost-effective.

## List of Holiday Home Facilities for Civil Servants

<i>Bureau/Department</i>	<i>Holiday Home Facilities</i>	<i>Background</i>	<i>Eligibility</i>
Civil Service Bureau	Cheung Sha Holiday Bungalows (three bungalows)	The bungalows were formerly project quarters for personnel engaged in the construction of the Shek Pik Reservoir. They were built in 1959 and were converted into holiday bungalows in 1968.	All civil servants may apply for use of the holiday suites/ bungalows. Pensioners may also hire the facilities during non-public holidays.
	Address: Cheung Sha Holiday Bungalow Houses No. 6, 8 and 9, 47 South Lantau Road, Lantau Island		
	Tai Mei Tuk Holiday Bungalows (four bungalows)	The bungalows were formerly project quarters for personnel engaged in the construction of the Plover Cove Reservoir. They were built in 1963 and were converted into holiday bungalows in 1972.	
	Address: Tai Mei Tuk Holiday Bungalow Houses No. 5, 7, 8 and 9, Mei Wu Road, Tai Po		
	Hilltop Country Club (three suites)	The suites at Hilltop Country Club in Tsuen Wan have been leased to the Government as holiday homes for civil servants since June 1999.	
	Address: Suites Room 101, 102 and 202, Hilltop Country Club, Hilltop Road, Lo Wai, Tsuen Wan	The current lease contract of the suites will expire on 1 June 2003. In view of the present economic situation, we decided not to renew the lease contract so as to demonstrate our determination to reduce government expenditure.	

<i>Bureau/Department</i>	<i>Holiday Home Facilities</i>	<i>Background</i>	<i>Eligibility</i>
C&ED	Pui O Holiday Bungalow (one bungalow)  Address: G/F., No. 40 Sun Wai Chuen, Pui O, Lantau Island	The bungalow was formerly departmental quarters and was converted into a holiday bungalow for staff in 1988.	Serving staff and pensioners of the department may apply for use of the facilities.
	Harbour Plaza Resort City (one room)  Address: Harbour Plaza Resort City, Tin Shui Wai, New Territories	The room at Harbour Plaza Resort City has been leased to the department as a holiday home for staff since March 2002.	
CSD	Tai Lam Holiday Bungalow (one bungalow)  Address: House No. 1, Siu Lam Marine Base, 16½ Milestone, Castle Peak Road, New Territories	The bungalow was formerly departmental quarters and was converted into a holiday bungalow for staff in 1991.	Serving staff and pensioners of the department may apply for use of the facilities.
	Hei Ling Chau Holiday Bungalow (one bungalow)  Address: Bungalow E, Hei Ling Chau, New Territories	The bungalow was formerly departmental quarters and was converted into a holiday bungalow for staff in 1990.	
WSD	Cheung Sha Holiday Bungalow (one bungalow)  Address: Cheung Sha Holdiay Bungalow House No. 17, 38 South Lantau Road, Lantau Island	It is actually used as quarters for staff on duty during the typhoon season from May to October every year. During the rest of the year, the department turns it into a holiday bungalow for staff to optimize its use.	Serving staff of the department may apply for use of the facilities.

## Annex B

Occupancy Rate and Maintenance Cost of  
Holiday Home Facilities for Civil Servants in the Past Three Years

## (a) Occupancy Rate of Holiday Home Facilities

<i>Bureau/ Department</i>	<i>Holiday Home Facilities</i>	<i>Occupancy Rate</i>		
		<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>
Civil Service Bureau	Cheung Sha Holiday Bungalows	55%	55%	58%
	Tai Mei Tuk Holiday Bungalows	55%	59%	57%
	Hilltop Country Club	75%	64%	63%
C&ED	Pui O Holiday Bungalow	47%	52%	49%
	Harbour Plaza Resort City	-	-	94%
CSD	Tai Lam Holiday Bungalow	55%	65%	60%
	Hei Ling Chau Holiday Bungalow	17%	15%	10%
WSD	Cheung Sha Holiday Bungalow	40%	22%	10%

## (b) Maintenance Cost of Holiday Home Facilities

<i>Bureau/ Department</i>	<i>Holiday Home Facilities</i>	<i>Maintenance Cost (\$)</i>		
		<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>
CSD	Cheung Sha Holiday Bungalows	188,000	185,000	3,274,000 <sup>1</sup>
	Tai Mei Tuk Holiday Bungalows	822,000	800,000	1,973,000 <sup>2</sup>
	Hilltop Country Club	183,000 <sup>3</sup>	220,000 <sup>3</sup>	353,000 <sup>3</sup>

<i>Bureau/ Department</i>	<i>Holiday Home Facilities</i>	<i>Maintenance Cost (\$)</i>		
		<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>
C&ED	Pui O Holiday Bungalow	72,000	96,000	80,000
	Harbour Plaza Resort City	-	-	11,000 <sup>3</sup>
CSD	Tai Lam Holiday Bungalow	60,000	59,000	62,000
	Hei Ling Chau Holiday Bungalow	3,000	4,000	3,000
WSD	Cheung Sha Holiday Bungalow	52,000	520,000 <sup>4</sup>	52,000

Notes: <sup>1</sup> Including \$2,664,000 non-recurrent expenditure on the major maintenance works and replacement of unserviceable electrical appliances and furniture in the three holiday bungalows at Cheung Sha.

<sup>2</sup> Including \$1,160,000 non-recurrent expenditure on the major maintenance works and replacement of unserviceable electrical appliances and furniture in the four holiday bungalows at Tai Mei Tuk.

<sup>3</sup> The rental for the holiday home facilities.

<sup>4</sup> Including \$490,000 non-recurrent expenditure on the major maintenance works in the holiday bungalow at Cheung Sha.

## **Applications for Legal Aid in Proceedings Concerning Anti-discrimination**

12. **MS CYD HO:** *Madam President, with regard to the applications for legal aid in proceedings relating to breaches of the Sex Discrimination Ordinance (Cap. 480), the Disability Discrimination Ordinance (Cap. 487) and/or the Family Status Discrimination Ordinance (Cap. 527), since the enactment of the respective Ordinances, will the Government inform this Council of:*

- (a) *a breakdown of the applications by Ordinance and by year, as well as the relevant provision(s) of the Ordinance(s) cited in each application;*

- (b) *the numbers of successful applications made by the defendants and plaintiffs respectively and, in respect of the plaintiffs' applications, whether the defendants concerned were from the public or private sectors;*
- (c) *the number of rejected applications and the reason(s) for rejection; and*
- (d) *the number of appeals against the rejection and the appeal results?*

**CHIEF SECRETARY FOR ADMINISTRATION:** Madam President, based on the computer records kept by the Legal Aid Department, the replies to the question are as follows:

(1) *Sex Discrimination Ordinance (Cap. 480)*

The Ordinance was enacted in 1995. Record shows that there was no application made in 1995 to 96, 1998, 2000 to 01.

As for the years 1997, 1999 and 2002, the information requested is set out in the table at Annex A.

(2) *Disability Discrimination Ordinance (Cap. 487)*

The Ordinance was enacted in 1995. Record shows that there was no application made in 1995, 1996, 1998 and 1999.

As for the years 1997, 2000 to 02, the information requested is set out in the table at Annex B.

(3) *Family Status Discrimination Ordinance (Cap. 527)*

The Ordinance was enacted in 1997. There has been no application for legal aid made under the Ordinance since its enactment.



			<i>Sex Discrimination Ordinance (Cap. 480) (enacted in 1995)</i>		
			<i>1997</i>	<i>1999</i>	<i>2002</i>
(a)(i)	No. of applications		1	2	2
(a)(ii)	Relevant provisions		Not cited in the applications. The provisions subsequently identified or relied upon as being relevant are sections 5, 6, 9, 21, 23, 25 and 46, which cover sex discrimination against women and men; discrimination by way of victimization; discrimination by the Government against a woman in the performance of its functions; sexual harassment; discrimination by responsible bodies for educational establishments; and liability of employers and principals.		
(b)(i)	No. of successful applications		0	0	0
(b)(ii)	No. of applications made by plaintiff (P)/defendant (D)		1 (P)	2 (P)	2 (P)
(b)(iii)	Defendant concerned from public/private sector		Public	Private	Public
(c)(i)	No. of applications refused		1	2	2
(c)(ii)	Grounds of refusal		No reasonable grounds for taking the proceedings and/or not reasonable to grant aid in the particular circumstances of the cases concerned. One application in 1999 was refused on means.		
(d)(i)	No. of legal aid appeals		1	1	2
(d)(ii)	Outcome of legal aid appeals	Allowed			1
		Dismissed	1	1	1

		<i>Disability Discrimination Ordinance (Cap. 487) (enacted in 1995)</i>			
		<i>1997</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
(a)(i)	No. of applications	2	3	7	6
(a)(ii)	Relevant provisions	Not cited in the applications. The provisions subsequently identified or relied upon as being relevant are sections 6(a) and (c), 11(1)(c), 26 and 38, which cover discrimination on grounds of that person's disability or of the disability of an associate of that person by treating them less favourably; discrimination against applicants for employment; discrimination in provision of goods, services or facilities; and harassment in relation to provision of goods, services, or facilities.			
(b)(i)	No. of successful applications	1	1	1	0
(b)(ii)	No. of applications made by plaintiff (P)/defendant (D)	1 (P) 1 (D)	3 (P)	7 (P)	6 (P)
(b)(iii)	Defendant concerned from public/private sector	1 (Public)	2 (Public) 1 (Private)	4 (Public) 3 (Private)	3 (Public) 3 (Private)
(c)(i)	No. of applications refused	1	2	6	6
(c)(ii)	Grounds of refusal	Exceeding financial eligibility limit	Exceeding financial eligibility limit	No reasonable grounds for taking the proceedings and/or not reasonable to grant aid in the particular circumstances of the cases concerned.	
(d)(i)	No. of legal aid appeals	0	2	6	3
(d)(ii)	Outcome of legal aid appeals	Allowed Dismissed Withdrawn	2	6	2 1

**Cash Rebate Programme for Energy-efficient Lighting**

13. **MISS CHOY SO-YUK** (in Chinese): *Madam President, under the Demand Side Management Agreement (the Agreement) signed between the Hongkong Electric Company Limited (HEC) and the Government, the HEC offers cash rebate to non-residential customers for purchasing and using energy-efficient lighting equipment (including compact fluorescent lamps, energy-efficient fluorescent tubes and electronic ballasts) during the period between 1 July 2000 and 30 June 2003. In this connection, will the Government inform this Council whether it knows:*

- (a) the number of customers who have applied for cash rebate from the HEC in accordance with the Agreement and, among them, the number of successful applications and the average amount of cash rebate offered, as well as the reason(s) for the rejection of the unsuccessful applications;*
- (b) the total amount of cash rebate the HEC has offered to customers under the Agreement and the respective numbers of compact fluorescent lamps, energy-efficient fluorescent tubes and electronic ballasts involved;*
- (c) the measures the HEC has taken to publicize this cash rebate programme for energy-efficient lighting; and whether they include attaching promotional flyers to the electricity bills of non-residential customers; and*
- (d) whether the HEC will extend the application period for the cash rebate programme and relax the eligibility criteria, such as allowing residential customers to apply for cash rebate as well; if it will not, of the reasons for that?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): Madam President,

- (a) The HEC has advised that it received applications from a total of 1 097 account holders before the programme budget was exhausted. Of these, 737 account holders received rebates and the average

amount of rebate offered to each of them was in the region of \$34,000. In the case of the account holders whose applications were rejected, the main reasons were that the existing lighting products or the proposed energy-efficient lighting products did not comply with the requirements, or that the account holders failed to provide proof of purchase of the energy efficient lighting products.

- (b) The HEC has advised that the total amount of rebate offered under the programme was about \$25 million. The numbers of compact fluorescent lamps, energy-efficient fluorescent tubes and electronic ballasts involved were 40 025, 82 691 and 344 484 respectively.
- (c) The HEC has carried out the following activities to promote its rebate programme to non-residential customers:
  - (i) organizing meetings and seminars for trade groups and professional bodies;
  - (ii) production and distribution of bill inserts;
  - (iii) operating a Demand Side Management (DSM) telephone hotline (that is, 2555 1082) for public enquiry; and
  - (iv) setting up a DSM web page (that is, [www.hec.com.hk/hec/dsm/programme/rebate.htm](http://www.hec.com.hk/hec/dsm/programme/rebate.htm)) on the HEC's website; and

at the same time, the Government has continued to promote energy efficiency and conservation as part of our ongoing publicity programmes.

- (d) Since the targeted energy saving for non-residential customers has been exceeded and the programme budget exhausted, there is no plan to extend the application period of the lighting rebate programme. As regards the residential sector, there is now a wide selection of competitively priced energy-efficient electrical products including lighting equipment readily available to the public, and with increasing public awareness of energy efficiency and conservation, there is no plan to extend the rebate programme to

residential customers. We believe public education will also serve the purpose of promoting energy efficiency and conservation.

### **Monitoring of Service Standard and Transparency of Charges of Private Hospitals**

14. **MS EMILY LAU** (in Chinese): *Madam President, regarding the monitoring of the service standard of private hospitals and the transparency of their charges, will the executive authorities inform this Council:*

- (a) of the measures in place to encourage private hospitals to clearly inform their patients in advance of the charge details of various medical services and display notices listing such charge details at conspicuous places;*
- (b) of the measures in place to encourage private hospitals to establish a clinical audit system, in order to enhance monitoring of the professional standard of resident medical practitioners;*
- (c) whether they know the number of private hospitals which have clearly made public the details of service charges and established a clinical audit system; and*
- (d) whether they will consider including the requirement of "clearly making public the details of service charges and establishing a clinical audit system" as a licensing condition for private hospitals?*

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

- (a) All private hospitals are already displaying a schedule of charges for its services for patients' reference at conspicuous places such as the admission office and cashier office of the hospital.
- (b) At present, all private hospitals are already conducting clinical audit activities on a voluntary basis. Nevertheless, the Department of Health (DH) has included the conduct of clinical audit activities as a

quality management requirement in a draft code of practice for private hospitals on standard of good practice. The draft code of practice will be finalized for implementation after considering the feed-back from private hospitals.

- (c) All 12 private hospitals in Hong Kong have already been making public their fees schedule and are conducting clinical audit activities.
- (d) In finalizing the code of practice for private hospitals on standard of good practice, the DH will consider whether compliance with the requirements on fee schedule and quality management therein should be made one of the licensing conditions for private hospitals.

### **Cases of Vehicle Theft**

15. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding cases of vehicle theft, will the Government inform this Council:*

- (a) *in respect of the vehicles reported missing in each of the past three years, of the respective numbers and percentages which were subsequently recovered within the territory;*
- (b) *whether it has estimated the number of missing vehicles smuggled outside Hong Kong in each of the past three years, as well as their destinations;*
- (c) *of the locations and hours of the day in which vehicle thefts occurred more frequently; and*
- (d) *of the further measures the police will adopt to combat vehicle theft?*

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

- (a) The number of vehicles reported missing, recovered within the territory and the relevant percentage in the past three years are as follow:

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	<i>2000</i>	<i>2001</i>	<i>2002</i>
Number of missing vehicles	2 804	2 562	2 412
Number of vehicles recovered in Hong Kong	1 535	1 416	1 429
Percentage	55%	55%	59%

- (b) The police believe that some of the vehicles reported missing would be smuggled outside Hong Kong, while some others would be dismantled into parts in Hong Kong for sale. There is insufficient information for the police to estimate the actual number of missing vehicles smuggled outside Hong Kong nor their destinations.

In 2001 and 2002, the police had intercepted 26 and 12 stolen vehicles respectively. Most of them were intended to be smuggled into the Mainland.

- (c) More than 70% of the vehicle thefts occurred in the streets, in open land or open space car parks which have not installed any security devices. About 90% of the missing vehicles were stolen between 7 pm to 7 am.
- (d) The police will continue to combat vehicle theft through the following effective measures:
- (i) stepping up patrol actions at black spots of vehicle thefts;
  - (ii) intercepting suspicious vehicles at boundary control points;
  - (iii) conducting intelligence-led enforcement actions which target at syndicates smuggling stolen vehicles;
  - (iv) strengthening intelligence exchange and co-operation with the Mainland and overseas enforcement authorities; and
  - (v) conducting publicity to arouse the awareness of citizens and related industries on prevention of vehicle thefts.

**Passenger Clearance Procedures at Boundary Crossings**

16. **MR ERIC LI** (in Chinese): *Madam President, in this year's policy address, the Chief Executive undertook to make the best efforts to achieve the target of completing normal clearance procedures for passengers at the boundary between Hong Kong and the Mainland within 30 minutes. It is reported that, starting from 1 April this year, individual residents in Shenzhen will be allowed to visit Hong Kong. In this connection, will the Government inform this Council of the measures in place to implement the above undertaking during the Easter holidays, as well as the Mainland's Labour Day and National Day holidays this year?*

**SECRETARY FOR SECURITY** (in Chinese): Madam President, we are committed to speeding up the movement of cross-boundary passenger traffic, and hope to eventually achieve the long-term target of completing the normal clearance procedures, on both sides of the boundary, for a passenger within 30 minutes. In the medium-term, performance pledges applicable to our land boundary control points will be gradually and appropriately revised so that a higher percentage of cross-boundary passengers can be cleared within 15 minutes. Specific measures and implementation timetable will be formulated having regard to available resources and the growth rate of cross-boundary passenger traffic. We will also continue our discussions with mainland authorities so as to co-ordinate the measures taken by the two sides.

We will adopt a series of measures to cope with the higher than usual number of inbound tourists during the coming Easter holidays as well as the subsequent Labour Day and National Day holidays. These measures include, firstly, liaison with the travel industry to ensure the early submission of group tour information to the Immigration Department (ImmD) by, for example, electronic means so that pre-arrival processing can be undertaken and immigration clearance of tour members expedited. Secondly, we will step up our communication with mainland authorities prior to long holidays and discuss with them the management and contingency measures required to ease passenger and vehicle traffic through the "Joint Working Sub-group on Arrangements for Passengers during Festive Periods". Thirdly, the ImmD and other front-line departments will, through internal deployment and cancellation of leave, reinforce front-line manpower to allow the operation of adequate counters during peak hours to ease the cross-boundary passenger traffic.



It is inaccurate to claim, as has allegedly been reported, that residents in Shenzhen will, starting from 1 April, be allowed to come to Hong Kong for sightseeing in their personal capacity. Whilst the Chief Executive has earlier indicated that the Central People's Government had agreed in principle to allow residents in the Guangdong Province to come to Hong Kong for sightseeing in their personal capacity, specific details and the implementation timetable of this arrangement have yet to be worked out between Hong Kong and mainland authorities. Appropriate preparations will also have to be made at the boundary crossings in good time to cope with the increase in mainland tourists that would be brought about by the new arrangement.

### **Pilot Scheme for Senior Form Students in Secondary Schools**

17. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the Education and Manpower Bureau will launch a pilot scheme in September this year for senior form students of mainstream secondary schools. Under the pilot scheme, the Vocational Training Council (VTC) and Caritas Adult and Higher Education Service will offer a total of 12 career-oriented courses to some 300 students. In this connection, will the Government inform this Council of:*

- (a) the contents of these courses and the courses which are expected to be most popular, as well as the respective numbers of attendance hours required for completing individual courses;*
- (b) the differences between these courses and similar courses provided by other private organizations; and*
- (c) the ways to publicize the pilot scheme to students?*

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

- (a) The 12 piloting courses of the Career Oriented Diversified Curriculum (the Curriculum) and their respective course content and providers are as follows:

<i>Course</i>	<i>Content Outline</i>	<i>Course Provider</i>
1. Computer Networking	1. Basic networking concepts 2. LAN and Internet 3. Network protocols and routing	Hong Kong Institute of Vocational Education (IVE), VTC
2. Creative Multimedia Studies	1. Multimedia fundamental 2. Media and design 3. Multimedia project	IVE, VTC
3. Intelligent Green Living	1. Green buildings 2. Cyber life 3. Intelligent facilities	IVE, VTC
4. Fundamental Fashion and Image Design	1. Fashion image and design 2. Basic fashion aesthetics theories 3. Design presentation skills	IVE, VTC
5. 3D Computer Animation	1. Traditional drawing and animation 2. 3D computer animation 3. Character animation 4. Visual effects	IVE, VTC
6. Video Production	1. Basic video technology 2. Production process of video production 3. Technique of camera, lighting and editing (non-linear)	IVE, VTC
7. Hair Design	1. Design foundation skills 2. Hairdressing theory 3. Hairdressing skills fundamentals and basic hair styling	IVE, VTC
8. Fundamental Food and Beverage Service	1. Food service hygiene and safety 2. Layout of a kitchen and service area, and food and beverage service equipment 3. Food and beverage service and customer service skills	Industrial Training Division, VTC
9. Fundamental Vehicle Servicing	1. Characteristics and nature of automobile industry 2. Health and safety matters and environment protection issues 3. Working principles and construction of vehicle major systems 4. Location and function of components 5. Vehicle systems servicing and car painting	Industrial Training Division, VTC
10. Fundamental Building Services	1. Safety, fire protection system, and fire detection system 2. Water supply and water drainage system	Industrial Training Division, VTC

<i>Course</i>	<i>Content Outline</i>	<i>Course Provider</i>
	3. Pipe-work connection and installation 4. Machine assembly 5. Ventilation system and sheet metal	
11. Beauty Therapy	1. Skin treatment 2. Make-up, manicure and hair setting skills 3. Field study	Caritas Adult and Higher Education Service
12. Logistics Fundamentals	1. Basic logistics management 2. Principles of supply chain management, introduction to warehousing, transport, purchasing and supply 3. e-Logistics development and its application 4. Field study	Caritas Adult and Higher Education Service

The curriculum time for each of the Courses 1 to 10 is 180 hours whereas that for each of the Courses 11 to 12 is 150 hours. Students could complete their selected course(s) within their Secondary 4 and Secondary 5 studies.

Each of the above 12 courses has its own characteristics to meet the diverse interests and learning needs of students. Further information on the popularity of these courses would be available upon the completion of student application procedures in end June 2003.

(b) Compared with courses provided by other private organizations of similar nature, the 12 piloting courses have the following characteristics:

- (1) The piloting courses are specially designed for Secondary 4 and Secondary 5 students to cater for their interests and learning needs.
- (2) The curriculum time for the piloting courses ranges from 150 to 180 hours, which is similar to the curriculum time of one existing Secondary 4 and Secondary 5 subject.

- (3) Upon completion of any of the piloting courses satisfactorily, students will receive qualifications from the institutions concerned. Credits will also be given if they pursue further studies in the same field with the same institution. The qualifications acquired could also help students prepare for their future work.
- (c) The Education and Manpower Bureau and the course providers have arranged and will arrange a series of activities to promote these courses to students, which include:
  - (1) The Bureau has held a media briefing on 18 March 2003 to introduce the concept of the Curriculum and the details of the piloting course to the public.
  - (2) The course providers have prepared an information leaflet on each course for students' reference. A website would also be set up by the course providers to provide updated information on the piloting courses.
  - (3) The Bureau will hold a briefing session in late April or early May 2003 to introduce to all heads of secondary schools and teachers the concept of the Curriculum and the details of the piloting courses, so that they could promote the Curriculum, and provide advice to the students.
  - (4) The course providers will arrange a series of workshops in early May 2003 for teachers and students to familiarize them with the content and arrangement of the piloting courses.

### **Nanotechnology Research**

18. **MR ABRAHAM SHEK** (in Chinese): *Madam President, it has been reported that the Institute of Chemistry of the Chinese Academy of Sciences has set up a Nano Science and Technology Centre recently. At present, Hong Kong's tertiary institutions, including the University of Hong Kong, the City University of Hong Kong and the Hong Kong University of Science and*

*Technology, have built up substantial strength in nanotechnology research. The heads of some of these universities have indicated that they will actively participate in the Mainland's researches relating to nanotechnology. In this connection, will the Government inform this Council:*

- (a) of the amounts of funding respectively provided by the Government, the local universities and individuals for nanotechnology research in each of the past five years;*
- (b) the level of Hong Kong's standard in research and the application of nanotechnology in relation to other advanced countries and regions; and whether there are problems yet to be resolved in upgrading Hong Kong's level in this regard; if so, of the details; if not, the reasons for that; and*
- (c) the number of deliverables from the local nanotechnology research projects that have been commercialized or adopted by the industries; and whether it has conducted survey(s) on the economic benefits in this aspect; if it has, of the survey results; if not, the reasons for that?*

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

- (a) In the past five years, a total of \$160.9 million was allocated from public sector resources, notably grants from the Research Grants Council (RGC) and the Innovation and Technology Fund (ITF), to nanotechnology research carried out at local universities. These grants have attracted an additional contribution of \$36.7 million from industry through donation and sponsorship. Details are set out in Annex.
- (b) Nanotechnology is pursued in most advanced countries as a national endeavour (for example, the National Nanotechnology Initiative of the United States) and for a long-term strategic mission for technology and economic leadership. This publicly-funded, and more basic research-oriented approach is augmented by the more

applied-oriented research and development work undertaken by private sector corporations. Hong Kong will not be able to match such an approach in terms of resources, scale, output and aspiration.

Our approach is to focus on specific niche areas, mainly in nano-materials, where we have the strengths. Our output is significant when viewed against the limited availability of human and financial resources for research and development in this highly competitive technology area. For example, one of our local universities successfully fabricated the world's single walled carbon nanotubes with a diameter of 0.4 nanometre in the year 2000. Our universities' research work on carbon nanotubes and nanostructures have also been published in highly prestigious international journals such as *Nature* and *Science* in the last two years.

To further leverage on our research resources and to ensure early industrial application of nanotechnology in enhancing the innovative capability, technology content and added value of our goods and products, the Administration issued a solicitation theme on nanotechnology research with this objective in mind for funding proposals under the ITF in June 2002. We have identified two projects submitted by local universities that have merits for funding. One of the two projects, amounting to \$12.5 million, has already been approved by the Administration in early 2003 in accordance with established procedures. Similarly, funding request for the other project at \$56.9 million has been submitted to the Finance Committee for approval on 11 April 2003.

- (c) Five of the 16 nanotechnology related projects funded by the ITF have produced deliverables for transfer to local industry for further development and possibly commercialization. We will continue with our effort in sustaining the momentum and further enhancing our capability in applied research and development in nanotechnology. It should, however, be noted that commercial application of nanotechnology is at a very early stage worldwide, even for the most advanced economies such as the United States. It is premature for Hong Kong to assess the economic benefits of nanotechnology application at this stage.

## Annex A

Amount of Funds Allocated for  
Nanotechnology-related Research in Hong Kong

	<i>1998-99</i>	<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>Total</i>
	<i>(\$'000)</i>	<i>(\$'000)</i>	<i>(\$'000)</i>	<i>(\$'000)</i>	<i>(\$'000)</i>	<i>(\$'000)</i>
(I) Government						
(a) ITF	18,090	14,860	-	20,579	49,320	
(b) RGC	3,339	2,365	7,788	11,410	15,203	
Sub-total	21,429	17,225	7,788	31,989	64,523	142,954
(II) University	4,728	1,768	1,320	5,110	5,020	17,946
(Grants from University Grant Council included)						
(III) Private sector	2,552	2,848	17	13,061	18,199	36,677
(donation/ sponsorship)						
Total amount	28,709	21,841	9,125	50,160	87,742	197,577

### Expenditure on Waste Separation and Recovery Programme

19. **MR ERIC LI** (in Chinese): *Madam President, regarding the placement of waste separation bins by the Government in public areas and public/private housing estates for implementing the Waste Separation and Recovery Programme, will the Government inform this Council of the expenditure involved since implementing the Programme?*

### SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, since 1998, we have placed some 22 000 waste separation bins in public places, schools, and public/private housing estates. The cost for procuring these bins is approximately \$11 million. The cost for collecting recyclables from the bins is about \$4.2 million a year.

**Employment and Training of Local Domestic Helpers**

20. **MR ABRAHAM SHEK** (in Chinese): *Madam President, it has been reported that the Employees Retraining Board (ERB) will substantially increase the number of places in training courses for domestic helpers (DHs) in the next financial year. In this connection, will the Government inform this Council:*

- (a) *of the number of places in DH training courses offered by the training agencies of the ERB, the number of trainees, the training cost and average amount of allowance for each trainee, the number and ratio of graduates who secured employment, and their average hourly pay in each of the past three years;*
- (b) *whether it has conducted any market surveys on the demand, mode of employment and job requirements of local domestic helpers (LDHs), and whether it has drawn up the curricula and adjusted the number of training course places in the light of the survey findings in order to avoid wasting resources; if it has, of the details; if not, the reasons for that;*
- (c) *as most of the LDHs are employed on part-time basis, do not live in and are therefore unable to meet the requirement of employers for full-time DHs and, furthermore, employment on part-time basis causes the LDHs to spend more on travelling expenses, which in turn results in a higher hourly rate for LDHs vis-a-vis foreign DHs, whether it has measures to enhance the competitiveness of LDHs; if it has, of the details of these measures; if not, the reasons for that; and*
- (d) *as some trainees of DH training courses take the courses only to enhance their domestic skills in order to take better care of their families and do not intend to work as DHs, whether it has set any restrictions or guidelines to prevent the above abuse; if it has, of the details of the restrictions or guidelines; if not, the reasons for that?*

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



- (a) The number of planned training places, graduate retrainees and retrainees placed into jobs after retraining, the average placement rate and the cost of DH training courses offered by the ERB for the previous three financial years are listed in the following table:

	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>
Planned training places	10 000	12 000	17 000
Number of graduate retrainees	9 294	11 625	15 775
Retrainees placed into jobs after retraining	7 397	9 550	9 221 <sup>1</sup>
Average placement rate	80 %	82 %	85 % <sup>1</sup>
Average training cost per retrainee <sup>2</sup>	\$3,268	\$3,343	\$3,251
Average retraining allowance per retrainee	\$1,845.6	\$1,845.6	\$1,589 <sup>3</sup>

Note:

1. Figures as at the end of November 2002.
2. Not including retraining allowances.
3. Starting from November 2002, course delivery was changed from a full-time mode to a mixed mode, thus affecting the retraining allowance payable.

With regard to the hourly rate, figures in the past three years indicate that LDHs who had completed the retraining courses are generally paid \$50 to \$60 per hour, depending on various factors such as the overall economic climate, job nature and mode of work, location of work as well as employers' requirements.

- (b) The ERB commissions an independent research institute to conduct labour market analysis of selected trades and industries, including DHs. The aim is to obtain information on market demand for reference in training capacity planning. Such information is shared among all its training providers, and is discussed and analysed at the ERB's regular research and development meetings with the training providers. Besides, in working out the annual provision of training places, the ERB will take into account factors like the actual number of job vacancies it has received, the number of training places proposed by its training providers and past placement rates, and so on. To ensure that the number of training places offered meets market demand, the ERB also suitably adjusts the provision of training places for individual courses quarterly in response to the latest changes in the labour market and placement outcomes.

As regards the content of training, the ERB has conducted two employer opinion surveys to collect information about the mode of employment and job specifications for LDHs. Such information helps improve the course content and training quality to suit employers' requirement.

- (c) The ERB has introduced several in-depth modular training programmes to enhance the skills of LDHs who have completed a basic DH training course. These programmes address special job-related requirements and enhance the trainees' employability. The modules include cooking, child care and elderly care. The ERB has also set up a Course Advisory Group comprising experts from the industry. The Course Advisory Group makes regular class visits to training providers offering DH training to give professional advice with regard to the training content and course delivery to ensure the quality of training. The ERB has set up a Practical Skills Training and Assessment Centre in October 2002 to administer a standard skills assessment for the retrainees of DH courses. The objective is to benchmark the skills standard of retrainees and in turn enhance public recognition and the confidence of employers. In addition, the ERB also provides soft skills training to DH trainees such as work attitude and development of a service culture to enhance their employability. The ERB has also launched the Integrated Scheme for Local Domestic Helpers to provide "one-stop" follow-up services for employers to encourage more employers to recruit the graduates of LDH training.
- (d) The ERB has laid down clear guidelines requiring all the potential retrainees applying for full-time day courses to undergo an intake interview arranged by respective training providers. This serves to ensure that the potential retrainees have a genuine interest in the industry and are willing to enter the field before enrolment. Where there is doubt, the training provider concerned will check the enrolment and related employment records of the applicants with the ERB before deciding whether to accept the application or not. There is no existing rule to deal with cases where some retrainees do not get into employment after training. This is mainly due to the fact that whether a retrainee takes up a job depends on various factors like the economic climate, health, family conditions, other

personal reasons, and so on. However, past figures show that the average placement rate of graduates of DH training courses is well over 80%. This shows that those who enrolled into the courses did have strong incentive to enter the labour market.

## **BILLS**

### **First Reading of Bills**

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

**CONSTRUCTION INDUSTRY LEVY (MISCELLANEOUS AMENDMENTS) BILL 2003**

**EDUCATION (MISCELLANEOUS AMENDMENTS) BILL 2003**

**BETTING DUTY (AMENDMENT) BILL 2003**

**REVENUE BILL 2003**

**REVENUE (NO. 2) BILL 2003**

**CLERK** (in Cantonese): Construction Industry Levy (Miscellaneous Amendments) Bill 2003  
Education (Miscellaneous Amendments) Bill 2003  
Betting Duty (Amendment) Bill 2003  
Revenue Bill 2003  
Revenue (No. 2) Bill 2003.

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

### **Second Reading of Bills**

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

**CONSTRUCTION INDUSTRY LEVY (MISCELLANEOUS AMENDMENTS) BILL 2003**

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, I move that the Construction Industry Levy (Miscellaneous Amendments) Bill 2003 be read the Second time.

Electrical and Mechanical (E&M) services have grown in importance in the construction industry in recent years. There is a need to expand the spectrum and capacity of E&M training courses and the E&M trade tests which are specific to the construction industry. To address this need, we propose to extend the scope of the current construction industry levy to cover E&M works.

The additional levy collected from E&M works would be used by the Construction Industry Training Authority (CITA) to expand the scope, as well as covering the additional costs, of construction industry-related E&M training courses and trade tests to include E&M services.

This would help provide more well-trained workers to meet the needs of the industry. It would also help raise the quality and productivity of workers and improve site safety. In addition, the proposal will facilitate the full implementation of the Construction Workers Registration System by providing the requisite training and trade testing to E&M workers in the industry.

To extend the coverage of the levy, the current definition of "construction works" under the Industrial Training (Construction Industry) Ordinance (ITCIO) and the Pneumoconiosis (Compensation) Ordinance, which specifically excludes E&M works, will be replaced by a new definition of "construction operations" in the Bill, which will encompass E&M works.

Besides the amendments to extend the coverage of the industry levy to E&M works, the Bill will also cover other amendments to the ITCIO including the modification of the composition of the CITA Board to include a representative from the E&M sector and allowing the CITA to appoint other bodies as training agents in the provision of services.

Madam President, I commend the Bill to Honourable Members. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Construction Industry Levy (Miscellaneous Amendments) 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.

## **EDUCATION (MISCELLANEOUS AMENDMENTS) BILL 2003**

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, I move that the Education (Miscellaneous Amendments) Bill 2003 be read the Second time.

The Bill aims to streamline the registration procedure for day and evening schools, enhance the mode of operation of the Appeals Board, raise the professional standards of teachers and allow schools and post secondary colleges to conduct courses on general holidays.

Under section 10(2) of the Education Ordinance, a school which provides evening in addition to its daytime instruction, is required to register the evening instruction as a separate school. The separate registration procedure for day and evening schools in such cases is neither efficient nor cost-effective. Repealing this section will remove duplication of work, speed up the processing of applications and create a more business friendly environment.

Section 59 of the Education Ordinance provides for an Appeals Board to hear and determine appeals arising from a decision of the Permanent Secretary for Education and Manpower on registration of schools, managers, supervisors, principals and teachers, and applications for extension of service of teachers and principals in aided schools. At present, the Appeals Board involves a large number of members in hearing every appeal. We propose a more flexible system of appointing an Appeal Boards Panel from which members would be drawn to form Appeal Boards to hear or determine appeal cases. Under this new arrangement, more than one hearing session can operate concurrently to handle different appeal cases.

Quality of teaching is essential to the provision of quality education. One of the key elements to assure the quality of teaching is teachers' qualifications

and professional competency. To upgrade the quality of teachers and to develop a professional teaching force, it is necessary to raise the minimum qualifications for teacher registration. To qualify for a registered teacher status, a person will have to possess an approved teacher education qualification. The existing paragraphs (3) and (9) in Part I of the Second Schedule of the Education Regulations, whereby serving teachers may become registered teachers by accumulating years of services without going through proper teacher training, will be repealed.

We also propose to raise the minimum qualifications of permitted teachers in schools offering primary, secondary and post secondary education from the Hong Kong Certificate of Education Examination (HKCEE) to post-secondary level. The new requirement will apply to new permitted teachers joining the teaching profession on or after 1 September 2003, and serving permitted teachers who seek to have a new permit to teach upon change of school, subjects or levels of subjects taught. The Permanent Secretary for Education and Manpower may exercise discretion to exempt those affected permitted teachers from the new requirements in exceptional cases.

The minimum qualifications for permitted teachers serving in kindergartens are also recommended to be raised to five passes in the HKCEE, including both English Language and Chinese Language.

To enhance the professionalism of the teaching force, we propose to include an enabling provision in section 84(1)(w) of the Education Ordinance to empower the Chief Executive in Council to make regulations to stipulate the qualifications, continuing education and training of principals and teachers as and when necessary.

Our proposal to permit schools and post secondary colleges to conduct courses on general holidays will provide more flexibility to schools to accommodate the different needs of working adults and to suit individual *modus operandi* and interests. This is in line with the Government's policy to encourage lifelong learning, and addresses the concerns of private school operators.

We believe that raising the qualifications for teacher registration and reinforcing the professional competency requirements of teachers will enhance

the quality of teachers in Hong Kong for better education of our next generation. The other proposals would either streamline the existing procedures or provide more flexibility to school operators and are generally welcome by the education sector.

Madam President, I hope that Members will support the Education (Miscellaneous Amendments) Bill 2003.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Education (Miscellaneous Amendments) 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.

### **BETTING DUTY (AMENDMENT) BILL 2003**

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I move the Second Reading of the Betting Duty (Amendment) Bill 2003 (the Bill).

The primary objective of the Bill is to give effect to the proposal of authorizing football betting in Hong Kong.

It has been the Government's policy to restrict gambling opportunities to a limited number of authorized and regulatory outlets only. The spirit of this policy is not to encourage gambling, but to authorize football betting as well as to put this policy into implementation. As pointed out in a consultation paper on the Gambling Review published by the Home Affairs Bureau in June 2001, it is the Government's policy to make sure the following three requirements are met when authorizing certain gambling activities:

- (1) There has been sufficiently large and persistent public demand for that type of gambling;
- (2) The demand is now being satisfied by illegal means. In addition, the problem cannot practically and fully be tackled by law enforcement alone even with the devotion of substantial resources; and

- (3) The proposition of authorizing the new gambling outlet commands public support.

Having analysed the latest developments of illegal football gambling and current public inclination on the issue against the above criteria, we have decided to authorize football betting as a measure to combat illegal soccer betting. Let me explain the relevant justifications.

Illegal soccer betting became increasingly rampant since the World Cup Finals in 1998, as reflected by the amount of gambling money seized during police action. The Gambling (Amendment) Ordinance was enacted in May 2002, the year when the World Cup Finals were held, for the purpose of criminalizing cross-boundary gambling and relevant gambling activities and stepping up law enforcement. However, the year still saw a dramatic increase in the amount of money and betting slips seized by the police from \$20 million in 2001 to \$57 million in 2002, representing a more than two and a half-fold increase. These figures reflect the extreme huge public demand for football betting activities. A survey commissioned by the Home Affairs Bureau revealed a substantial rise in the degree of participation from 2.4% in May 2001 to 7.5% in July 2002. This reflects that there is a sufficiently large and persistent demand for football betting and the trend is on the rise.

At present, most public demands for football betting are being met through illegal channels. As revealed by police operational experience, illegal soccer gambling is invariably associated with other illegal activities, such as debt collection, which may be controlled by triad and organized crime syndicates. As illegal gambling is often one of the major sources of income for triads, illegal soccer gambling activities obviously have had a negative impact on law and order in Hong Kong. The enhanced enforcement actions taken by the police against illegal soccer gambling before and during the 2002 World Cup Finals have yielded considerable results. However, such enforcement efforts are resource-intensive. Their effectiveness could only be sustained through the conduct of frequent checks and raids. After careful consideration, the Government has come to the view that the authorization of football betting can ameliorate not only the illegal soccer gambling problem, but also reduce the resources required for law enforcement.

According to the results of a number of opinion polls conducted over the past year, there was a gradual increase in public support for the authorization of



football betting, with a support ratio maintaining at around 70%. We therefore conclude that this proposition commands public support in general.

The Government intends to, subject to the passage of the Bill, issue only one licence for the purpose of operating football betting for a period of five years, with the Hong Kong Jockey Club (HKJC) being appointed the sole operator. We decided to issue only one licence to the HKJC mainly to avoid stimulating public demand for gambling as a result of competition among licensed operators. In addition, the HKJC can make use of its existing resources and betting facilities, thereby obviating its need for additional gambling facilities and minimizing the nuisance caused to the public. Furthermore, according to the 2001 public consultation exercise on the gambling issue, most of the respondents to the authorization of football betting preferred this option of licensing another commercial entity or more than one commercial entity.

### *Content of the Bill*

Let me give Members a brief introduction of the specific content of the Bill.

#### *(i) Authorizing football betting by licence and imposing sanctions*

To start with, the Bill will empower the Secretary for Home Affairs to authorize by licence a company to conduct football betting and to impose conditions in the licence as he sees fit. The licensing conditions will clearly define the types of football bets and matches for which bets can be accepted by the licensee.

To ensure compliance with licensing conditions by the authorized football betting operator, we also propose to empower the Secretary for Home Affairs to impose sanctions in the event of non-compliance. The proposed sanctions include the imposition of a ceiling for financial penalties and the revocation of licence.

#### *(ii) Betting Duty*

In the second major part of the Bill, it is proposed that duty on football betting be set at 50% on gross profits. The levy will be calculated on the basis

of gross profits during the annual taxation period. The licensee will be required to make monthly provisional payment too. We consider that the proposed tax rate can strike a reasonable balance between the need to ensure the competitiveness of the football betting licensee, and the need to secure a reasonable amount of tax revenue for the Government.

As regards the mechanism for collecting and managing football betting duty, the Bill proposes to provide the Collector of Stamp Revenue, who is responsible for collecting betting duty at the moment, with the powers to raise an assessment on the licensee in respect of betting duty chargeable on football betting, to collect betting and recover betting duty, and to do other specified things.

(iii) *Hedging or laying-off of bets*

In the third major part of the Bill, it is proposed to allow the licensee to lay off football bets with overseas bookmakers to reduce its risk exposure, thereby operating on a higher betting turnover. Hedging of bets is common among most overseas licensed bookmakers as a risk management measure. We propose to include both the amount of bets placed and the winnings from such bets in gross profits for the calculation of betting duty. The Bill also proposes to formulate a series of restrictions against abuse. These include the hedged bets must be confined to those bets on the particular matches for which the licensee has also been taking bets, and the hedged bets must be placed for the purpose of hedging against the risk of loss that the licensee may suffer from the conduct of betting on the match. We will also include a series of safeguards in the licensing conditions. These will include requiring the licensee to keep detailed records of all hedging transactions for the prescription of operational and procedural guidelines.

(iv) *Gaming Commission*

The establishment of the Gaming Commission is provided in the fourth major part of the Bill. The Commission will advise the Government on the regulation of football betting and lotteries affairs; the compliance with the licensing conditions by the licensees; and the issuance, revocation and variation of the conditions of licences. The members of the Commission shall be

appointed by the Chief Executive, most of which being non-public officers. This arrangement will bring in an element of public scrutiny over the conduct of both football betting and the Mark Six Lottery and enhance the transparency and accountability of the regulatory regime.

(v) *Authorization of Mark Six Lottery activities*

It is proposed in the fifth major part of the Bill to improve the regulatory system of Mark Six Lottery activities. We propose to empower the Secretary for Home Affairs to require the relevant operator to operate lottery activities in accordance with the conditions set out in the licence and, at the same time, dissolve the Lotteries Board. Subject to the passage of the Bill, we intend to transfer the licence currently held by the Lotteries Board for the purpose of operating Mark Six Lotteries to a wholly-owned subsidiary of HKJC. Moreover, Mark Six will be included in the terms of reference of the Gaming Commission. Subsequent to these changes, the Mark Six Lotteries will be regulated in a way broadly in line with that for football betting.

*Licensing Conditions for Football Betting*

We propose that the licence for football betting should be granted to the wholly-owned subsidiary of HKJC set up to ensure that football betting would be operating as a stand-alone business and avoid affecting other businesses operated by the HKJC as a result of the arising of any legal liability from football betting.

To ensure financial stability and normal operation of the licensed betting operator within the licence period, we propose that the Bill empower the Secretary for Home Affairs to approve the constitution of the licensee.

Let me give a brief introduction of the principal licensing conditions of football betting:

(1) *Duration of licence*

The licence should last for an initial period of five years, and whether it should be renewed or not should be decided by the Secretary for Home Affairs.

(2) *Types of matches*

With respect to types of matches, we propose that football betting could be conducted on all football matches of major professional football leagues, international football tournaments or competitions, with the exception of those matches involving Hong Kong teams, except with the special approval of the Secretary for Home Affairs.

(3) *Types of bets*

We propose to allow the licensee to offer fixed odds and pari-mutuel betting on football matches in relation to the results and contingencies of such matches.

To guard against negative impacts of authorized football betting on youngsters and the community, the following conditions will be imposed in the licence as well:

- (1) The licensee should not be allowed to offer any credit for betting or to accept credit cards for payment in order to prevent excessive gambling among punters;
- (2) To prevent underage betting, the licensee shall not accept bets from any person under 18 years of age. Nor shall it accept any request for payment of winnings from any person under 18 years of age. The licensee should also be required to take reasonable measures to prevent admission of persons below 18 years of age to its betting premises.
- (3) The licensee should not advertise football betting on television or on the radio during the family viewing hours. Nor shall it advertise in ways which would exhort the public to bet, or target persons under 18 years of age in their advertisements;
- (4) The licensee should take preventive measures against gambling-related problems. For instance, signs should be displayed in betting premises to warn punters that excessive gambling could create problems, and so on.

The Secretary for Home Affairs could issue Codes of Practice on the promotion and publicity of football betting and preventive measures against gambling-related problems, as well as formulating detailed guidelines on specific problems.

The proposed football betting operational framework seeks to, on the one hand, give the licensee adequate competitive edge to put the authorization of illegal soccer gambling into effect and, on the other hand, set up a system for the effective regulation of legal betting activities to implement the Government's gambling policies.

We understand some members of the community's concern about the possible impact of gambling activities. We also agree there is a need to help people encountering problems because of excessive gambling. In this connection, we plan to set up a dedicated fund for financing the following activities:

- (1) research and studies on gambling-related issues and problems;
- (2) public education and other measures to prevent gambling-related problems; and
- (3) counselling and treatment as well as other remedial services for problem and pathological gamblers, and those affected by them.

The use and application of the above fund would be determined by the Secretary for Home Affairs.

In relation to financial arrangements, we have reached an agreement with the HKJC whereby the latter would contribute \$24 million for the first two years of its football betting licence period and between \$12 million and \$15 million each year as from the third to the fifth year of its football betting licence period. The relevant work is now under active preparations and is expected to be implemented progressively in the middle of this year.

I would reiterate that the Government's decision to regulate football betting is aimed at combating illegal soccer gambling problems. In other words, this measure is aimed at addressing football gambling as a social issue, not a

moral issue of whether gambling should be permitted. We have no intention to replace the police in performing their role of combating illegal gambling by regulating football betting. In other words, even after the authorization of football betting, the police will still continue with its stringent enforcement against illegal gambling. Given that it is not our policy to encourage gambling, a number of additional supportive measures were introduced with respect to the entire set of legislative proposals, licensing mechanism and regulatory system with a view to minimizing the negative impact of the authorization of football betting on the community.

We believe the specific proposals made by the Government today with respect to the authorization of football betting, in conjunction with continual enforcement actions by the police, and coupled with preventive and relief measures taken with respect to gambling problems, can not only effectively combat illegal football gambling, but also bring the huge demand for football betting back to the right track, thereby ameliorating various social problems caused by illegal soccer gambling.

For the abovementioned reasons, I hope Honourable Members can support and pass the Bill expeditiously.

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

The debate is now adjourned and the Bill referred to the House Committee.

## **REVENUE BILL 2003**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move the Second Reading of the Revenue Bill 2003 (the Bill).

The objective of the Bill is to implement the revenue proposals in the Budget this year relating to motor vehicles first registration tax (FRT). The proposals include the abolition of the exemption for vehicle accessories and distributors' warranties under the existing motor vehicles FRT system, switching

the tax system for private cars to a marginal tax system, adjusting the tax rates for private cars and strengthening the provisions that prevent tax avoidance.

Adjustments were last made to the motor vehicles FRT system in 1994. At that time, three vehicle accessories, namely air-conditioners, audio equipment and anti-theft devices, were mainly fitted to vehicles locally after the vehicles had arrived, and distributors' warranties did not form part of the sales contracts of vehicles. Hence, these items were excluded from the taxable value of motor vehicles under the tax system at that time. However, the trade practice has changed over the past decade. Today, the vast majority of the exempted accessories are built-in items and the majority of the warranties form part of the sales contracts of the vehicles. The continuous provision of these exemptions has become outdated and it brings to the trade and government departments unnecessary workload and costs. It is because vehicle distributors are required to apportion the values of the three exempted accessories for approval by the Customs and Excise Department even though the prices of such individual items are not separately provided by the manufacturers. The fact that the prices of these items cannot be compared to objective prices easily gives rise to tax evasion problems. We therefore recommend abolishing these exemptions to make the tax system more satisfactory and closer to the international practice.

As the value of exempted items constitutes a larger percentage of the total value of the vehicle for lower-priced private cars, the Bill proposes to widen the tax bandwidths for private cars from \$100,000 for the first three steps to \$150,000 for the first two steps and \$200,000 for the third step, and to decrease the tax rate for these cars to mitigate the impact of abolishing the exemptions.

In order to raise additional revenue, we also propose to increase the tax rates for more expensive private cars with taxable value over \$150,000 and make the tax more progressive. The proposed marginal rates are 35%, 75%, 105% and 150% for the four bands respectively. Therefore, the effective tax rates for private cars with taxable value below \$150,000, between \$150,001 and \$300,000, between \$300,001 and \$500,000 and above \$500,000 would be 35%, 46%, 65% and 95% respectively on average. In addition, the Bill proposes to switch to a fairer marginal tax system.

To strengthen the existing provisions that prevent tax avoidance, the Bill proposes a requirement for registered vehicle owners to declare to the Transport Department the fitting of accessories and the purchasing of warranties within six months after first registration of the vehicles. It is not a brand new provision

for the existing provisions already require registered vehicle owners and distributors to declare to the Transport Department the vehicle accessories provided by registered owners or associated persons within three months after first registration. Vehicle owners are required to declare the accessories and warranties provided by any person, in addition to registered distributors and associated persons. The anti-avoidance period is also extended from three months to six months in order to step up monitoring of tax avoidance by vehicle owners through purchasing vehicle accessories and warranties after first registration, and level the playing field for all providers of vehicle accessories and warranties.

For the purpose of revenue protection, the proposals of the Bill were put into effect as from 2.30 pm on 5 March in accordance with the Public Revenue Protection (Revenue) Order 2003 signed by the Chief Executive. The Order gives legal effect to the proposals of the Bill for a maximum period of four months. The proposals will cease to have effect as from 5 July should the Bill not be passed by the Legislative Council by then.

After the implementation of the proposals of the Bill, the increased taxes on private cars will have higher impacts for more expensive private cars but expensive cars only represent a small portion of the private car market in Hong Kong. In the year 2002-03, only about 6% or 1 800 of the private cars first registered have a taxable value (after including the tax-exempted items) going over \$500,000.

Assuming that there are no changes in the pricing strategy of vehicles, the new tax rates will lead to an increase in retail price in a range between 5% and 27% for the 12 representative vehicle models in our sample survey. However, our survey has found that some distributors have partially borne the increased taxes and the practice is more common for higher-priced vehicles.

We propose maintaining the existing tax rate of 40% for motorcycles because motorcycles generally only have one to two exemption items such as anti-theft devices and distributors' warranties and the abolition of the exemptions will have lower impact on their taxable value as compared with private cars. After the adjustment to the tax system, the retail prices of motorcycles will still be lower than those of general lower-priced private cars.

Experience tells us that vehicle sales will slacken within a certain period of time after tax increases but it is mostly a transient phenomenon. We believe



that with the gradual disappearance of the psychological effects of tax increases on consumers, vehicle sales will improve and there will only be limited impacts on the vehicle industry. Actually, within one week before the release of the Budget, 1 636 private cars were first registered, around three times the average weekly number in the year 2002-03. Since the market needs some time to absorb the suddenly increased sales, within one week after the release of the Budget, the number of private cars first registered dropped to 59. However, the relevant number has started to increase. The latest figures show that within one week from 24 March to 30 March, the number of private cars first registered increased to 328, which was equal to 60% of the average weekly number in the year 2002-03.

In respect of motorcycles, within one week from 24 March to 30 March, the number of motorcycles first registered was 91, similar to the average number in the year 2002-03.

We expect that the proposals of the Bill will not have significant impacts on the economy as a whole and the rates of increase in the relevant taxes will have very little impact on the growth in the Gross Domestic Product, representing only less than 1% of the growth in the Gross Domestic Product. At present, there are approximately 12 000 employees engaged in the wholesale, retail, import and export of vehicle and motorcycle accessories and I believe the jobs of most of them would not be affected by the proposals.

We expect that the increase in motor vehicles FRT will bring about additional revenue of about \$700 million. Some people think that the revenues may reduce after the increase in motor vehicles FRT. I wish to say that this estimate has already taken into account possible changes in the pricing strategy of vehicle distributors that may bring about a drop in the average tax on private cars and the suppression effect of the tax increase on new vehicle sales. When the Government increased motor vehicles FRT in 1990 and 1991, the tax increase measures have brought about additional revenues for the Government.

To sum up, the proposals of the Bill will make the system of FRT tally better with the operation of the vehicle industry and stop the loopholes of the tax system, and it is a suitable measure for increasing revenues.

Madam President, with these remarks, I suggest that the Legislative Council should consider and pass the Bill as soon as possible. Thank you.

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

The debate is now adjourned and the Bill referred to the House Committee.

## **REVENUE (NO. 2) BILL 2003**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move the Second Reading of the Revenue (No. 2) Bill 2003.

The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to give effect to some of the proposals published in this year's Budget with respect to salaries, profits and property taxes.

As pointed out by the Financial Secretary in this year's Budget, in four of the past five years, the Consolidated Account registered a deficit. The Operating Account, which reflects government day-to-day revenue and expenditure, has been in deficit for five years in a row. The consolidated deficit for 2002-03 is forecast to be \$70 billion, \$24.8 billion more than the original estimate. Total government spending will be \$243.3 billion, whereas government revenue will be \$173.3 billion. The level of fiscal reserves is forecast to drop to \$303 billion by 31 March this year. The recent outbreak of the war in Iraq and atypical pneumonia might exert further pressure on the revenue statistics. The deficit problem is serious and needs to be addressed immediately.

Though it is well understood that raising revenue and cutting expenditure will produce a definite impact on the general public and enterprises, the adverse impact will become even more profound and far-reaching if the implementation of deficit-resolving measures is delayed.

Suitably raising revenue helps resolve the deficit problem progressively. Insofar as salaries tax is concerned, we propose to revert the marginal tax rates and tax bands to their levels before the concessions made in 1998-99 in two equal phases in 2003-04 and 2004-05. In other words, tax bands will rise from 5% to 6%, while marginal tax rates will be adjusted to 2%, 8%, 14% and 20%

respectively, with bandwidth reduced from \$35,000 to \$30,000. We propose to revert basic and married person's allowances from \$108,000 to \$100,000 and from \$216,000 to \$200,000 respectively in two equal phases to their levels before the tax concessions in 1998-99. We also propose to reduce the single parent allowance from \$108,000 to \$100,000 in two years. The standard rate of salaries tax is proposed to increase from 15% to 16% in two equal phases in 2003-04 and 2004-05. We do not propose any changes to the allowances or deductions for dependants, including accommodation and living expenses for elderly as we recognize the heavy burden of taxpayers who have to support the living of their dependent relatives.

To make our tax regime fairer, we propose to abolish the exemption for holiday warrant and passage. In order to tie in with the population policy and to encourage charitable donations, we propose to increase the allowance for the third to ninth child from \$15,000 to \$30,000 to be in line with the allowance for the first and second child. We also propose to raise the existing ceiling for tax-exempted donations from 10% of assessable income to 25%. The relaxation of the ceiling of charitable donations is also applied to profits tax.

When it comes to profits tax, we propose to, starting from 2003-04, increase the profits tax rate for corporations from 16% to 17.5% and increase the profits tax rate for unincorporated businesses from 15% to 16% in two phases in 2003-04 and 2004-05. Furthermore, we propose to increase the rate of deeming assessable profits for certain payments such as royalties, licence fees, and so on, from 10% to 30%.

It is estimated that the abovementioned proposals will bring the Government a total of some \$10.3 billion for the entire year (some \$6.8 billion from salaries tax, \$3.5 billion from profits tax, and \$70 million from property tax). The tax concession offered for charitable donations will cost the Government approximately \$100 million.

Although we understand the proposed increases in salaries tax are going to impact directly on the public, the proposals should have limited impact on lower to middle income taxpayers. Let me cite a household drawing the median household income (\$16,000 a month) as an example. If the taxpayer of this family is a single person without being given any allowances or deductions, his monthly salaries tax will rise from \$403 to \$633, with the effective tax rate

increased from 2.5% to 4% only. If the taxpayer in question is married, he will still be exempted from the payment of tax even after the full implementation of the tax increase proposals. For a household drawing an monthly income of \$30,001 (higher than 75% of households in the territory), if the taxpayer of the household is married with one child, his effective tax rate will rise from 2.5% to 4.2%, and the tax payable per month will increase from \$740 to \$1,267 only. Supposing this household has to support one parent living apart from the household or pay home loan interest in excess of \$100,000, the household will still be exempted from the payment of salaries tax even after the full implementation of the tax increase proposals.

When it comes to profits tax, Hong Kong has a simple profits tax system with consistently low tax rates and many concessions. We do not have capital gains tax nor do we impose tax on dividends. The proposed rates are still lower than those in neighbouring economies, and the 18.5% rate we had in the '80s. Our competitive edge will not be significantly affected by the revision in profits tax rates.

Over the past few months, Hong Kong economy was indeed under pressure owing to a combination of factors. Even the livelihood of the public was affected. We hope we can get over all these things very quickly.

With these remarks, Madam President, I recommend an expedite scrutiny and passage of the Bill by this Council. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue (No. 2) Bill 2003 be read the Second time.

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 Appropriation Bill 2003. The public officers concerned will speak, after which the Financial Secretary will reply.

**APPROPRIATION BILL 2003****Resumption of debate on Second Reading which was moved on 5 March 2003**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, the Financial Secretary's task of compiling this year's Budget is by no means an easy one. On the one hand, the prevailing economic situation continues to remain unclear, while the confidence of the general public and members of the business sector is very low. On the other hand, no sooner than the Budget was announced, war broke out in Iraq on the external front; and almost at around the same period, Hong Kong was attacked by atypical pneumonia internally. Both incidents dealt heavy blows to the Hong Kong economy and increased public anxiety. All these brought about grave consequences to different sectors of the community, various trades and industries and the Hong Kong economy as a whole.

The Budget of this year has led to a heated but constructive public debate over the management of public finance. Different views and opinions on various measures proposed in the Budget have been expressed by both Members in this Chamber and the public outside this Chamber. I am very happy to see that on the whole, everyone has maintained a positive and affirmative attitude towards the Budget. I must point out that the more focused the public are on discussing the Government's fiscal deficits, the better they would be able to appreciate why the Government must adopt measures to lead public finance back on to the right track, in order to maintain Hong Kong's long-term financial stability. The public also generally agrees that it is necessary to jointly contribute their efforts towards this purpose.

Madam President, the Government of the Hong Kong Special Administrative Region (SAR) has carefully considered the views of Members and the public. Some people think that certain measures are unfair, some people think that steps taken by the Government are inadequate, some people are of the opinion that there are too many of certain measures and that such measures are too hasty, while others think that the relevant arrangements are too few and too late. I hope Members understand it is not easy to meet all aspirations within and outside the Legislative Council. Sometimes such aspirations are poles apart and it is really hard to satisfy all aspirations at the same time. On the whole, the actual consultation and implementation of specific measures involve "give" and

"take" over the views and interests of different parties. As a responsible Government, we must always bear in mind the long-term interests of the community as a whole so as to balance different aspirations in the community and to finalize the priority of government work.

The Chief Executive, in his first policy address of the second term of the SAR Government, put forward strategies on reviving the economy, strengthening economic co-operation with the Mainland and resolutely solving the fiscal deficit problem so as to realize the goal of maintaining long-term prosperity and stability in Hong Kong. In order to put the administrative blueprint of the Chief Executive into practice, the Budget laid down specific plans on reviving the economy, measures on appropriately increasing revenue and specific targets and options on reducing expenditure. It proposed adjustments to the rate of salaries tax, amount of allowances and progressive tax bands, thus triggered off heated discussions among the public. Some people criticized the Government for not doing enough in cutting expenditure. The Financial Secretary, in his concluding speech, will address each of these doubts and in this regard, my response will be focused on the views of Members and the public on the Government's measures for controlling expenditure.

First of all, I have to point out that the Government fully shares Members' determination and aspiration in cutting public expenditure. In comparison, the determination and aspiration of the Government is even much stronger than that of Members. Cutting public expenditure is the unshirkable responsibility of the Government. The reason is very simple — public resources are actually obtained, possessed and used on behalf of the people. The Government must bear in mind that resources must be used effectively in building up Hong Kong and laying down a more solid foundation for our next generation and us.

While striving to cut the fiscal deficits, the Government will, at the same time, continue to provide good quality service to the public, through continuously raising the efficiency of public services, productivity and cost-effectiveness. Under the serious impact of atypical pneumonia on the people's livelihood, all public-sector workers will stick to their posts, do their level best in fighting against atypical pneumonia and reduce the burden of the public. In reviewing all non-essential services, careful considerations will be made to ensure that the impact on our clients will be minimized. Our policy areas on cutting public expenditure include:

- to make use of limited resources in accordance with established fiscal principles to satisfy the increasing demand and aspirations in the community; and
- to achieve the objective of "doing more with less" through reprioritizing our work, reorganizing government structures, re-engineering procedures and making best use of the market in the delivery of service.

Madam President, we undertake to maintain a rationalized civil service team and ensure that civil servants would maintain a high efficiency and productivity. The Government has already made certain progress in its work of structure streamlining, procedures re-engineering and controlling the growth of the Civil Service — we have launched the Second Voluntary Retirement Scheme; and planned to reduce the size of the civil service establishment from 178 000 posts at present to around 160 000 in four years; civil service pay adjustments will also be effected in two rounds to bring it down to the 30 June 1997 levels in cash terms. Furthermore, we have already started to review our civil service pay adjustment mechanism and allowances. Later on, the Secretary for the Civil Service will make further explanations on the abovementioned work.

Meanwhile, we are actively implementing various measures to achieve our objective of "doing more with less".

First of all, since the accountability system was introduced in July last year, many bureaux and departments have commenced on or are planning their restructure so as to use resources more effectively. For example:

- the amalgamation of the Housing, Planning and Lands Bureau and the Housing Department and the amalgamation of the Education and Manpower Bureau and the Education Department have been completed in succession, and a total of nine Directorate and 20-odd non-Directorate posts have been deleted with savings of \$40 million per year;
- the Civil Service Branch and the Official Languages Agency will be amalgamated in July this year and 24 posts will be deleted with savings of almost \$13 million per year; and

- three supporting departments under the Financial Services and the Treasury, namely the Government Land Transport Agency, Government Supplies Department and the Printing Department will be amalgamated in July this year and more than 60 posts will be deleted with savings of about \$26 million per year.

In the future, we will continue to work along this direction, to further achieve our objective of a "small government".

Secondly, all bureaux and the Efficiency Unit will work together to promote various measures on increasing the productivity of the Government. Such measures include the publication of electronic General Forms, in order to substantially reduce printing expenses and to put the concept of "one-stop service" into practice on a wider scale, so as to reduce wastage caused by duplication in the provision of services.

Moreover, all department heads are now reviewing their own establishment and work flow and operating costs will be controlled through measures like procedures re-engineering and automation. For example, the Civil Service Bureau delegated the authority of personnel management to department heads in November last year and relevant procedures were rationalized. By doing so, 34 posts were reduced with savings of more than \$9 million per year. The disciplinary forces, under the guiding principle of not affecting the quality of services, have actively converted non-disciplinary duties into civilian duties and considered to contract out non-core services and anticipated that savings of \$10 million per year could be achieved. Recently, the Government has also issued guidelines to strictly control departmental expenditures on entertainment, visits and use of vehicles, and to achieve as much savings as possible on the use of paper and power. As regards the restructuring of services closely related to the public, it is hoped that Members would appreciate that we need time for consultation, to assess the impact of such measures on the public and to put necessary supporting services in place before the restructuring could be implemented.

Finally, in order to implement policies on controlling government expenditure, we would encourage government departments to resort more often to outsourcing services and allow more private participation in the delivery of public services through other means. I hope more business starting and job



opportunities could be created in the coming years to allow members of the public to benefit from the flexibility, innovative ideas, technology and skills of the private sector. Outsourcing services could also offer new opportunities for the Civil Service to create new service areas. This could increase the flexibility of government departments, improve the quality of their services and enhance cost-effectiveness. For example, the Buildings Department will contract out 90% of its new projects in seven years' time. The Budget also put forward a list of infrastructure projects, which allow private sector participation, to invite the private sector to submit expressions of interest on 10 or so recreational and cultural facilities projects worth about \$2.5 billion. The Government would then consider offering the projects through competitive bidding to the market for development. As regards other major public sector reform measures, such as whether there should be corporatization and privatization of government departments. Though this involves more complicated issues, we would continue to look into such matters.

Madam President, the Government has already cut its expenditure by adopting various specific measures. In the future, we would continue to introduce further measures to achieve the objective of "small government". What I told Members earlier showed the Government's confidence and commitment in this area. Here, I could once again assure Members that to achieve the objective of "doing more with less" by means of public sector reforms is on top of the Government's priority list. The Financial Secretary and I would continue to monitor the formulation and implementation of a comprehensive public sector reform strategy. We would oversee this job with unwavering conviction so that various bureaux, departments as well as the whole Government could do their utmost in enhancing the efficiency and productivity of the Government.

During the Budget debate last week, some Members launched severe criticism against the Financial Secretary in relation to the incident of his vehicle purchase. As regards this incident, the Legislative Council has already scheduled another agenda for its discussion, and I will give a detailed response when the time comes. I only wish to point out that the Appropriation Bill is related to the overall expenditure and operation of the Government as well as services provided to the public. I hope Members could discuss and make decisions in relation to the content of the Bill in a rational, objective and impartial manner.

With these remarks, Madam President, I earnestly urge Members to support the Appropriation Bill 2003 and the various relevant bill revenues.

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): Madam President, I would like to extend my gratitude to the many Members who, during the Budget debate last week, gave their views on policies and matters concerning the Civil Service and expressed their concern for and appreciation of our civil service colleagues taking part in the fight against atypical pneumonia.

The Government of the Hong Kong Special Administrative Region (SAR) is committed to maintaining an excellent, clean and efficient Civil Service. The objective of the Civil Service Reform, introduced by the Civil Service Bureau since 1999, is to ensure that Hong Kong continues to have a world-class Civil Service keeping with the changing circumstances. I have briefed Members about the latest development of the reform at the policy debate in January this year. In future, we would continue to make significant changes to the pay and management of the Civil Service, so that our Civil Service can provide better, more efficient and more cost-effective services for the public, enhancing the competitive advantages of Hong Kong.

I understand that some Members have different views about the size as well as the pay and allowances of the Civil Service and I would brief them later on our latest progress in this regard. However, I have to stress that the Civil Service Reform is an ongoing process and more vigorous measures should be taken, particularly in the light of the current economic downturn and financial constraints.

In line with the Government's target to reduce expenditure, we would reduce the size of the Civil Service from the current establishment of around 178 000 posts to around 160 000 by 2006-07. Some Members proposed to increase the magnitude of the cut. Some expressed concerns over the impact of the cut on overall employment and provision of government services. I would like to take this opportunity to point out that in 1999, the civil service establishment was in the size of around 198 000 posts. To bring it down to 160 000 posts, an equivalent of that in the mid-80s of the last century, is not a simple task. The target would be achieved through normal retirement and resignation, a temporary freeze in civil service recruitment and the launch of the second Voluntary Retirement Scheme. In addition, I would like to point out

that Directorate grade staff in the Civil Service accounts for less than 1% of the total strength, a proportion comparable with Singapore. We expect that the cut in establishment would be matched with a reduction in the strength of Directorate grade staff. In fact, bureaux and departments have deleted a number of directorate grade posts while reviewing their organization structures over the past months.

After the outcome of the Second Voluntary Retirement Scheme is known, Directors of Bureaux would be requested to carry out a comprehensive review of the manpower arrangements for the departments under their purview and to submit manpower estimates advising a timeframe for streamlining establishment. We would consider all necessary measures to achieve the target of staff retrenchment.

Following the civil service pay cut in the previous financial year effective from October last year, the Government has decided to further bring the salaries of the Civil Service back to the 30 June 1997 levels in cash terms. The pay reduction would take effect by two adjustments in the current and next financial years respectively. In short, it is a "3-3" rather than the so-called "0-3-3" package. We plan to submit the bill to the Legislative Council in May this year so as to implement the pay cut decision as early as practicable. With the full implementation of the civil service pay reduction, the Government will save about \$7 billion annually on salary expenses and subventions to subvented organizations.

The Government has decided to develop an improved civil service pay adjustment mechanism on the basis of the existing mechanism and to conduct pay level surveys to compare civil service pay levels with those in the private sector. To enhance the impartiality of the review, a steering committee comprising members from the three advisory bodies on civil service pay and conditions of service has been set up to advise me on matters related to this exercise. The new mechanism will comprise the periodic conduct of pay level surveys, the conduct of annual pay trend surveys based on an improved methodology as well as a means for implementing both upward and downward pay adjustments. We would take careful account of all the relevant factors and fully consult the staff in the process. We aim to complete the review within next year.

Furthermore, the Government announced last month that it would conduct in the coming year a comprehensive review of civil service allowances to

consider the need to revise the current arrangements and rates in response to changes of circumstances. We would examine all possible options of reducing expenditure. In carrying out the review, we would consult civil servants fully and adopt the principles of lawfulness, reasonableness and fairness.

To improve the efficiency of service, we have recently revised the procedures to facilitate the work of Heads of Departments/Grades in handling persistent non-performers. Under the new procedures, if the performance of an officer is rated unsatisfactory within an appraisal period of 12 consecutive months and evidence shows that appropriate counselling and warning have been given by the management, the Administration may take action under Section 12 of the Public Service (Administration) Order to require him/her to retire in the public interest. The Civil Service Bureau aims to settle such cases within three months on the receipt of recommendations from Heads of Departments/Grades.

The reform measures outlined above would bring challenges to the Civil Service. The Civil Service Bureau would work in close co-operation with Heads of Departments and civil service associations to meet these challenges. We would continue to promote staff training and encourage colleagues to pursue continuous learning, for which a sum of \$140 million has been allocated, offering more than 40 000 places to beneficiaries. Moreover, we would gather staff suggestions through the Staff Suggestion Scheme, so as to achieve the targets of reducing expenditure and enhancing productivity by wholehearted partnership between the management and the staff.

Madam President, the recent outbreak of atypical pneumonia has dealt a blow to the economy of Hong Kong and the health of our citizens. In these difficult times, it is crucial to maintain a stable, clean, efficient and dedicated Civil Service. I hope the Legislative Council and all sectors of the community would work together with the Government and the Civil Service to overcome the difficulties and with our concerted efforts, Hong Kong would achieve success once again.

Thank you.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):  
Madam President, at last week's Budget debate, Members expressed concern over the prevailing high levels of unemployment in Hong Kong, and in particular

that in the construction industry. A Member has also proposed that the Government should carry out more building maintenance works to alleviate the problem of unemployment. I wish to respond on this subject.

Proper management and timely maintenance of buildings will not only improve the image of our city, but, more importantly, also ensure that buildings are structurally safe and meet fire safety and health standards. In fact, demolition and redevelopment alone cannot catch up with the pace of urban decay. In addition, not all old buildings have to be pulled down; many may be renovated and restored, thus prolonging their useful life.

One of my major tasks in the next few years is to promote building management and to encourage property owners to focus attention on building maintenance and safety. We will consider how best to make property owners accept the importance of timely maintenance of their buildings. We will also initiate discussions with relevant professional bodies with a view to fostering the development of one-stop services in the area of building management and maintenance. Apart from providing security, cleansing and maintenance services, these bodies may also assist owners in the setting up of owners' corporations, provide advice on maintenance and legal matters, thus meeting the objective of one-stop services. In addition to enhancing the quality of buildings, this will also foster the development of the building management and maintenance industry.

In fact, the Buildings Department, in collaboration with six other government departments, has embarked on a pilot Coordinated Maintenance of Buildings Scheme, with a view to fostering partnership with private building owners, providing support in building maintenance and promoting good building management. Phase One of the scheme commenced in late 2000. Of the 150 target buildings covered, 143 have works undertaken on them. Among these, 97 have completed the necessary repair works, with more than 7 000 unauthorized building works (UBW) removed. Twenty-two out of 40 buildings which did not previously have an Owner's Corporation (OC) have now formed OC. Another 200 buildings were selected for implementation in late 2001. Among them, repair works have been undertaken on 81 buildings and 10 buildings have repair works already completed. The above has demonstrated that the scheme is effective in promoting building maintenance and good building management. The Buildings Department is now extending the scheme to cover more buildings.

Moreover, following extensive public consultation, the Government announced in April 2001 a comprehensive strategy for building safety and timely maintenance. The Buildings Department's target is to remove 150 000 UBWs to 300 000 UBWs in five to seven years and will first focus its effort on UBWs posing a threat to life and limb or imminent danger and new UBWs. At the same time, it will conduct blitz operations to remove at one go hundreds of UBWs, mainly on external walls of buildings. Such blitz operations are effective in enabling building owners to comply with the removal orders. During the period 2000 to 2002, some 400, 1 500 and 1 700 target buildings have been selected for blitz operations.

In future, we will continue to work closely with the Home Affairs Bureau to impress upon building owners the importance of timely maintenance through education and publicity, and to provide building owners with appropriate assistance, including the Building Safety Loan Scheme. In this connection, we have actually set up the \$700 million loan fund in July 2001. Since the establishment of the scheme, the responses of building owners have been quite favourable. Up to March 2003, the scheme has provided \$132 million of loans to building owners. We will continue to strengthen various publicity measures to promote the use of the loan fund by building owners to improve building safety and maintenance. Separately, we will introduce the Buildings (Amendment) Bill into the Legislative Council shortly to improve the regulatory regime of building works and building safety. The Bill contains a number of proposals, including:

- (a) the introduction of a new category of minor works to enable qualified building professionals and contractors to undertake specified minor works, without the need for approval by the Building Authority. Such works include the erection and removal of signboards as well as the removal of UBWs.
- (b) the proposal on increasing the number of persons with relevant experience who may sit on a Contractors' Registration Committee and extending the registration or renewal period for professionals under the Buildings Ordinance;
- (c) requiring the provision of emergency vehicular access for new buildings;

- (d) specifying clearly the parties to be responsible in the Order for Unauthorized Building Works; and
- (e) increasing fines in connection with serious offences and creating new offences for prosecution purpose.

In addition, we will further review the Buildings Ordinance and the relevant regulations on standards of building design and construction in order to increase flexibility and facilitate the use of modern and innovative building design. The scope of the study will cover lighting and ventilation standards as well as standards of fire safety and sanitary facilities. We will consider the need to introduce relevant legislative amendments after the study has been completed.

I appreciate that building management and maintenance inevitably involve legal and financial considerations. The success of our strategy requires the acceptance and participation of building owners. Therefore, over the next few months, we will carefully consider various issues and options, with a view to publishing a consultation paper by the end of the year to seek the views of building management companies, professional bodies, District Councils, OCs and Mutual Aid Committees. We will seek a consensus on the way forward before deciding on the implementation details.

Thank you, Madam President.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, allow me to emphasize here again that, in the face of the huge budget deficits, the Government will maintain significant investment in education. In the 2003-04 financial year, total expenditure on education is estimated to be \$61 billion, accounting for 23.8% of total government expenditure. This represents an 11.2% increase in nominal terms compared with the revised estimate for 2002-03. This firmly indicates the Government's high regard for and commitment to education. Taking the provision of student financial assistance alone, we anticipate a significant increase of about \$190 million to cope with the expansion of senior secondary and post-secondary education.

Members are rightly interested in the effectiveness of our huge investment in education. Over the past few years, we have pushed forward with the

education reform. The emphasis is to ensure that our education system, curriculum, teaching methods and assessment mechanism progress with times to meet the needs of our society and a knowledge-based economy. Given the constraints in resources, we must reprioritize our work and give priority to the interests of students. On the one hand, we would increase efficiency to achieve savings. On the other, we would consolidate resources to focus on items that would benefit students most.

And, I would like to address some areas where Members have made specific comments. As regards the planned reduction in the University Grants Committee (UGC) funding, I would like to highlight that the UGC sector should also share the burden of financial deficits, similar to all government departments and the subvented sector. As the 2003-04 academic year is the final year of the current triennium, we will not reduce the funding to the UGC sector this year. As for the 2004-05 academic year, we expect a 10% reduction in the UGC block grant. The UGC will apportion any reduction among the institutions based on their academic development programmes and financial positions. We hope institutions would follow the Higher Education Review recommendation last year to articulate a clear mission and to focus their efforts strategically so as to promote diversity. Institutions should then be able to build the critical mass necessary to compete at the highest levels internationally, and achieve maximum impact for the resources available.

We truly believe that, with the strategic development of institutions, the \$1 billion matching fund to be set up and the private donations to be raised by institutions, institutions would be able to cope with the proposed reduction.

In last year's Higher Education Review, we also support the UGC's recommendation to review the funding of sub-degree programmes and that in general sub-degree programmes should be self-financing, subject to three specified exceptions. The three specified programme categories include courses with high start up and operating costs, courses that meet specific manpower needs, and courses regarded as endangered species.

With an expanding post secondary sector, we think there is a need to free up resources so that more students may benefit from public subsidy in one form or another and in a more equitable way. The UGC will adopt a gradual approach and work with the affected institutions to review their sub-degree programmes, based on the three criteria above and taking into account views



from the relevant sectors. Meanwhile, students already enrolled in the publicly subsidized sub-degree programmes will not be affected by the change before they graduate. We also undertake that most of the savings achieved will be used to benefit students in the sub-degree sector, for example, by enhancing the financial assistance scheme to level similar to that for university students. We believe that the provision of more self-financing sub-degree programmes is beneficial to the development of the sector, and will address our manpower needs in a diversified and more efficient way.

Meanwhile, some Members expressed concern about the adult education courses operated by the Education and Manpower Bureau. Indeed, many non-profit-making operators in the territory are very experienced and successful in offering continuing education services for adult learners. They play a major and effective role in providing such services and this should be further strengthened. The most important thing is that they can offer suitable and diversified learning programmes, as well as advise on alternative learning progression pathways, to meet the needs of learners in a flexible and effective manner.

The Bureau plans to commission non-profit-making operators to run the existing adult education courses for two years from September 2003. All existing learners will continue to pay, over the next two school years, the same course fees as present. We expect the selected operators to continue the operation after two years and to offer fee remission to those in need. I must reiterate that, giving a thriving market for continuing education in Hong Kong, the Administration will not directly operate adult education courses. This is also in line with the principle of a "small government". With the emphasis on lifelong learning in the present age, we all have to contribute to our personal growth. The Government will nonetheless guarantee that no one will fail to achieve their basic education through a lack of means.

Other than investment in education, we have also placed significant importance on training and retraining. The transition of Hong Kong economy demands our raising the quality of our human resources to meet the needs of our society and economic development. We will continue to invest to help those in need to pursue continuing education and increase their competitiveness.

The Manpower Development Committee established last year will advise the Government on how available funds should be allocated to different programmes and sectors to maximize benefit. This will enable us to adopt a

more systematic approach to manpower planning and development, and contribute to more cost-effective and co-ordinated use of public resources. The long-term development of the Vocational Training Council (VTC) and the Employees Retraining Board will also be reviewed to ensure that the training and retraining services provided meet the constantly changing needs of the society. The proposed levy on employers of foreign domestic helpers will provide a stable source of income for the Employees Retraining Fund. We will examine how to expand the remit of employees retraining services and how to make the best use of the resources to benefit more people. The VTC is also devising a strategic plan with a view to enhancing its competitiveness and cost-effectiveness. The VTC will discuss with the Government on its plan and we aim to agree with the VTC on its future development within a year.

Finally, I would like to take this opportunity to thank Members for all their suggestions and criticisms over the years. I hope we will all work together in tackling the problems and challenges that Hong Kong faces.

Thank you.

**PRESIDENT** (in Cantonese): I now call upon the Financial Secretary to speak in reply.

**FINANCIAL SECRETARY** (in Cantonese): Madam President, since I delivered the Budget on 5 March, there has been a spate of significant events. While the war in Iraq was factored into the Budget, we could not anticipate the outbreak of atypical pneumonia.

The Government is now mobilizing the greatest manpower and resources to contain the spread of atypical pneumonia as quickly as possible, to restore public confidence in Hong Kong and that of the international community. The disease has dealt a serious blow to the community at large, and in particular to sectors such as tourism and others dependent on domestic consumption, including retail, catering and entertainment. It is difficult, at this stage, to predict with any accuracy the impact that atypical pneumonia will have on our economy. But, one thing is certain: this year, Hong Kong will not be able to attain its earlier forecast of 3% Gross Domestic Product (GDP) growth. We will announce the updated economic forecasts as soon as they are available.

The Government understands that the general public and businesses are facing added hardships. On 7 April, I met with Members of this Council representing various political parties and listened to their views. We will consider Members' suggestions seriously. Preparations are also underway for the day when the disease has been brought under control so we can launch a series of measures to revitalize our economy.

Apart from tackling the immediate problem, to ensure long-term, steady and healthy economic development, we also need to eliminate the fiscal deficit in the medium term. Our consolidated deficit for 2002-03 represented 5.5% of GDP. Excluding investment income from the fiscal reserves, the operating deficit for the year was 5.3%. By any standards, the deficit has reached a dangerous level. As I pointed out in the Budget, if the fiscal deficit problem is not solved, this might lead to an outflow of capital, push up interest rates and even trigger a financial crisis. This is not overstating the case. In October last year, the one-year forward HK/US dollars telegraphic transfer rate rose from 50 to 370 pips. The sharp rise reflected market worries about the worsening fiscal deficit problem of the Hong Kong Special Administrative Region (SAR), and these worries increased the risks of the Hong Kong Dollar being dumped and the linked exchange rate coming under attack. Interest rate rises will increase the cost of loans, business operating costs, as well as the public's burden, and affect economic growth.

Some Members of this Council have asked whether it is practical to set 2006-07 as the target date for a solution to the deficit problem. Elimination of the fiscal deficit is the Government's medium-term task over a five-year period. In my maiden Budget speech last year, I set three targets for our public finances, namely, to restore balance in both the Operating Account and the Consolidated Account, and to reduce public expenditure to 20% of the economy or below by 2006-07. Over the past year, the Government has started to eliminate the deficit by implementing phased expenditure-cutting plans. We are not aiming to solve the deficit problem in one go. Instead, we need to set medium-term targets and introduce practical measures to tackle this increasingly serious problem.

I fully understand that revenue-raising and expenditure-cutting measures are bound to impact on the community, on business and on staff in the public sector. To permit the deficit to persist, however, will certainly harm the development of Hong Kong. Judging the comparative merits and demerits, we

believe it is a responsible and pragmatic approach to draw up specific proposals to achieve fiscal balance over the medium term, with phased implementation of major proposals minimizing their impact on the public and the economy. I believe that the Budget proposals have struck the right balance, and the market is generally in support of the Government's medium-term measures for deficit elimination. The Government will follow the principle of prudent management of public finances and the broad direction towards elimination of the fiscal deficit, and will keep this under review in light of prevailing developments and their impact on the community.

Since the atypical pneumonia problem will impede economic growth, and consequently reduce government revenue, we will keep a close watch on the situation and assess its impact.

Some Members have criticized the Government for doing too little to cut public expenditure since estimated operating expenditure for 2003-04 is \$213.6 billion, which seems to be an increase over the 2002-03 figure rather than a reduction. Some have accused the Government of juggling the figures by setting the targeted cut in operating expenditure to \$200 billion from the original forecast of \$220 billion in 2006-07, rather than taking the estimate for 2002-03 as the basis. In contrast to the pace of revenue-raising, they claim the speed of expenditure cuts is too slow.

Regarding the first point, the increase in operating expenditure for 2003-04 is due to the provision of \$3.3 billion to launch the second phase of the Voluntary Retirement Scheme and \$1.5 billion to implement measures to boost the economy and to increase employment opportunities. Excluding these items, operating expenditure of \$208.7 billion for 2003-04 is lower than the original estimate for 2002-03.

Regarding the second point, there is no denying that, in comparison to cost-saving measures initiated in the private sector, those of the Government take a longer time to implement and show results. This is because reductions in the Government manpower and resources invariably affect services delivered to the community, and the Government must therefore spend time to conduct consultations and assessments on how to avoid or minimize any adverse impact. For instance, to optimize the use of resources, the Immigration Department proposed a reorganization of its regional offices, including the closure of certain less cost-effective marriage registries and births and deaths registries. This

required the Government to amend the relevant subsidiary legislation and to consult those in the community affected by the closures to work out suitable arrangements so that the remaining offices could meet public demand for the services concerned. After months of preparation, the Immigration Department will now close 11 regional offices in phases between May and September this year. The savings are estimated to be \$39 million per annum.

In addition, some of the works projects that have already started, or are scheduled to begin, will give rise to additional operating expenditure upon completion. For example, the Road T7 project in Ma On Shan, when completed in 2004-05, will incur additional annual operating expenditure of \$30 million, including maintenance and lighting. If we did not decide to cut expenditure further this year, the Government's operating expenditure would certainly reach \$220 billion by 2006-07. But we have already decided to intensify the pace of expenditure cuts and reduce the Government's operating expenditure to \$200 billion by 2006-07. The \$20 billion represents an actual saving and is not fiddling with figures. Furthermore, since certain items of government expenditure, including civil service pensions and expenditure on social security, will continue to increase in the coming years, departments will need to realize expenditure cuts in excess of 9% to bring about an overall saving of this level in 2006-07. Because the economic and social situation can suddenly change, we will monitor developments closely and be flexible with government expenditure, as necessary, to ensure that our society operates effectively.

Salaries are the largest items of public expenditure. The Government and civil service unions have reached an agreement that civil service pay should be restored to its levels as at 30 June 1997. The Government has also set a target to reduce civil service establishment by 10% by 2006-07. We will work hard to achieve this target. We are also introducing public sector reforms and implementing the 3R1M principle, that is, to reprioritize the provision of services, reorganize the structure of government departments, reengineer procedures and make full use of the market, so as to optimize the use of precious social resources and to reduce waste. The Chief Secretary for Administration has this afternoon given an account of the progress of work and planning in this area.

Starting from this year, in a bid to enhance management of and accountability for public resources, and to give the public a better understanding

of the Government's financial position, the Government will prepare an additional set of government accounts on an accrual basis. In November this year, we will publish the first set of accrual-based Consolidated Accounts, together with departmental service cost statements. These statements will show the full costs of departments and bureaux in the provision of services, including costs of services provided by other departments. Such statements could provide useful indicators of service costs and help improve the use of resources.

Besides cutting public sector expenditure and making better use of resources, the Government needs to generate more revenue to address the structural problem in our public finances.

Some Members consider it unfair for the Government to target its revenue-raising measures at the middle class. I must stress that every effort has been made in the Budget to strike the right balance, and the measures proposed are not targeting any particular sector of society.

As I have pointed out in my Budget speech, services provided by the Government have increased substantially over the past decade. Essential community services such as education and medical services are mainly subsidized by public expenditure. For instance:

- Nine years of free education are provided by the Government;
- 86% of senior secondary education is subsidized by the Government;
- Free maternal and child health care services are provided by the Government;
- The proportion of subsidies provided by the Government for various kinds of public medical services ranges from 82% to 97%;
- The Government provides 680 000 low-cost public housing units for 30% of households in Hong Kong; and
- Expenditure on social welfare has increased from \$7.3 billion in 1992-93 to \$32.6 billion in 2002-03, representing an annual average

growth of 16% over the past decade. In 2002-03, expenditure on social welfare accounted for 11.9% of total public expenditure.

Meanwhile, our tax base has narrowed further as a result of the relief measures taken by the Government in accordance with its counter-cyclical fiscal policies over the past few years. In the assessment year of 2002-03, among the 3 million or so working population, only 1.2 million people are subject to salaries tax. And among these taxpayers, only 13 000 are subject to the standard rate. Some 8% of taxpayers bear about 60% of our salaries tax burden. Tax increase proposals are always unpopular. However, we need revenue to meet expenditure incurred for the provision of public services to meet the community's wishes.

In proposing revenue measures in the Budget, I have considered their affordability for the community and the business sector, and I have tried to lessen the impact of these measures with a two-pronged approach. First, the effective tax rates after adjustment remain low. For salaries tax of different income groups the lowest rate for taxpayers is 1.2%, rising gradually to a maximum of 16%. The average effective tax rate for over 800 000 taxpayers with annual incomes between \$100,000 and \$300,000 is a mere 2.3%, and the amount of tax payable per month is only \$350. As for profits tax, the 17.5% tax rate after adjustment is still lower than those in neighbouring areas, thus maintaining Hong Kong's advantage as a low and simple tax jurisdiction. This proposal is generally acceptable to businesses. We would like to thank the business sector for its support. Second, most of the increases that affect people's livelihood will be implemented in phases. These include the adjustments of the marginal tax rates, tax bands and standard tax rates of salaries tax, and the increase in property tax.

Some Members have pointed out that after the Budget proposals have been fully implemented, the Government will obtain \$6.8 billion from the adjustment of salaries tax, almost double the revenue arising from the increase in profits tax. Members feel that it is unfair for individual taxpayers to shoulder a greater part of the responsibility for raising revenue. I think that making comparisons in this manner is not appropriate. In fact, the Government's direct tax revenue from profits tax has all along been far greater than that from salaries tax. Moreover, it is proposed that salaries tax revert only to its level prior to the 1998-99 concessions, whereas the increase in profits tax is far greater than the

adjustment made in that year. From this perspective, businesses will bear a greater share of responsibility for raising revenue.

As proposed in the Budget, apart from the additional revenue of \$14 billion, another \$6 billion will need to be raised over the next few years. Many Members and citizens have thus expressed concern over the likelihood of further tax increases in the coming years. To address their worries, I would like to point out that since the adjustment of fees and charges has not yet been reflected in the government revenue estimates in the Budget, the revenue generated by any such adjustments will contribute to the remaining \$6 billion and thus help relieve the pressure for further taxation. But this does not mean that the Government will adjust all fees and charges. We are well aware of the present economic situation. In considering adjustments to fees and charges that affect people's livelihood, we will be careful to take account of their impact on the public and the economy.

In the face of our structural revenue problem, some Members have called on the Government to consider broadening the tax base by introducing a Goods and Services Tax. I agree with this proposal. I have stated clearly in the Budget that the Government sees the need to introduce such a tax in the long term, but it is inappropriate to do so in the near future given our present economic situation. We will study the technical details to prepare for its future implementation.

The majority of commentators are in favour of the Government selling or securitizing its assets to increase capital revenue. Nevertheless, some Members believe that in the present economic climate, market response might not be favourable and it will be difficult for the Government to meet its revenue-raising target. When and how to sell these assets will depend on the market situation. For now, we remain confident that the target of raising \$21 billion in 2003-04 can be achieved.

There have been comments that the Budget has not dealt adequately with the need to revitalize our economy. I disagree. In January, the Chief Executive devoted a large portion of his policy address to the theme of "Capitalizing on our advantages, revitalizing our economy". Directors of Bureaux followed up with a series of briefings on the details of specific areas of work under their portfolios. It is on the basis of the policy address that one



quarter of the Budget covers the key measures proposed, such as promoting the principle of "big market, small government", developing human resources and infrastructure, building Hong Kong into a regional metropolis, enhancing core industries, and increasing employment opportunities. The Budget also earmarks a provision of \$1.5 billion for the development of specific projects.

The proposals in the Budget for revitalizing our economy aim at consolidating and building on our existing strengths, which are in line with the Government's role in economic development. The economic role of the Government is always to provide a favourable environment, that is, the so-called software and hardware, for economic activities to develop and compete on an open, level playing field. The Government also endeavours, by working at the government-to-government level, to break down barriers that stifle economic activities. Apart from the provision of infrastructure such as transportation and information networks, the maintenance of a stable currency system and the prudent management of public finances by the Government are also important infrastructural supports for commercial activities.

Therefore, the Budget has put forward proposals on how to further enhance the framework for, and competitiveness of, our core industries, namely, financial services, logistics, tourism, and producer and professional services. The Government's job is not to lead the market, but instead to enable its development. Enterprises should continue to provide the impetus that shapes the market. In fact, we have not slackened in our efforts to sharpen the edge of Hong Kong in a variety of policy areas.

To cope with the increased flows of people and goods, the Government is undertaking a number of projects to upgrade our infrastructure. On a whole, we attach great importance to its development. The Budget has earmarked an annual provision of about \$29 billion for infrastructure works over the next five years.

We strongly believe that the measures to revitalize our economy as set out in the Budget accord with the favourable positioning of Hong Kong as well as the opportunities that are emerging for us. They are down-to-earth and practicable. However, since Hong Kong is now beset by atypical pneumonia, we need extraordinary initiatives to reinvigorate our economy. As I have mentioned at the outset, preparations are now underway.

Madam President, Hong Kong is facing unprecedented challenges, and now is the time for our society to bring into full play its characteristics of mutual assistance and demonstrate solidarity and affection. In the battle against atypical pneumonia, our health care staff have spared no effort to save lives with their professionalism and dedication to duty. They deserve our greatest respect and thanks. Other front-line supporting staff have also discharged their duties to keep our society operating effectively. Despite changes in daily life, members of the public still demonstrate their noble qualities by showing understanding, care and tolerance for each other. If the Government and the citizens are of one mind, it is certain that Hong Kong can soon win this battle against the disease, revive the economy and tide over our difficulties.

Restoring the health of our public finances is also an essential element of maintaining stable development. Hence, I appeal to Members to support the Appropriation Bill 2003.

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

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

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

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

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

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, 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, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok voted for the motion.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted against the motion.

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

THE PRESIDENT announced that there were 53 Members present, 33 were in favour of the motion and 19 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Appropriation Bill 2003.

Council went in Committee.

**Committee Stage**

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

**APPROPRIATION BILL 2003**

**CHAIRMAN** (in Cantonese): We are to consider the Schedule first, in accordance with Rule 68 of the Rules of Procedure.

I now propose the question to you and that is: That the sums for the following heads stand part of the Schedule.

**CLERK** (in Cantonese): Heads 21 to 31, 35, 37, 39, 42 to 51, 53, 55, 58, 60, 62, 63, 70, 72, 74, 76, 78, 79, 80, 82, 90, 91, 92, 94, 95, 96, 100, 106, 110, 112, 114, 115, 116, 118, 120, 121, 130, 136, 138, 142, 143, 145, 147, 148, 149, 151, 152, 155 to 160, 162, 163, 166, 168, 170, 173, 174, 176, 177, 180, 181, 184, 186, 188, 190 and 194.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the sums for the heads stated stand part of the Schedule. 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): Head 122.

**CHAIRMAN** (in Cantonese): Since Mr James TO cannot attend today's meeting because he has been taken ill, I have therefore approved Mr Albert HO's request to move two Committee stage amendments on head 122, the contents of which are the same as those which Mr James TO originally intended to move, without giving prior notice.

**MR ALBERT HO** (in Cantonese): Madam Chairman, I move that head 122 be reduced by \$58,500,000 in respect of subhead 000, as printed on the Agenda.

The main reason that I request this head be reduced is the lack of credibility of the present Complaints Against Police Office (CAPO). We should establish an independent and impartial complaints mechanism to replace it as soon as possible. The system of lodging complaints against the police has long been a target of criticism, mainly because all important procedures, from receiving complaints and conducting investigations to making decisions and taking action, are all being responsible for by the CAPO in the Police Force. The CAPO is part of the establishment of the Police Force and police officers within the CAPO will serve in other positions within the Police Force establishment and the reverse is also the case. A system of checking on one's own people totally lacks credibility and only gives the impression that police officers are defending each another.

The Secretary for Security, in offering an explanation about the present system, said that "the CAPO and other sections responsible for front-line actions or other operations are under the command of different bureaux and commanders of the Police Force". However, the fact is that police officers subject to investigation now may be the superiors or colleagues of the investigating officers in future. The acting Commissioner of Police, Mr LEE Ming-kwai, is a case in point. The present system, by its nature, makes investigating officers apprehensive or overly sympathetic when conducting investigations, and its impartiality in handling its business is prone to be queried by outsiders.

The Secretary for Security also mentioned the establishment of the Independent Police Complaints Council (IPCC), saying that this is an effective monitoring mechanism that provides checks and balances. However, even though the IPCC is responsible for reviewing the cases investigated by the CAPO, not only does it lack the power to receive or independently investigate complaints from the public, in the past, there were also instances in which the IPCC and the CAPO came up with different investigation results. The former considered the complaints to be substantiated but the latter thought otherwise, or the latter insisted on merely issuing a verbal or written warning even though the former considered the proceedings taken to be too light and the person who received the warning was promoted as usual, what is more, they were even promoted to the senior management of the Police Force and given the charge of heading the CAPO.

According to the Government's reply, of the complaints cases considered to be substantiated after review by the IPCC in 2000, one Chief Inspector and seven junior police officers involved were later promoted. In 2001, four junior police officers were promoted in spite of having received verbal or written warnings, and no police officer received any disciplinary proceedings that affected his promotion prospect.

Concerning the functions of the IPCC, the former Legislative Council passed an amendment in 1997 which vested some investigative powers on the IPCC, however, the authorities, keen only to take the winnings but sack any losses, withdrew the bill so that the amended bill could not become law. The bill was shelved afterwards until 2000, when the Chief Executive, in his policy address in October, decided to table the bill again to turn the IPCC into a statutory body. The Government promised to table the bill to the Legislative Council for scrutiny in 2001 and 2002, however, all that this Council could see during all this time was a blank cheque but not the specific contents of the bill. This matter dragged on until March last year, when the Government finally added this item to its legislative programme. This item remained on the programme for a full year but the Government still did not taken any concrete action to gazette the bill and table it to the Legislative Council for scrutiny. In the end, the Government went back on its promise again and made it known that it would delete this item from the 2002-03 legislative programme.

The former Legislative Council also passed a motion in as early as 1993 urging the Government to establish an independent mechanism to handle

complaints against the police and replace the CAPO, which is part of the establishment of the Police Force. An independent body should be responsible for receiving complaints from the public, conducting investigations, making decisions and suggesting proceedings to be taken, and the outcome should be referred to the Police Force for follow-up. Again, the Government has all along turned a deaf ear to this.

The statutory power vested on police officers is quite substantial. In the past, a Chief Superintendent had made use of his public office to settle a personal score by ordering his subordinates to go to a school to inquire about "a case of disappearance" of the eleven-year-old daughter of a certain person, in order to embarrass that person. If police officers use violence to make suspects cave in, this will create forced admissions by violence. Apart from affecting the physical safety of the public, this will also pervert the course of justice. The abuse of power by the police can lead to very serious consequences, so Hong Kong must establish an impartial system to uphold law and order.

Actually, if an independent body is responsible for handling complaints against the police, not only will this enhance the credibility of the system and boost the confidence of the public in the Government, this will also foster effective management of the Police Force. Police officers will be fully aware that if they do anything wrong, they will be investigated by an independent body and punished. Bad elements within the Police Force will no longer be tolerated or condoned and this will help bolster the morale of the Police Force.

Although the CAPO is inherently incapable of convincing the public of its independence and impartiality, over a hundred officers in the Police Force and \$60 million had to be committed to its cause each year. It is only in this year that the amount has been reduced to \$58.5 million. From the deployment angle of financial resources, this is not being cost-effective and there is a waste of manpower and resources, as well as the time and energy of the Police Force and complainants. If \$50 million to \$60 million is allocated to an independent body that has credibility to handle complaints against the police, cost-effectiveness can be enhanced and the mistrust and discontent of the public and police officers towards the system can be minimized.

I have stressed a number of times that the practice of moving amendments to the Appropriation Bill (which is of course proposed by the Democratic Party

and was moved by Mr James TO in the past) was compelled by the Government's action. Had the Government not turned a deaf ear to the urgings of the public and Members' requests to establish an independent mechanism to handle complaints against the police, as well as subsequently scuttling Members' amendment to confer investigative power on the IPCC high-handedly, once again making the public feel disappointed and helpless, the Democratic Party would not have adopted such a move to force the Government to establish an impartial and independent complaints mechanism.

This is the fourth year that the Democratic Party moved an amendment to the Appropriation Bill to delete the expenditure for the CAPO. If the act is successful, I believe that under pressure from the Legislative Council and public opinion, the Government will in no way refuse to take action to establish a fair, impartial and independent complaints mechanism against the police.

I so submit.

**Mr Albert HO moved the following motion:**

"Resolved that head 122 be reduced by \$58,500,000 in respect of subhead 000."

**MS CYD HO** (in Cantonese): Madam Chairman, I speak in support of the amendment originally to be moved by Mr James TO but now moved by Mr Albert HO instead.

In both 2001 and 2002, the Secretary for Security said that a bill would be tabled to confer statutory status on the Independent Police Complaints Council (IPCC). However, during the past two years, since there were many pieces of legislation requiring urgent attention, this bill had to, for example, give way when the anti-terrorist legislation turned up, and yet again when the legislation to implement Article 23 of the Basic Law turned up. In this Legislative Session, there has been no sight of the bill relating to the IPCC and it was held up time and again. We can see that the Government, when expanding its power, will go at full throttle and proceed at top speed, but whenever checks and balances are involved, it will go at a slow beat. Since the SAR Government has adopted such an approach, I believe we must follow up this matter with resolve.



Let us look at some overseas examples. For over a decade, there was a series of serious incidents relating to the abuse of power in Britain. As a result, drastic measures aimed at establishing the Independent Police Complaints Commission with the power to investigate and review were introduced to reform the mechanism for lodging complaints against the police. In 2000, a consultancy report was published; in 2001, a public consultation was conducted; in 2002, a bill was tabled; in 2003, the bill was passed into law; in April next year, an independent commission with real powers will formally come into operation. The process was carried through in one breath. Although it took as long as four years, there was nevertheless progress and a start, giving an impression that the executive and the legislature are both responding to the calls in society. If we look at Hong Kong, we will find that although many members of the public have wanted to complain against the police, they would not have the confidence to do so. The Government has been claiming that it shares the public's anxieties, however, it has been merely paying lip service year after year. This is indeed a very sorrowful state of affairs.

According to the figures in Hong Kong, the number of complaints against the police was 3 246 in 2001, in 2002, it was 3 833. The IPCC has estimated in the Budget that the complaints will increase to 4 000 in 2003. I believe the reason is that with the declining economy, many people cannot find proper channels to express their views to the Government, so they can only choose to take to the streets to object to price increases or to claim wages owed them and reporters will also cover the news dutifully. I believe the police would have aggressively exercised their wide discretion vested by the law, that is, they would exercise all powers at their disposal. As a result, frictions between the public and the police increase. Under such circumstances, the establishment of an independent investigation mechanism appears to be all the more imperative.

The police have always insisted that the existing mechanism of "police officers investigating fellow police officers" is working well. However, a recent example, namely, the handcuffing of a reporter in the course of clearing the Chater Garden of protesters, has put this in a new light. The police published a report but the IPCC did not accept it, so further investigations had to be conducted. Recently, a second report has been published and the police finally admitted that it was inappropriate to handcuff the reporter. From this incident, we can see that if there is no problem with "police officers investigating fellow police officers", then why would the police come up with another conclusion after the IPCC refused to accept the first report? Of course, I

welcome the conclusion in the second report, that is, it is wrong to handcuff the reporter, but why did the first report not come with this conclusion? This gives the impression that because the IPCC lacks statutory power and it is not within its power to conduct any hearing, it has been turned out to be a mechanism for bargaining. On the one hand, it chose to accept a major point of complaint because that was irrefutable, on the other hand, since it is not empowered to conduct further investigations, it could only accept the other conclusions. This gives the impression that both sides had been bargaining. Is this truly what monitoring is about? Whether the public is convinced of the credibility of such a mechanism is really doubtful.

I am aware that the Police Force has been conducting surveys in recent years and attaches great importance to the public's impression of it, as well as to understanding the public's views and degree of satisfaction towards its services. From my own experience in dealings with police officers, I found that police officers nowadays are indeed much more civil and their performance in different areas, such as their attitude when providing service, is indeed very good. However, I also believe that if we ask the public whether they have any confidence in the mechanism for lodging complaints against the police, the percentage of people who will reply in the negative will not be low.

The Secretary for Security's comment on Mr James TO's amendment last year was that "at the back of his mind, there is a kind of prejudice and enmity against police officers such that they must be punished, purged and 'blacklisted' if found negligent in their duties". I hope we can look at this matter in a more objective way. If we put ourselves in each other's shoes and look at things with such an attitude, we can certainly apply the Secretary's logic to criticize her approach in promoting the legislation to implement Article 23 of the Basic Law, and the same logic can be applied when we criticize her attitude in accepting or rejecting certain views. Therefore, such an attitude is indeed uncalled for when discussing matters.

I believe front-line police officers nowadays are now subject to immense pressure because the Police Force is pulling no punches in suppressing protests. Even though the issues involved are only related to the public's livelihood, such as the protest against fare increases and excessive fares outside the Tseung Kwan O Mass Transit Railway Station, the police still adopted a repressive approach and snatched the loud-hailer from protesters who were mainly elderly people. I

believe such a state of affairs emerged because of the orders given by the senior level. With the orders bearing upon them, front-line police officers are subjected to pressure and in order to accomplish their mission, they may have gone over the top in carrying out orders. Therefore, when reviewing the entire mechanism, it is necessary to understand the culture of the whole Police Force. If the senior level of the Police Force does not provide adequate information or guidelines to front-line officers when they carry out operations, this will easily lead to unnecessary and highly charged scenes of clashes, like a gun going off accidentally when it is being brandished.

Some views hold that if the expenditure is cut, this will leave the public without any channel of complaint. I believe we can ease our minds about this because every time we put forward a request to the Government for a review of the status of the IPCC, the Government would be able to wriggle out of it easily by merely giving us undertakings without making any real progress in its review. This shows that there is no use in waiting passively for the Government to conduct reviews and for luck to come by. I hope that this amendment could reveal Members' fury at the procrastination of the Government and tell the Government in clear terms that even though the officials are not accountable to the public, such that they can choose to deal with the discontent of different groups selectively, to look without seeing, to hear without listening and to turn a blind eye and a deaf ear, we will not allow this matter to be dropped. On the contrary, we will continue to do our utmost to follow this up.

Thank you, Madam Chairman.

**MR ERIC LI** (in Cantonese): Madam Chairman, first, let me declare my interest. I am one of the deputy chairmen of the Independent Police Complaints Council (IPCC). Under the legislation on the IPCC, the three deputy chairmen of the IPCC should be Members of the Legislative Council. I am now speaking in the capacity of a Member of the Legislative Council but not on an official stance of the IPCC.

Firstly, I have to thank Mr James TO, with Mr Albert HO speaking on his behalf, for showing his concern and support for the IPCC. From the orientations and views presented in Mr Albert HO's remarks, I understand that they hope that the IPCC could be more independent, so that public confidence in

the IPCC could be reinforced, and its credibility established. As a member of the IPCC, I welcome their views and have to thank them for their support.

Regarding the details of work of the IPCC, a great deal has been done during the past few months. The IPCC has been discussing with the Government the drafting aspects of the bills and issues that should be attended to, including the deployment of manpower and resources. Internal discussions on the processing of complaint cases by civilian staff have also been conducted. Issues such as enlisting professional support from the Police Force during the investigation have been discussed, and the effectiveness of the arrangements concerned had been accounted for. Therefore, from our point of view, the work of the IPCC has not come to a complete halt. During the past few months, we have been working on specific tasks. We have spent several Saturday mornings to scrutinize the relevant bill, going into the details as if we were scrutinizing the legislation to implement Article 23 of the Basic Law. We have been discussing the bill for quite some time and have already come up with some concrete proposals. As a Member of the Legislative Council, I would like to provide to this Council the above information.

During the whole process, I feel that it will be easy to dismantle an existing structure, but difficult to establish a new system or structure. If we were to vote against the motion owing to the appropriation in question, this may help to save some \$58 million for the Government. However, there is no guarantee that the funding if allotted to the IPCC can produce the same effect as the original funding proposal can. Mr Albert HO said that unforeseen expenditures may arise, and the funding involved may be even greater. It will be worthwhile to spend if the credibility of the IPCC can be fostered. However, public money should be used prudently, we must thus have to consider the issue carefully.

As a member of the IPCC, I certainly want to get the work done faster so that I can "wind up" and move ahead to other commitments. Therefore, if the introduction of the bill is deferred, I will also be a bit disappointed. In fact, I really hope that we can get all the things settled in one go within the current Legislative Session. However, the objective reality is that the bill has not been passed. The IPCC is not yet an independent statutory body or structure. Mr Albert HO, being a lawyer himself, should understand this.

From a more practical point of view, if the amendment is only to serve as a means to express the strong discontent of Mr James TO and other Members, this has of course been very effective. However, if Members do vote for the amendment against the appropriation concerned, the entire complaints system will have to come to a halt. Since a new system has not yet been established, no one will be taking over the work of the existing systems. Besides, it is impossible to establish another system for processing complaint cases immediately. Therefore, practically speaking, this is not feasible. With this perspective in mind, I hope Members can be more tolerant. I personally have some confidence and hope that the Secretary for Security will give her explanation in a short while. Though the bill may not be introduced to the Legislative Council before July 2003, I believe the Government has already had a specific timetable in mind. I believe we do not have to wait too long for the chance to scrutinize the bill together.

Ms Cyd HO mentioned the incident in which a reporter had been handcuffed at the Charter Garden. Regarding that incident, I am also in support of the second report. In fact, in the course of deliberation, members of the IPCC were divided and had to spend some time in discussion. However, the IPCC needed not push very hard before the Complaints Against Police Office (CAPO) decided to review the report. We have not forced the CAPO to do so; we just achieved this through discussion. The CAPO has demonstrated relative initiative in this respect and has released the second report on the incident. After that, the IPCC has also held discussion on the second report. I share Ms Cyd HO's view on the second report in welcoming the adjustment made in respect of the processing of the case. I think this is a reflection of the effective operation of the IPCC.

From the IPCC point of view, many of our colleagues may think that there may not be too many problems about the operation of the existing system. However, is the present system the best? I think it may not be so, and there is still room for improvement. Given that the existing system is operating satisfactorily and that a new system is not yet available, the amendment is no more than a means to convey a message, and supporting it may do no good to the public. I believe Mr Albert HO would also understand this.

I urge Members to be more patient. I am not going to support the amendment moved today. But I hope we will have the passage of a new bill next year.

Thank you, Madam Chairman.

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

(No Member responded)

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, first of all, I would like to thank Honourable Members for speaking on this subject, for this allows us to have an opportunity to again discuss the work of the CAPO and the IPCC.

For each of the past few years, I have explained the work of the CAPO and I informed Honourable Members that all the police officers in charge of complaints against the police are each reporting independently to the senior officials in charge of complaints against the police and they are not subordinated to any part of the Police Force. This is to ensure that those in charge of police complaints will make a thorough and fair investigation. After the investigation is complete, the CAPO will submit a detailed report to the IPCC for scrutiny. Though the IPCC does not have any statutory powers, it is authorized to require the CAPO to submit any documents and information related to the complaint case for scrutiny. The IPCC members may interview the witnesses to clarify any point in doubt and they may also pay personal visits to the CAPO to observe the investigations being carried out. If the IPCC is not satisfied with any work done by the CAPO, it may raise questions and require the CAPO to make further explanations or conduct a fresh investigation into the complaint or even refer the case together with the recommendations made by the IPCC to the Chief Executive. The mechanism has been in place for more than two decades and it is a well-established one.

I would to give my special thanks to Mr Eric LI, for he has made use of the experience he has with the IPCC to explain the work of the IPCC. That enables us to see that the operations of the IPCC are independent and fair. There is no such case as bargaining with the CAPO or exerting great pressure on it. As to public opinions on the CAPO and the IPCC and whether the public is satisfied with their work, or whether the system is lacking in credibility, I would think they are not entirely in the negative.

The Security Bureau is sincere about the proposal to legislate for the transforming of the IPCC into a statutory body. Last year we published a consultation document soliciting public opinion on the proposed bill on the IPCC,

and in May and July last year we briefed this Council on the findings of the consultation. We find that of the some 200 submissions from individuals and groups, an overwhelming majority of them are in favour of legislating to turn IPCC into a statutory body. Quite a number of people also indicated that they were satisfied with the existing system of complaints against the police and they were also in favour of the proposal to legislate.

An issue which has caused much controversy is whether or not the IPCC should be given investigative powers. Most of the people, or 64.3%, who expressed their view on this are opposed to giving the IPCC such investigative powers. They are of the view that in many respects the Police Force has advanced with the times and its achievements over the decades in fighting crimes and keeping public order are remarkable. In addition, the present system regarding complaints against the police is well-established and if the IPCC is given investigative powers, its monitoring role may be blurred. Furthermore, the IPCC is vested with sufficient powers to undertake effective monitoring. Ms Cyd HO has cited some figures earlier to show that cases of complaints against the police have risen to about 4 000 a year. This is a reflection of the enhanced publicity which the police have made to the complaints system and also the confidence which the public places in such a system.

On the monitoring role played by the IPCC, there are some figures which we may like to consider. In 2002, the CAPO acted on the advice of the IPCC and revised the findings of the investigations of 84 cases. When the IPCC makes a review of the cases, it would often raise questions and makes suggestions. The percentage of cases which the CAPO has accepted the views put forward by the IPCC rose from 29.8% in 1996 to 74.7% in 2002. For views which have not been accepted by the CAPO, it is required to offer a reasonable explanation of the IPCC. It can be seen that the IPCC is greatly influential in the entire complaints system.

As I have undertaken, the Government really wishes to introduce the relevant law to vest statutory powers in the IPCC. Originally, we have planned to introduce a bill for such purpose in this legislative session, but for the time being we are not able to do so. The main reason is that we need to look into the new financial arrangements, for we propose that an independent secretariat should be formed in the IPCC. As to how this independent secretariat is to be funded, the matter is still pending as the financial arrangements are still to be worked out. But I can assure Honourable Members that the Security Bureau

will introduce the bill to the Legislative Council within this year and I share a common wish with Honourable Members who have spoken on this issue that the matter will hopefully be settled by this time next year and at that time the bill which vests a statutory status to the IPCC will have been passed.

Mr Albert HO has spoken on behalf of Mr James TO earlier and there is only one point to which I wish to respond and that is about his query of why some police officers who have in the opinion of the IPCC committed misconduct or other misdemeanour, have nevertheless been promoted. I would like to point out that a view reached on a police officer that he has handled some matters improperly would have nothing to do with his promotion. And the two are dealt with under two different mechanisms. I recall not long ago when I attended a special meeting of the Finance Committee, some Honourable Member asked whether or not the disciplined forces were taking the lead in helping discharged prisoners to find a job. That shows that Honourable Members are very concerned about whether someone should ever be given a chance to rehabilitate or get promoted after he has made a mistake. The same rule applies to police officers and other civil servants. In other words, after a civil servant has made a mistake and got punished, should we not give him a chance to turn over a new leaf and should we prohibit him from promotion and leave him forever in limbo? Would it be a waste of public resources if this civil servant cannot be dismissed? Therefore, for every civil servant, irrespective of whether he is a police officer or not, after the commission of a misconduct, his superior or the management should continue to guide him or offer such assistance to him so that his performance can be improved. Hence, the promotion of police officers or other civil servants after the commission of a misconduct should not be regarded as a benchmark to show that the CAPO is not operating well and that it cannot condemn the person to everlasting hell fire, so to speak.

I agree very much with what Mr Eric LI has said that the operation of the CAPO or the IPCC may not be perfect and that there might be some room for improvement. Having said that, however, the mechanism has been in place for more than two decades and each year there are thousands of people who after they have lodged a complaint can get a reply which they are happy and that all sorts of opinion polls conducted have revealed that the public is happy with the work done by the police and that there is confidence in the police. Therefore, if funding for CAPO is cancelled, that would mean that the existing system for handling complaints against the police would come tumbling down. Then the people will be truly left with nowhere to lodge their complaints. This is



certainly not in the interest of the public. So I implore Honourable Members to oppose to this amendment.

**MR ALBERT HO** (in Cantonese): Madam Chairman, when the Secretary for Security was giving her reply earlier, she failed to address a question and that is on the lack of autonomy in respect of the administrative framework of the Complaints Against Police Office (CAPO), as well as the impression and image it gives to the public. That affects public confidence in the CAPO. As a matter of fact, the public has a favourable impression on the police in general and to me, public confidence in the police is beyond doubt. However, it is also true that the cases of some complainants have not been properly dealt with and so they would feel that they have not been fairly treated. It is also precisely because of these matters, and as we have also mentioned many times, that some black sheep in the police have tarnished the image of the police and undermined its credibility.

The Independent Police Complaints Council (IPCC) has doubtlessly played a definite monitoring role, but the CAPO is after all mainly responsible for the initial investigations and it has enough manpower to carry out the investigations on a full-time basis. As a matter of fact, they are responsible for the investigation of a few thousand complaints. When the results of the investigations are given to the IPCC, how many of the cases are really investigated into and that the aggrieved are really given the justice they deserve? We were full of misgivings on these and that is especially so when we consider the great constraints in the powers and resources of the IPCC.

Therefore, the response given by the Secretary cannot meet the strong call from the community. This Council has also demanded very strongly through a motion the setting up of an independent mechanism to handle complaints against the police. The figures are clear and the Secretary knows it very well, that of the thousands of complaint cases, just how many of them are justified? It remains, of course, that one cannot assume that after investigations are made, those who have been complained against and whose allegations are unfounded must have broken some rules and regulations. But have many of them really broken any rules and regulations? It is precisely because no answer can be given to this question and many people are having doubts that many complainants feel that their complaints are not fairly treated. This is a strong reason which makes us feel that some reforms should be made to the system.

We all know that the situation of policemen investigating other policemen can be changed into independent investigation. In about 1973 and 1974 when I was an undergraduate, I took part in the anti-corruption movement and there were strong calls for the setting up of an independent department to take charge of corruption matters. But such views were being attacked by strong criticism as it was said that people who put forward such views did not trust the police and that this was disparaging the reputation of the police force. Yet, what happened in the end? The ICAC was set up and the ICAC has ever since played a vital role in making Hong Kong a more open and clean society. Now the existing system has a great defect and that is, many of the thousands of people who have lodged complaints against the police feel that justice is not upheld. We think that is unfair both to the police as well as the complainants. Therefore, the Government should not shirk from addressing this issue.

I would like to point out that we are not saying that those who have made some misdemeanours but subjected to no disciplinary action should never be given a chance to rehabilitate. We should however bear in mind that the public would feel that among the many complaint cases, only a very few of them have been properly handled and that the complaints are upheld. This makes many people query whether it would be easy for those who complain to seek justice. One just wonders whether or not evidence is really made good use of and that the police will treat the evidence fairly and accept it?

In the incident in which a reporter is handcuffed, we all recall that had the incident not been filmed by so many cameras and had it not been witnessed by so many spectators, would justice be done to that reporter? I can tell Honourable Members that the answer is definitely no. Such things do not happen only in Hong Kong, but in other countries as well. A few years ago, on a certain highway, when a car was stopped and searched, a black man was beaten up by the police probably because of the colour of his skin or some other reasons. Had the incident not been recorded by so many cameras, what would have been the outcome? Madam Chairman, I recall when the grand jury was making its initial investigations into the incident, it was claimed that no illegal lynching was done, and it was only until a riot broke out that proper attention was given and the policemen involved were brought to justice.

Madam Chairman, human beings are fraught with frailties and we are not targeting against any department or anyone, but since the police are given such

great powers, we should place a great degree of trust and pay respect to them, and it is because of this that we need a system of checks and balances, for without which, there can never be peace in our society as the aggrieved would find nowhere to turn to and lodge their complaints.

As a legal practitioner, I need to go to the Courts very frequently and when prosecution is made, often there are a number of policemen against one defendant. That is to say, there will be many oral statements made against the defendant. Often the defendant will make a defence that his confession is made under police extortion and compulsion. But would it be easy for the court to accept this? Even if the defendant is injured, what will be the conclusion so reached? Often it is argued that the defendant resisted lawful arrest and used violence and so the policemen in turn used minimal force and brought the defendant to a police station for questions. I think it is difficult for the Judge hearing the case to decide whether or not he should believe in the policemen and if not, what should he do? The Judge hearing the case is placed under many restraints. He does not have the power to investigate and he can only hear evidence. Even if the Judge finds the evidence not admissible, it would not be easy for him to handle the situation. When faced with some policemen who are experienced in giving evidence, would it be easy for the complainants to have their grievances redressed through a trial? No. Of course, we should rely on the system for trials, but we think that an independent investigation would be more appropriate before judicial proceedings are instituted. It is also essential to making the proceedings fair and just.

Madam Chairman, each year we would debate on this issue and each year we would present many arguments. It is to our great regret that the response given by the Secretary in view of our strong demand to set up an independent investigation institution is not convincing. I would like to stress again that our proposal to reduce this funding is not aimed at abolishing this system, or as Mr Eric LI has said, this is an all-or-nothing attempt on our part. All we want is to convey a strong message and that message has been conveyed constantly, and that is, the Government should consider public demand seriously and set up an independent investigation system. That will serve to uphold the reputation of the police force and ensure that those aggrieved will be treated fairly.

I so submit.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Albert HO, 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 Albert HO rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr Albert HO 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.

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Dr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr LEUNG Yiu-chung, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted for the amendment.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kuok voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 23 were present, four were in favour of the amendment and 19 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 10 were in favour of the amendment and 11 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of divisions being claimed in respect of the remaining clauses or amendments to the Appropriation Bill 2003, this Council shall immediately proceed to such divisions after the division bell has been rung for one minute.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW be passed. Does any Member wish to speak?

(No Member responded)

**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 respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

I order that in the event of divisions being claimed in respect of the remaining clauses or amendments to the Appropriation Bill 2003, this Council shall immediately proceed to such divisions after the division bell has been rung for one minute.

**MR ALBERT HO** (in Cantonese): Madam Chairman, I move that head 122 be reduced by \$85,000,000 in respect of subhead 103, as printed on the Agenda.

This concerns mainly the estimated expenditure on "reward and special services" (commonly known as "informer's fees") under subhead 103 in respect of the Hong Kong Police Force (the Police Force). Why do we propose such a reduction? It is because the Government has kept this item of expenditure entirely mysterious and confidential, refusing to provide any information. This, I think is totally unreasonable. I think some transparency should be allowed within reasonable limits to show the accountability of the Government.

The Secretary for Security has once stated that the expenditure on reward and special services under subhead 103 covers a wide range of areas, including reward and other operating expenditure of a confidential nature. As far as I know, during the Hong Kong-British era, the informer's fees of the Police Force

had been used to pay for the expenditure of the Special Branch and now, it is still used to cover the expenditure of the Technical Services Division which is responsible for wire-tapping work. The Government has also stated that Members would be told what information could be made public only after the review of the Interception of Communications Ordinance. This proves that the informer's fees are closely related to interception of communications.

The estimated provision for informer's fees has remained at about \$100 million in recent years. In 2002-03, it came to the region of \$94 million which was by no means a small amount. The number of payments made under this item of expenditure has consistently exceeded 1 000 in recent years, whereas the actual expenditure has stood at some \$61 million. But still, the estimated provision for the coming year still stands high at \$85 million, which is 39% or nearly 40% more than the actual expenditure in each of the past few years. This does give cause for concern. Since 1995, I have been concerned about the details of the expenditure on informer's fees, and the Democratic Party has also put questions to the Government on many occasions. According to the Government, the expenditure is spent on staffing and acquisition of equipment; it is also spent on combating serious crimes, narcotics offences and on security matters, involving police operations of a confidential nature. But the Government has refused to provide other relevant basic information.

The Security Bureau has all along refused to provide any basic information on the pretext that "the activities involved in this item of expenditure are of a confidential nature". In fact, the information that I have requested for does not involve details of confidential operations, but only includes the following:

1. The actual expenditure on the informer's fees was some \$61 million in 2001-02, but the estimate for 2002-03 was revised upward to \$85 million. What are the reasons for this?
2. What are the actual and estimated expenditure for combating serious crimes and narcotics offences and for security matters under the informer's fees?
3. Can statistics of the number of people receiving the informer's fees, the number of people receiving reward offers and the payments made in respect of reward offers be made public?

4. What is the expenditure incurred by the Technical Services Division of the Police Force under the informer's fees?
5. What are the actual and estimated expenditure of various departments or divisions of the Police Force under the informer's fee?
6. What are the number of officers responsible for intercepting communications in the Police Force, the actual and estimated expenditure for this area of work, and the number of messages intercepted each year?

These are basically the major questions.

In its reply to the second question, the Security Bureau said that the police have no statistics concerning the expenditure on the informer's fees and therefore the required information cannot be provided. In response to the third question, the Security Bureau stated that the police have no statistics on the number of people receiving reward offers, or the so-called informer's fees, and therefore cannot provide the required information. What sort of a regulatory framework is this? It is really difficult to understand how the Secretary for Security could ever say that this item of expenditure is subject to stringent regulation. We really do not understand this.

Being the responsible Policy Bureau, the Security Bureau should ensure that the police have kept such statistics for the purposes of good internal regulatory procedures. The Security Bureau has made an undertaking to Members of the Legislative Council that it would review the existing Interception of Communications Ordinance and so, it should have collected such information to form the basis of its consideration in the review. But now, the Government is telling us that they do not have such basic information. This reflects that the Government has not the least intention to carry out a responsible and sincere review. In as early as last year's Budget debate, the Security Bureau already said in its reply to Members' questions that the review would be completed by the end of 2002. But in this year's reply, it stated that the review would be completed only by the end of this year. There have been delays year after year, and the review has constantly been put off from one year to the next. Is this what an accountable government should do?



The Democratic Party considers that a breakdown of the expenditure by staffing and acquisition of equipment is a kind of basic information. European and American intelligence agencies, such as those in Canada and Britain, will strike a balance between national security and transparency, and they have published similar statistics. For example, an intelligence agency in Canada, the Canadian Security Intelligence Service (CSIS), has made public a breakdown of its expenditure on staffing and equipment in its on-line annual report. It has even made public the number of warrants applied from court on a regular basis. In its on-line annual report, the MI5 in Britain has openly explained the respective percentage of its different areas of work in the total expenditure. For example, for the period between April and December 2001, the expenditure on anti-terrorists measures in Ireland accounted for 32%, that on international anti-terrorist measures accounted for 28%, that on espionage activities accounted for 16%, and that on national security accounted for 10%. The National Criminal Intelligence Service (NCIS), an agency collecting criminal intelligence in Britain, has also made public its staffing and capital expenses. Besides, the code of practice relating to how informers, wire-tapping, surveillance and undercover operations are handled is uploaded onto the Internet for public inspection. So, the remarks made by the Acting Commissioner of Police, Mr LEE Ming-kwai, that it is a principle upheld by law enforcement agencies worldwide not to make public detailed information on informer's fees is not conforming to the facts. Does Mr LEE understand that Members are requesting for basic statistics, not detailed information? Or is it that Mr LEE does not know what an accountable, open and transparent government means?

While overseas intelligence agencies that bear relations to national security do make public information for public monitoring, the Police Force nonetheless consider information on staffing and equipment relating to informer's fees or a breakdown of the relevant expenditure strictly confidential. Is it that the ability of the police to enforce law would be endangered if Members are told such information, for loopholes would then be opened up for criminals to take advantage of? This is absolutely far from convincing, because as I said just now, we are requesting for some very basic information which absolutely does not involve any confidential operations.

Confronted with the impending enactment of legislation by the Government in respect of Article 23 of the Basic Law against such offences as

treason, subversion against the Central Government, secession, and so on, as we all know that the National Security (Legislative Provisions) Bill has been under scrutiny, the police, once such legislation is enacted, will enforce the law against the so-called "seven offences", such as treason, and so on. By then, will there be a need for the police to restructure the Special Branch? These politically sensitive questions have not yet emerged so far, but as the Government has already handled the expenditure on informer's fees in strict confidence, it is difficult for the public to expect the Government to be willing to carry out reviews to allow for greater transparency in this item of expenditure after the enactment of legislation to implement Article 23 of the Basic Law as the political environment would then become all the more sensitive. We do have misgivings about this. If the Legislative Council finds it difficult today to monitor the expenditure on informer's fees even from a conceptual and peripheral angle, we believe it would be all the more impossible for us to monitor the Government's operation in this regard in the future. No one will possibly know whether the freedoms and human rights of the people could be fully protected in future or what threats we would be facing. This would only add to the worries of the people.

While Members agreed that they could be briefed about the information under the confidentiality rule, which means listening to the Government's briefing or verbal explanation in camera to obviate the need to submit papers, this was still rejected by the Government. Since 1999, the Democratic Party has insisted to keep on proposing an amendment to reduce the informer's fees so long as the authorities refuse to disclose any such information. This year is the fifth year that an amendment is proposed. Without being given any further information, we, being responsible Members of the Legislative Council, must discharge our constitutional duties. We think that Members should support this amendment which will, in effect, delete the informer's fees, in order to press the Government into giving a responsible explanation.

Here, I must thank Members for listening attentively to my speech. I hope Members can consider this issue rationally and ensure via their vote that the Government will truly discharge the fundamental duties of an open and accountable government. I so submit.

**Mr Albert HO moved the following motion:**

"That head 122 be reduced by \$85,000,000 in respect of subhead 103."

**MS CYD HO** (in Cantonese): Madam Chairman, I rise again to speak in support of this amendment moved by Mr Albert HO. The Secretary said earlier that a debate on this would be unnecessary next year. In fact, I do hope that the Government can give us some positive response next year, so that we do not have to debate this anymore.

In recent years, particularly in the wake of terrorist activities, law enforcement agencies and intelligence agencies have been given more powers even in many democratic countries. Besides, owing to technological advancement, surveillance activities have become all the more stringent. In these overseas countries and even in democratic countries, while the transparency of the powers of such agencies and their accountability to society have been enhanced, this has, in fact, undermined democracy. This is a bad thing, and we should not learn from this. But despite the fact that this is a bad thing, and no matter how bad this is, they still have in place a monitoring mechanism under which some basic information is provided to the public. But we have nothing of this sort in Hong Kong. In fact, these countries will, under reasonable circumstances, disseminate the most basic information to the public or the parliament through such mechanism. Earlier on, Mr Albert HO also cited no less than five or six examples about the publication of statistics on staff establishment and other information by overseas governments on their webpages. But has the publication of such information really affected their ability to investigate?

The Secretary has said before that if such information is completely made public, the investigation ability of law enforcement agencies would be undermined. We are not asking to recruit a certain somebody as undercover agents. Nor are we asking for information about what equipment is used. All that we are asking for is some very simple breakdowns of statistics, so that we will know the basic way of how resources are deployed by the Government in carrying out this area of work.

Madam Chairman, if our request for such basic information is not acceded to and if, after discussions for all these years, the Government still has not taken any positive measure to respond to our request, it would actually aggravate our worries about possible abuses of this expenditure by the Government, and we would not have the least idea about what percentage of this expenditure would be used for unnecessary surveillance or surveillance that would infringe on the basic rights of the people. If this phenomenon persists, the damages would be far-

reaching and would shake up the entire foundation of our freedoms. So, Members of the Democratic Party have kept on proposing this amendment in recent years. I hope the Government and the community will understand that we are only asking for a more transparent mechanism whereby the Government, where possible, can provide as much basic information as possible for the legislature and the people. We have no intention to jeopardize specifically the ability to enforce law and to investigate.

Recently, the Secretary has taken a liking for citing copious examples to corroborate her observations, using examples in modern and ancient times and examples of a Chinese and foreign origin to serve as the basis of her policies. In this connection, I hope the Secretary can look at such places as Britain, Canada and Australia where statistics on the collection of intelligence are made public, but their ability to enforce law has not in the least been jeopardized. However, the practices adopted by the Government of the Hong Kong Special Administrative Region make me feel that the Government is out of tune with the world, for it only relies on the internal monitoring mechanism, not allowing monitoring by society and even the legislature. The Secretary has always said that a very stringent mechanism is in place internally to monitor these operations. But, Madam Chairman, the question is we do not know whether mistakes or omissions may sometimes exist intentionally or unintentionally in this monitoring mechanism, and all we can do is to ride on "trust". However, in the absence of a sound system for work to be carried out, it is indeed impossible for us to give it our unreserved confidence.

Last year, the Secretary has made an undertaking to Mr James TO that the Interception of Communications Ordinance would be reviewed. This review, which should have been completed by the end of 2002, will be completed only by the end of 2003. I hope the Secretary can explain later why it will be delayed for one year. We hope that the Secretary can really provide more detailed information. Otherwise, as it can take so long to complete a single review, we would feel that the Government is resorting to stalling tactics and has gone back on its words. So, the Secretary sometimes asks us to trust her, and to me, this is a bit difficult, because the Secretary may not fulfil her promise even though such promise is made openly and put on record. In this connection, I really hope that the Secretary can give us some detailed explanation later.

I also remember that the Secretary had said that it took Britain 80 years to develop to the present state in which some information is made public on line. I

hope the Secretary is not suggesting that it will also take us 80 years to come to this state. The merit of the accumulation of knowledge is that for things that other people have spent 80 years to achieve, we, having drawn on their experiences, might achieve the same in just two years. If it will also take us 80 years to achieve that, then there must be some problems with our ability to learn.

Madam Chairman, the Legislative Council is duty-bound to monitor the operation of the executive. If the executive will spend out of public money but does not wish to disclose the details, then we have the duty to reject such provisions. I remember that the Secretary, in response to amendments proposed by Mr James TO in this regard, had in the past provided some information at special Panel meetings in camera. But this did not happen last year. That is actually a retrogression. A couple of years ago, we could still get information bit by bit, very much like squeezing toothpaste from its tube. But now, we are like drawing blood from stone, not being able to get any from it. Added to this is the enactment of anti-terrorist legislation last year and the impending enactment of legislation to implement Article 23 of the Basic Law. We are very worried that the provisions will in one way or another be used for political surveillance purposes. So long as the Government refuses to make known such information publicly, worries in the society would swell unceasingly to the detriments of the Government's credibility.

With these remarks, Madam Chairman, I support Mr Albert HO's amendment.

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

**MR FREDERICK FUNG** (in Cantonese): Madam Chairman, this issue has been discussed for many years. I do find it a bit difficult to decide how I should vote, because while I basically agree that this is a sensitive issue, I think transparency is also necessary. Then how should we strike the right balance between the two?

I do not agree with what the Secretary had said in some of the papers. Colleagues from the Bureau had even telephoned me before today, trying to lobby my support for the views of the Government and the Secretary. I do not agree with the comment made by the Secretary that in overseas countries, it

might have taken them 50 or 80 years to reach the present level of transparency. Although transparency is still sweepingly general in its meaning, I think Hong Kong may not necessarily have to follow others' footsteps and spend some 50 or 80 years on this. I think this may not be necessary for us. This is similar to the case that it might take us a long time before we could have telephone, followed by mobile telephone. But if we look at the situation in the Mainland, we will see that they can already come to a state where mobile telephones are popular without having to go through an equally long period of time. We can actually make reference to the standards or values currently adopted by free countries in the West and choose those that suit us. In that case, we can surpass others without having to go through a long process of development.

What is the greatest dilemma faced by me now? Will Mr Albert HO's proposal to delete this subhead of informer's fees in its entirety, if passed, have a bearing on non-political issues that are currently handled by way of informer's fees? I entirely subscribe to the view that political issues are sensitive, but I entirely disagree that this item of expenditure be used to suppress dissidents. But if this item of expenditure is to be deleted in its entirety, will it affect the police in combating crimes, triad societies or narcotics problems? The deletion of this expenditure in its entirety does give cause for concern. The purpose of Mr Albert HO is to use this as a means to press the Government into expediting its efforts to enhance transparency. I am caught in a dilemma because I do share the views of Mr Albert HO in principle, but I am concerned that the deletion of the whole item of expenditure would, in effect, create a great impact on the police. This is what I am worried about.

Every year when this amendment is proposed, I will discuss with members of the Hong Kong Association for Democracy and People's Livelihood as to how this should be handled and how a balance could be struck. On the one hand, I think the principle warrants our support, but on the other hand, I hope the Secretary can enhance transparency as soon as possible. Indeed, I think there is room for the Government to enhance transparency. The Government can provide a more detailed breakdown of the expenditure, but this does not necessarily mean making public all sensitive information. I have also discussed this with the Secretary and colleagues. I hope the Secretary can clearly explain in her reply later as to what areas in her view will allow room for improvement.

Besides, how much more time does the Secretary require? The Secretary cannot say year after year that studies would be conducted in response to

questions about how a reasonable balance could be struck. Saying that studies would be conducted in response to the question may be acceptable as a reason for the first year. But in the second year, the acceptability of this reason will diminish, and in the third year, conducting studies can no longer stand as a reason. I hope that the Secretary, in her reply later, can respond to these two questions: Firstly, what areas in her view will allow room for transparency to be enhanced; and secondly, how long will it take according to the Secretary's estimation? Transparency can be realized in two ways. One is to realize it behind closed doors, disclosing information to Members in confidence. The other way is to disclose information to the public in the Legislative Council openly, similar to this occasion today. I think this is more reasonable, and will enable Members to make a decision easily. I hope that the Secretary will answer my questions in her reply. Thank you.

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

**MR MARTIN LEE** (in Cantonese): Madam Chairman, Mr Frederick FUNG suffers this pain every year because he is indecisive every year. He should at least tell the Secretary last year that he would vote in opposition to the Government if the problem could not be dealt with properly within one year's time. That would be the right thing to do. Now he suffers the pain every year while the Secretary responds with a mere smile on her face every year, paying no heed to his pain and refusing to provide us with the details. The situation is just this simple.

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

(No Member responded)

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, the Government strongly opposes the amendment moved by Mr Albert HO on behalf of Mr James TO to delete the entire provision of \$85 million under the subhead in the Estimates for rewards and special services (R&SS) in the Police Force.

The provision for R&SS is relatively crucial because the police's confidential actions are involved, which include the combat of serious crimes and drug-related crimes, security matters and anti-terrorist work. To make public the distribution of expenditure will expose the Police Force's action strategies, details and law enforcement power. Having acquired such information, criminals will know how to evade legal sanctions and consequently put public interests in jeopardy.

Members will believably agree that it is indeed immensely difficult to maintain a high degree of transparency in combating crimes, particularly organized and serious crimes. Failure to handle the matter well will give offenders an opportunity to, through analysing the distribution of relevant expenditure, acquire thorough information of the action strategies of the police, thereby evading legal sanctions. As a result, not only will public interest be seriously undermined, the influence and arrogance of undesirable elements will be augmented as well. Front-line staff executing police duties, and even informers providing intelligence to the police, might risk their lives too. This is particularly so nowadays. The police have to, on the one hand, continue combating crimes with vigour to ensure Hong Kong is free from terrorist activities and, on the other, face resource constraints. In the years to come, expenditure in this area might face considerable reductions. It has become even more important than before for the police to protect the confidentiality of their actions to prevent undesirable elements from having any chances of exploiting loopholes.

The speech delivered by a member of the Bills Committee in criticizing the Government for providing scarce information about R&SS and failing to make much progress is simply incorrect. In this year, for instance, when replying to a question raised by Members in connection with the 2003-04 Budget, the Commissioner of Police has already stated the actual expenditure under this subhead for the previous year and the estimated expenditure for the following year. He has also announced the total number of reward cases and the total sum of money involved, the number of reward payouts, as well as making public the number of raids conducted with respect to the subhead. Faced with its responsibility of combating crime and tackling anti-terrorist activities as well as resource constraints, the Police Force has endeavoured to publicize information that can be made known to the public.



In this year's debate, like those held in previous years, we were asked by members why we had failed to follow the examples of western countries such as the United Kingdom, Canada and Australia in publishing more information? What really happens is that in the United Kingdom there are two special organs, namely the UK Security Service, commonly known as Military Intelligence 5, and the UK Secret Intelligence Service, commonly known as Military Intelligence 6, the intelligence organ to which Mr BOND, the main character of James Bond's movies, belongs. What information have these two organs disclosed? The UK Security Service (MI5) might present an annual report once or every two years. Sometimes, information on the general classification of the work of the security organs in the United Kingdom is posted on the Internet. Mr Albert HO is right in that the information contains the percentage of anti-terrorist activities and anti-spying activities. But that is all. The Secret Intelligence Service has failed to make known anything at all, not to mention expenditure. Even the name of the officer-in-charge is not publicly known.

The Intelligence and Security Committee set up under the British Parliament, for instance, is responsible for reviewing the three intelligence organs in the United Kingdom on a yearly basis: MI5, MI6 and the Government Communications Headquarter (GCHQ), an organ responsible for the reception of electronic communications, satellites and globally intercepted information. Members who care to take a look at the information related to the Committee will find that only a global total in terms of annual expenditure is provided. For instance, its expenditure for the year 2003-04 is £904 million and this is the only figure we can see in the report. No breakdowns are available with respect to the three intelligence organs. The record is even completely blank when referring to the discussions conducted by the Secret Intelligence Service. The person-in-charge is referred to as "the Chief", or code-named as "C" or "Q", as if what we see in movies, for the purpose of maintaining absolute confidentiality. As in the case of Hong Kong's Budget, the reports compiled by the Secret Intelligence Service set out various outturn items on a yearly basis — cost of running, Ops transport, Ops stores, Ops research and development, and so on. However, the actual figures of these items are basically unavailable for they are all represented by an "asterisk". Therefore, if someone compares Hong Kong with the United Kingdom and conclude that the latter is more open than the former, particularly in terms of the breakdowns of expenditure, never should he say that we are far behind compared to the United Kingdom because it has made public a lot of information.

A member has also made reference to the intelligence organs in such places as Canada, Australia, and so on. I would like to point out that it is basically inappropriate to compare the operation of the Hong Kong Police Force with the intelligence organs of Canada and Australia. Both being sovereign states, these two countries have sophisticated intelligence organs of their own. These organs are responsible not only for domestic activities, but also for overseas intelligence organs. They also receive adequate funding on a yearly basis. According to my understanding, these countries were given additional funding and advanced resources and equipment in the wake of the September 11 incident. While their frameworks are fundamentally different to that in Hong Kong, the work handled by the Hong Kong Police Force is also different to theirs. R&SS are mainly used for assisting the Police Force in combating crimes, particularly serious and organized crimes, and safeguarding the territory.

Of course, I heard Honourable Members express their wishes for further disclosure by the Government. I would like to reiterate that the review exercise is ongoing. We also have the intention to, upon the completion of the review of the interception of communications, give across-the-board consideration to how far further disclosure can be made in terms of security work. The review of the Interception of Communications Ordinance has taken a longer time than we have envisaged because of the relative sensitivity of the Ordinance itself. A balance must be struck between the need to safeguard privacy and enhance transparency, and the need to safeguard the Police in taking enforcement actions. In the wake of the September 11 incident, many countries that we referred to and examined, including the United Kingdom, the United States, Australia, Canada, and even certain European countries, have introduced numerous changes in terms of technical as well as legal amendments to their legislation governing the interception of communications. We must give holistic consideration to these amendments before completing our review. Anticipating that the review will be completed by late 2003 or early 2004, we hope a more detailed explanation can be given to Honourable Members next year with respect to whether a further breakdown can be provided in respect of such confidential work.

Lastly, I would like to say a few words on a question raised by two members with respect to whether the Government will make use of the provision for R&SS to step up public surveillance should the National Security (Legislative Provisions) Bill (the Bill) to implement Article 23 of the Basic Law (Article 23) be passed. I would like to assure Honourable members that the Government

has absolutely no plan to increase funding for the police or any other departments to enable them to carry out further investigation should the Bill be passed. We do not consider it necessary to do so at the moment. In addition, acts prohibited by Article 23 on the grounds of being prejudicial to state security, such as treason, sedition, spying, illegal disclosure and making damaging disclosure of official secrets, are nothing novel for they are already prohibited under existing ordinances. For us, the passage of the Ordinance is not at all novel that makes it necessary for the Police to be provided with additional funding or to undertake extra work. Therefore, I can assure Honourable Members that excessive worry is not warranted in this case. On the contrary, if the entire provision of \$85 million under the subhead in the Estimates for rewards and special services is deleted, the work of the police in combating crimes and maintaining the territory's safety will be seriously affected. I particularly believe Honourable Members will agree that Hong Kong is now in an era of turbulence, with wars still being waged in the Middle East. We cannot tell whether the wars will lead to more terrorist activities or the occurrence of retaliative terrorist activities. We can simply not rule out such possibilities. The police are indeed playing a very important role in investigating and curbing crimes. The deletion of this provision is going to put public interest into serious jeopardy.

For these reasons, I urge Honourable Members to oppose this amendment in support of the Government.

**CHAIRMAN** (in Cantonese): Mr Frederick FUNG, do you wish to speak again?

**MR FREDERICK FUNG** (in Cantonese): Madam Chairman, I wish to speak again because Mr Martin LEE had made a comment on me. I think I am faced with a choice between transparency and the contribution of the police's informer's fees to law and order. I think if I have to make a choice between informer's fees and some politically sensitive expenses, that would be much clearer. Now, Mr Albert HO is weighing informer's fees against provisions that are helpful or related to law and order on the ground of political sensitivity. I think to a certain extent they may not be balancing against each other. I think the general public is at this time a bit concerned about law and order. Moreover, as the Secretary has just undertaken to enhance transparency at the end of this year or early next year, I, therefore, do not agree with the amendment moved by Mr Albert HO.

**CHAIRMAN** (in Cantonese): Mr Albert HO, do you wish to speak again?

**MR ALBERT HO** (in Cantonese): Madam Chairman, no one has ever denied the importance of this vote of funds from a security viewpoint. But this absolutely does not mean that the matter could be indefinitely escalated and even to the extent that I would consider as a bit alarmist, as it is said that disclosing a little more about the coverage of major spending and a breakdown of the expenditure to Members could compromise the entire security strategy and expose the secrets of many police operations. Will this really be case? In fact, the Secretary also agreed earlier that many foreign countries have disclosed more detailed information than we do. Certainly, I must agree that they do not disclose all the information. But I cannot see the reasons why we cannot disclose information that can be disclosed in other countries. Why can Australia, Canada, Britain and so on disclose a breakdown of expenditure, but not Hong Kong? This proves that is not the reason. In its answer, the Government is either saying that everything must be kept in strict confidence or asserting that such disclosure would expose all secrets and open up loopholes for criminals and terrorists to take advantage of and as a result, the strategies and principles of police operations would be completely jeopardized. Will this be the case? The answer is absolutely no.

Madam Chairman, as we do not know what are included, if I am asked whether it is possible to delete a certain part of expenditure of a political nature while maintaining the expenditure on security, I must say that it is impossible for us to do so. If we could do it, we would certainly give consideration to it. Mr Frederick FUNG proposed earlier that we could delete part of the expenditure. That is not possible, because the Government has not even provided us with a basic breakdown of the expenditure. Of course, from a realistic viewpoint, we do not have much hope of getting this amendment through the Legislative Council. But now, we all know that we have sent a very clear message to the Government and that is, we are dissatisfied with such "black-box operation" and we consider that there should be some basic transparency. In foreign countries, many monitoring committees of the Parliament exercise monitoring through various channels, such as meetings in camera and disclosure in confidence, so that further information can be provided to committee members. But we are not even able to do this. If Members think that they can rest assured, does it mean that when the Legislative Council is asked to approve a vote of \$1 billion next time and when it is said that this \$1 billion is very much needed, the Legislative

Council will again issue this cheque? Or will the Legislative Council simply issue a blank cheque for the Security Bureau to fill in the amount by itself because the Security Bureau said that there is this need? The answer is absolutely no. We must perform a monitoring role.

How many more years have we to wait for a review to be conducted by the Government? How many years have we waited since the enactment of the Interception of Communications Ordinance in 1997? The Ordinance should have come into effect, but it has not in practice. Excluding the year of the Provisional Legislative Council, five years have already lapsed. Must we wait for another five or 10 years? The Secretary for Security has admitted that a review is necessary. From this, we can see that all those repeated delays can no longer be justified. The refusal to provide basic information pending the completion of the review is unacceptable.

Madam Chairman, the Secretary for Security pointed out earlier that after the enactment of legislation to implement Article 23 of the Basic Law, it would be unnecessary to step up surveillance over the people. I am not sure if this is a disclosure in itself. But at least there is something that can be disclosed, is there not? At least an additional piece of information is disclosed tonight. We still do not trust the Secretary in what she said, as she said very tactfully just now that it was unnecessary to enhance surveillance under the present circumstances. The problem is that we do not know when, in the Secretary's opinion, there will be changes in the circumstances, and we still may not know even when such changes have taken place. The Secretary may consider it necessary to step up surveillance later, in order to see whether there are breaches of the national security law enacted to implement Article 23 of the Basic Law. The Secretary may in the future consider that the circumstances have changed, but we will be in no position to know about this.

Moreover, the Secretary also remarked earlier that for many offences, there are already similar ones now. But we must not forget that there are at least two new offences. The first concerns state secrets, and there is "relations between the Central Authorities and the SAR", which is newly added. The second is a new offence concerning local organizations' affiliation with mainland organizations which endanger national security. I really do not know whether there will be a newly arising need in the future, based on which the Government will ask for additional provisions to target its actions on these new offences.

All in all, Madam Chairman, I think as things now stand, it is neither tenable nor convincing to again use the review as a pretext for procrastination and for refusing to make the least disclosure. So, I hope colleagues can support my amendment today. Thank you.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Albert HO 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 Albert HO rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for one minute.

**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.

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted for the amendment.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Frederick FUNG, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, five were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 14 were in favour of the amendment and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 122 stand part of the schedule.

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

(No Member responded)

**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): Head 144.

**MS EMILY LAU** (in Cantonese): Madam Chairman, I move that head 144 be reduced by \$11,220,000 in respect of subhead 000, as printed on the Agenda.

Madam Chairman, throughout the many years of my service as a Member of the Legislative Council, be it the Legislative Council before or after the reunification, I have never proposed anything of this kind before. Madam Chairman, I have proposed many things before, but I have never made such proposal as this. A few weeks ago when I gave notice of my proposal to cut the provisions of the Constitutional Affairs Bureau, the response given to me both inside and outside the Legislative Council was that many people felt very happy and gave me loud applause, for they felt that I had spoken the minds of many. For a long time, I have the feeling that the Constitutional Affairs Bureau has been staying idle. In fact, this may not have anything to do with the Secretary. A little bit later, the Secretary can tell us what he thinks from the bottom of his heart. Both the Secretary and Secretary Arthur LI like to speak from the bottom of their heart. Today, let us all speak from the bottom of our heart.



People are wondering why, as the deficit is very serious now and as the Financial Secretary has been saying all the time that new sources of revenue must be tapped, Secretary Stephen LAM is asking for some \$36 million this year. What have they done?

Subsequently, I saw some commentaries saying that Secretary LAM intended to do something now, that is, to do something out of nothing, because only in this way could he earn support from Members, so that Members would not support my amendment. I also heard something else — but I think nobody would respond to such comments. I heard that at a meeting of the Executive Council, some Bureau Directors or other people asked when Secretary LAM would do something. It would be best if Secretary LAM can confirm that he would do something, because many people, perhaps from the highest to the lowest echelons, are wondering what use there will be if this Bureau continues to exist, judging from the way it is currently operating.

As you may know, Madam Chairman, when the accountability system for principal officials was initiated, there were many proposals flying around. For instance, the Democratic Party proposed at the time to fold up this Bureau and to put it under the Chief Secretary for Administration. The Bureau, of course, can further speak for itself later. Some people suggested a merger with the Home Affairs Bureau. But since all the proposals were considered not viable, it was finally decided that this Bureau be maintained. At that time, many people (including Secretary LAM) said that this had precisely reflected the importance attached to constitutional affairs by the Chief Executive in allowing the Constitutional Affairs Bureau to exist independently.

However, Madam Chairman, I believe many people do feel that the existence of such a Bureau independently is an eyesore. Why? In fact, what is this provision of some \$36 million compared with a deficit of over \$70 billion? But among the many Bureau Directors and civil servants, similar to what we have seen in the pneumonia incident as at present, some are working under extremely heavy workload but some others are not. Some Bureau Directors have to oversee environmental issues, transport and public works concurrently; some have to take care of education and labour issues; while some others have to handle financial services. They all are working under extremely heavy workload. They must come to the Legislative Council to answer questions, and the number of times that they have answered questions here is incalculable. Perhaps I have really been lazy, for I have not kept count of the number. But

Secretary LAM can tell us later for how many times he has come to the Legislative Council and how many questions he has answered.

This amendment proposed by me now may not be passed. But to be honest, if Members do not support me, they would be going against their conscience, but let us just listen to what they are going to say. It is because if all of us can be honest and consider how much the Constitutional Affairs Bureau has achieved and evaluate whether it is worthwhile to spend this amount of money on it, I believe Members will come to certain views. I only hope that Members can speak truly from their heart.

Madam Chairman, you may ask why I propose a reduction of its provision by 30%, for it appears that the provision was first proposed to be cut by a greater percentage. This shows that I, Emily LAU, am willing to accept good advice. It is because I have consulted many colleagues. Some colleagues just ignored me and naturally, I would not be able to incorporate their views. But a colleague asked me not to cut the expenditure of the Constitutional Affairs Bureau. I asked him why, and he said that the Bureau would not be able to function if its expenditure was cut and so, I should give the Bureau an opportunity to do something. I said, "Do you really believe that the Bureau would truly do something when it is given the money?" There are really colleagues among us who have this fantasy, thinking that the Bureau, when being allocated some \$36 million, can truly draw up many initiatives, including constitutional reforms. But in any case, I had accepted the views of colleagues ultimately and revised downward the percentage of the proposed reduction to 30%. This 30% was not derived from any scientific formula, but the message so disseminated cannot be clearer, that is, some Members are of the view that if some Policy Bureaux have been staying idle, they must cease to act like dogs in the manger and unjustifiably squander taxpayers' money. Some people asked what if the Bureau really intends to do something? If it really intends to do something, we in the Legislative Council will surely lavish support behind it. At least I will give it my support. I trust that many pro-democracy Members will also throw weight on it. So, Madam Chairman, I proceeded to propose this amendment.

At the special meeting of the Legislative Council Finance Committee on 24 March, Secretary LAM briefed Members about the priorities of his Bureau this year, which included promoting the understanding of the Basic Law, forging

a good relationship with the Hong Kong and Macao Affairs Office, Taiwan affairs, the accountability system, electoral issues, and so on.

Regarding the promotion of the Basic Law, Madam Chairman, I believe many members of the public are still unfamiliar with the Basic Law. But thanks to Secretary Regina IP whose endeavours in respect of Article 23 of the Basic Law had stirred up a huge controversy in town, more people now have a better understanding of the Basic Law. However, I do not know what Secretary LAM will do to make people understand the Basic Law better. Madam Chairman, speaking of the Basic Law, Mr LEUNG Yiu-chung will surely refer to his intention to set up a mechanism for amendment in respect of Article 159, something that we have discussed for three years but with very little progress. Certainly, Article 159 already stated that this is a very complicated process, since this must go through the Legislative Council, the Standing Committee of the National People's Congress and then the Central Authorities, but such a mechanism should be put in place, come what may. Six years have lapsed since the transfer of sovereignty, but no such mechanism has been set up and yet, this is still not among the priorities of Secretary Stephen LAM's portfolio.

In addition, there is Taiwan affairs. Madam Chairman, as far as I understand it, Taiwan is now most concerned about whether Hong Kong officials are banned from going to Taiwan, because sometimes exchanges are necessary so that more work can be done. But there has never been any official visit to Taiwan by Hong Kong officials. Even private visits are rare. So, Taiwan is most concerned about this. However, what is written here by Secretary Stephen LAM about his work relating to Taiwan affairs is very narrow in scope, which mainly includes co-ordinating the liaison between the Government and Taiwan organizations in Hong Kong. In Hong Kong, the highest representative from Taiwan is the Managing Director of Chung Hwa Travel Agency, Mr CHANG Liang-jen. But at a special meeting of the Legislative Council Finance Committee — it seemed that the question was put to Secretary LAM by colleagues from the Democratic Party and the Secretary had also confirmed this — it was revealed that the Secretary had not yet met with Mr CHANG Liang-jen and that he had only asked his Permanent Secretary, Mr Clement MAK, to meet with Mr CHANG Liang-jen. I found this utterly amazing. As far as I understand it, Mr CHANG Liang-jen is on the rank of Deputy Minister, and some people even consider that his rank is higher than the three Secretaries

of Departments and 11 Directors of Bureaux. But after he came to Hong Kong, he has not been given an opportunity even to meet with Secretary LAM. So, I think it is indeed very difficult to convince us that the Constitutional Affairs Bureau has carried out a lot of work in respect of Taiwan affairs.

Another area of work concerns the accountability system, which is indeed a joke. With the Secretary's co-ordination, a report was published in January this year. That was actually not requested by Bureau Directors. It was us who requested for it. It was said at first that the report would be compiled one year after the implementation of the accountability system. But I said at the time that one year was too long and suggested that this be done earlier. So, the Secretary published an interim report in January. But what did we see in this report? It was completely lopsided, singing praises for everything. To quote the remarks of Mr CHOY Chi-keung, a lecturer of the City University of Hong Kong, it is merely a sugar-coated report which intends to deceive oneself and others, and has completely failed to respond to queries raised by the public, civil servants and Members of the Legislative Council over the penny stock incident. Certainly, apart from the penny stock incident — this had created a furore in society, and it is best since Secretary MA is here, and the Financial Secretary, Antony LEUNG is also here — there is another incident which is about Article 23. I think the handling of Article 23 is the epitome of the accountability system. The problem is why only the good news is reported but not the bad news? Can the Government, in so doing, make people genuinely believe that the accountability system has achieved success across the board?

Madam Chairman, a programme named Qin Shi Huang, the First Emperor, is now showing on television. It reminds me of a person from the state of QI during the era of the Warring States. His name was ZHOU Ji. He was quite famous and handsome. As his wife adored him very much, she said that he was the most handsome man; and as his concubine (men were allowed to keep concubines at the time) was afraid of him, so she also said that he was very handsome and was even the most handsome man. His visitors who came to ask for his assistance also said that he was the most handsome man. Sometimes he would meet Emperor WEI of QI. People around Emperor WEI also told him things that were pleasing to his ears. Later, ZHOU Ji had reflected upon himself and come to know that this was wrong, and he had come to know that he was not the most handsome man. So, ZHOU Ji advised Emperor WEI that he must listen to different opinions and take on board sincere expostulations.

Madam Chairman, I do not know whether or not Mr TUNG Chee-hwa can be compared to Emperor WEI of QI or ZHOU Ji. But obviously, the report compiled by Secretary Stephen LAM has reported only good news but not the bad sides of the story. Moreover, there is something about the accountability system over which many people have raised concern. That is, why some civil servants were given promotions for no reason at all? Some people of a lower rank have been promoted all of a sudden to be Acting Permanent Secretaries. Many people, particularly members of the Legislative Council Finance Committee, consider that these promotions are entirely unnecessary and should not have taken place. Disregarding whether it is because Secretary LAM has not dealt with this properly or whatever, these should be accounted for candidly in the report, so as to tell the people that this is exactly the price that should be paid. That is, the Government will have some more senior officials for no reason and then there will be some more civil servants for whom a promotion is possible. So, I think insofar as the accountability system is concerned, the Secretary has completely failed to do his "homework".

Regarding the tasks to be handled on the electoral front, the election of the Chief Executive has already been completed; there will be 10 more seats in District Councils, and six more seats in the Legislative Council next year; and there is the abolition of the Election Committee, and so on. How important are these? And there is also the printing of an emblem on the ballot paper and the proposal of giving out \$10 additionally for those who manage to obtain votes. Madam Chairman, the most important thing is actually constitutional reform. If the Government will truly embark on constitutional reforms, I believe many people, including many members of the public, will feel that the money is well-spent.

Now, Hong Kong is faced with a host of problems. Very often, some Bureau Directors (including Dr YEOH Eng-kiong who lost his temper and thumped the table here last week) had spoken on the relations between the executive authorities and the legislature. Why do problems exist? It is precisely because the entire political structure is malformed. The executive authorities does not have votes in the Legislative Council. Although the Government has recruited Mr James TIEN and Mr Jasper TSANG into the Executive Council, sometimes they still do not support the proposals of the Executive Council. The entire situation is changing. But the key problem is that the executive authorities are not returned by elections and need not face the

public and be accountable to the people. While some Members of the Legislative Council are returned by elections, some are not. So, this is basically a transitional issue that should be handled.

It is stated in the Basic Law that a review will be conducted in 2007. This has given hope to the people who think that the situation could be reviewed after 10 years of stability. But Madam Chairman, just this Monday, several members of other organizations and I met with Secretary LAM, and we were like being poured over with a bucket of ice water. It is because when we asked Secretary Stephen LAM whether the review would definitely include the election of the Chief Executive and the election of the legislature, and whether direct elections would be an option, Secretary LAM said at the time — I think he will explain this again later and I hope he will — that the Government was studying paragraph 7 of Annex I to the Basic Law.

Madam Chairman, then what are the contents of paragraph 7? It is stated that if there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress. Indeed, it is very difficult to meet such requirements under this mechanism. But Secretary LAM said on that day that the Government was studying as to how this should be interpreted. That is to say, one possibility might arise after the studies, and that is, the phrase "subsequent to the year 2007" might be interpreted as not including the year 2007. If the election of the Chief Executive or Members of the Legislative Council will be held in 2007, Secretary LAM, according to the studies, could come to the conclusion that no changes should be made in that year. In that case, the 10 years of stability suggested by the Basic Law would become 11 years. So, it means that the Chief Executive would be elected by universal suffrage only in 2012. This, I believe, will deal a very heavy blow to us.

Madam Chairman, I hope that what I have said can convince Members that Secretary LAM really does not have much work to do. Many colleagues have also said that a reduction of the provision by 30% is too modest. So, I hope colleagues will support my amendment, in order to send a clear message to the executive authorities. With these remarks, I beg to move.

**Ms Emily LAU moved the following motion:**

"That head 144 be reduced by \$11,220,000 in respect of subhead 000."

**DR TANG SIU-TONG** (in Cantonese): Madam Chairman, the Secretary has recently issued to us a paper on the work of the Constitutional Affairs Bureau. In terms of establishment, the Bureau is the smallest among the three Departments and 11 Bureaux. The Secretary has of his own accord proposed to downsize the establishment of the Bureau by 10% in the coming three to four years. As for the directorate posts, the post of Permanent Secretary will also be downgraded from D8 to D6 on the Directorate Pay Scale. In other words, the Secretary and his staff will have to shoulder a very heavy responsibility and workload.

Besides, I also notice that the Secretary is willing to listen to the community's views on constitutional matters. Shortly after he assumed office last year, he immediately responded to the District Councils' aspiration and increased the number of seats in districts with sudden population increase, so as to cater for residents' demand. This shows that the Constitutional Affairs Bureau under the charge of the Secretary can understand people's needs and respond to their aspirations appropriately.

In the days ahead, issues like a political review, the election and reorganization of the Legislative Council, District Councils and the Heung Yee Kuk, the implementation of the Basic Law and "one country, two systems" and even the relationship between Hong Kong and Taiwan will all require detailed review and arrangements. So, the workload awaiting the Constitutional Affairs Bureau will be rather heavy. If the Bureau is made to face the problem of tight resources, its work will be affected and so will the life of people indirectly.

Any further reduction of funding for the Constitutional Affairs Bureau may hinder the work progress of the Bureau. Therefore, I hope that sufficient resources can be given to the Constitutional Affairs Bureau, so that it can continue to listen to the views of the majority in society and do its work well. This will do Hong Kong more good.

Many people criticize that the Constitutional Affairs Bureau does not have too much to do, but at the same time they ask it to conduct a political review as

soon as possible. "Even the cleverest housewife cannot cook a meal without any rice". Under such circumstances, it will be difficult for the Constitutional Affairs Bureau to complete its task.

Madam Chairman, with these remarks, I oppose Ms Emily LAU's amendment.

**DR YEUNG SUM** (in Cantonese): Madam Chairman, I speak in support of Ms Emily LAU's amendment.

Indeed, when Ms Emily LAU approached the Democratic Party to discuss this issue with us, the rate of reduction proposed by her then was substantial. But the Democratic Party pointed out that it was most important to enable Secretary LAM to complete the constitutional review expeditiously and so, if only a small amount of provision was left after such reduction, how could the Secretary complete his work? Therefore, Ms LAU revised the amendment by proposing a reduction of the provision by about 30%. The Democratic Party is glad to support her. This is a punitive act, by which we would like to make it clear to Secretary LAM that the Democratic Party is greatly dissatisfied with his work. Therefore, the Democratic Party is more than happy to support this amendment of Ms LAU.

Let us take a look at the work of the Secretary. With regard to the amendment of the Basic Law, for instance, we have for many years urged the Government to expeditiously propose a mechanism for making amendments to the Basic Law. But so far, nothing has been done and no progress has been made at all. On our communication or relations with Taiwan, Ms LAU mentioned at the last meeting that Mr CHANG Liang-jen has assumed office for a long time and has carried out so much work in Hong Kong, and she asked what contacts Secretary Lam has made with Mr CHANG Liang-jen, a question that I have also put to Secretary LAM before. But surprisingly, Secretary LAM said it was unnecessary to have contacts with Mr CHANG and that the situation has still remained unchanged. In fact, it would be a very good thing if Hong Kong can promote its relations with Taiwan. I believe the Central Government also hopes that Hong Kong can promote "one country, two systems" to Taiwan as far as possible, so that Hong Kong can serve as a very good model for Taiwan. However, it appears that the Secretary has not made much progress in the



promotion of economic, political, cultural and arts exchanges between Hong Kong and Taiwan.

Madam Chairman, regarding constitutional reforms, the people of Hong Kong are actually very dissatisfied with the administration of the Chief Executive and his officials, who have not done their jobs properly and are lacking in public representation. But sadly enough, irrespective of their performance in the administration of policies, the people are not given the opportunity to make changes. So, I think more and more people now consider that the only choice and the only way out for Hong Kong is for them to elect their desired leader through their votes. However, the constitutional review, though long overdue, has yet to commence. Although Secretary LAM has said recently in response to our demand that in the year 2004-05 after the completion of the Legislative Council elections in 2004, consideration would be given to carrying out the relevant work in around 2005. But why must it be put off for so long? It appears that we have never seen any relevant papers. Will the Government publish a consultation document? When will a timetable for the constitutional review be drawn up and in what way will the review be conducted?

Madam Chairman, I would like to briefly mention that if the Government will conduct a further review in respect of Article 23 of the Basic Law, I seriously call on the Government to make reference to the steps taken by the British Parliament in conducting reviews. They have some set rules, set requirements and set formulae to go by. Many experts are commissioned to propose a diversity of options. The options are subsequently narrowed before a more independent report on public opinions will be ultimately published. In the previous consultation exercise on Article 23, the Government could often tamper with the report to serve its own political aims. If the Government is going to carry out the constitutional review, I would urge the Government to seriously consider the channels, systems and operation, and even the formulae adopted by the British Parliament in conducting public consultation on their constitutional system. I hope Secretary LAM will seriously make an effort to do even better.

Ms LAU mentioned earlier that Secretary LAM was studying whether the constitutional review to be conducted after 2007 would cover the Chief Executive election in 2007. According to what I have learnt from the media, the Secretary appeared to be saying that the constitutional review in 2007 may not cover the election of the Chief Executive. On this point, Mr Martin LEE will quote in

detail the remarks of Director JI Pengfei to refute this intention of Secretary LAM. If the constitutional review to be conducted will only discuss the Legislative Council elections but not the election of the Chief Executive by universal suffrage, I believe that would be a great shock to the community and public resentment towards the Government would grow. Since general opinion polls show that the people hope to elect the Chief Executive and all seats of the Legislative Council by elections as soon as possible, if the Secretary concluded that this constitutional review will only cover the Legislative Council but not the election of the Chief Executive by universal suffrage, I think this would be like dropping a very powerful bomb onto society, and the relation between the Government and the public would be set to worsen further. I wish to make this point explicitly here. On this point, I will leave it to Mr Martin LEE to refute in detail the views of Secretary LAM in this regard.

Finally, about the accountability system for principal officials. In fact, the public now feel that there are only principal officials but not accountability. Later on, we will discuss the resolution sponsored by me which has to do with the incident of a car purchase made by the Financial Secretary. I believe the public feel that there are indeed many senior officials, but they are not in the least accountable. When should they be asked to resign? It appears that the Government does not have any set measures, and this purely depends on the Chief Executive's personal preferences. I believe this accountability system for principal officials is fundamentally fraught with problems.

Overall speaking, Madam Chairman, the Democratic Party is glad to support the amendment moved by Ms Emily LAU. Let me stress again that the main reason is that this is a punitive action to show the Democratic Party's gross dissatisfaction with the work of Secretary LAM in respect of the constitutional review, communication between the two places (that is, Hong Kong and Taiwan), and the amendment of the Basic Law.

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, the resolution of Ms Emily LAU proposes to reduce the funding for the Constitutional Affairs Bureau by 30%. What is the justification for a 30% reduction? Even Ms Emily LAU herself has admitted that because she is not satisfied with the Government's refusal to conduct a political review immediately, she has "arbitrarily" set down a rather huge rate of reduction.

Since the debate topic today is on the appropriation in this financial year, any issue can in fact be related to it in the name of funding reduction, so as to create an opportunity for individual Members to express their views on the political system and the Chief Executive's report, just like a hanger on which anything could be hung. This is conforming to the procedure of the legislature and Members are allowed to do so. I myself also think that the issues mentioned above, such as what the Constitutional Affairs Bureau should do and whether the Chief Executive's report should be discussed, are all issues worth our deliberation. However, I would think that it is more appropriate to discuss these issues in motion debates or the meetings of the relevant Panels. If not, whenever we discuss the proposals of a Budget in the future, any individual Member who is not satisfied with a particular bureau may actually start a debate on any related issue by moving a resolution on reducing the funding for the bureau. That is why I am not going to discuss the Liberal Party's views on a political review, that is, its advocacy of a 10-year or 11-year stability period. I do not intend to discuss all these here.

The Liberal Party has some reservations about Ms Emily LAU's resolution today, which seeks to start a debate on the issues mentioned above by proposing to cut the funding for the Constitutional Affairs Bureau. This does not mean that we do not wish to have a review. But when it comes to whether a reduction of funding can really achieve the aim of having a review, we do have some reservations. Although the Liberal Party is not entirely satisfied with the Government's current arrangement in regard to a political review, we do not think there are anything wrong with these arrangements. As far as we understand it, the Government will first conduct some internal studies this year. Then, it will conduct public consultation and proceed with the enactment of legislation. The Liberal Party is not opposed to the idea of conducting a review immediately, but at the same time, we do not think that there is anything so unacceptable if the Government conducts the studies required before setting down a timetable.

Dr YEUNG Sum has expressed his hope of having a review at a sooner time, but I suppose the proposed reduction of funding will only achieve the opposite result; it will only delay, not quicken, the pace of a review. Ms Emily LAU has also mentioned a number of things that she hopes the Constitutional Affairs Bureau will do. But I must say that if the Bureau is to do any work, expenditure will have to be incurred, and if its funding is reduced, the Bureau

will be unable to cope. That is why we have some reservations about such a justification. Even if this resolution is passed today and the funding for the Constitutional Affairs Bureau is really reduced, can Ms Emily LAU's wish thus come true? I mean, will the authorities thus hasten to consult the public immediately and launch a political review without delay? I think the chance of that is almost zero. Quite the contrary, once such a "punitive" resolution is passed, the resources available to the Constitutional Affairs Bureau will be cut down, and this may even render the Bureau unable to proceed with a political review through the normal procedure and at the pace otherwise possible under the existing procedure. The pace of review will be slower and what the Bureau can do will be much less.

What is more, political review is not the only task of the Constitutional Affairs Bureau this year — though I notice that this is the only concern of many Members. The preparation work for the District Councils Elections late this year and the Legislative Council Elections next year all falls within the portfolio of the Constitutional Affairs Bureau and must be done in this financial year. Therefore, if the funding for the Bureau is reduced, it will be unable to do anything. Any rash reduction of funding will only upset the normal, day-to-day operation of the Bureau, and this is something we cannot accept. For this reason, the Liberal party cannot support the resolution.

However, I wish to add one point here. During the discussions on the accountability system for principal officials, the Liberal Party once questioned whether elections would really involve so much work, wondering whether it was worth expending so much resources because the election methods had already been set down in the Basic Law. We had questioned why it was not possible to merge the Constitutional Affairs Bureau and the Home Affairs Bureau. But our proposal was not accepted in the end. At the time, we put forward the proposal simply from the perspective of saving resources. Even though the authorities did not accept our proposal, today, we are not going to drag in the issue of how many Policy Bureaux should be merged. Discontent about the Government's policies and measures will not lead us to ask for a cancellation of all appropriations. We will not do this. I am of the view that since a system is already in place for making appropriations this year, we should let the system operate. But I do not rule out the possibility of raising the issue I just mentioned in the future meetings of Legislative Council Panels or on other occasions. Therefore, the Liberal Party cannot support Ms Emily LAU's motion. Madam Chairman, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, during the Second Reading debate on the Budget last Wednesday, I mentioned that there was now a need to reform the political system of Hong Kong, because our society could extricate itself from the present predicament only when all its people were united by a consensus founded upon a democratic political system. I added that the Constitutional Affairs Bureau had, however, delayed the public consultation on a political review over and over again, making me feel that he actually intended to slow down and hinder our political development. So, I must now say that the amendment moved by Ms Emily LAU has really sounded the alarm to the Constitutional Affairs Bureau, which has failed to discharge its given duties. At the time of the debate, Secretary Stephen LAM immediately replied that the accusations we had levelled at the Constitutional Affairs Bureau were just a reflection of our subjective wishes and one-sided standpoints. He said that we had ignored the facts and failed to conduct any analysis, going so far as to accusing us of merely trying to express our political stance instead of analysing the Budget objectively.

Madam Chairman, to begin with, I must say that if one thinks that a Budget is just an account of the Government's revenue and expenditure, the scrutiny of which does not necessitate the expression of any person with a political stance, one must be some kind of political idiot completely ignorant of the realities and the operation of modern political systems. If the examination of a Budget was really just a statistical game of some sort, then there would have been no need for us to conduct so many special meetings of the Finance Committee in the past, no need for us to ask the Government so many policy questions in these meetings. Why did we ask all these policy questions? One of the most important purposes of examining a Budget is to look at the work of the Government in the past and in the future, so as to determine whether money has been spent properly, to determine whether the policies concerned can meet the demand of people. I think this is a completely political process, definitely not a straightforward and pure statistical analysis.

Furthermore, anyone who has the slightest understanding of modern politics will know that a budget is one of the means through which the legislature can put a check on the executive authorities. There have in fact been many cases in which the representative assemblies of Western countries seek to check the executive authorities through the means of budget scrutiny. Such a means is particularly important in Hong Kong, because under the ramshackle political system here, people in general are given no opportunity to choose their own

executive authorities, and also because under the accountability system for principal officials (accountability system) implemented last year, the legislature does not have any say in the appointment of accountability officials. As a result, the only feasible means through which the legislature can check the executive authorities is its power of Budget scrutiny. Therefore, the proposal to adjust the expenditure of the Constitutional Affairs Bureau as set down in this year's Budget is nothing but an attempt of the Legislative Council to exercise its power of checking the executive authorities.

Of course, we should ask whether it is reasonable to introduce an amendment to cut down the expenditure of the Constitutional Affairs Bureau. This question must be asked.

However, Madam Chairman, just how has the Constitutional Affairs Bureau been performing since the implementation of the accountability system last year? I would think that the answer to this question can be summed up by these words: "failure to attend to its proper business". As pointed out earlier, the Constitutional Affairs Bureau, as its very name suggests, should be responsible for handling issues relating to the political system. But it has achieved no progress at all regarding the most important task of conducting a political review. And, instead of doing the work it is supposed to do, it spent as much as \$1.6 million on commissioning a consultancy firm to study the pay levels and fringe benefits of accountability officials. Well, honestly, if it always asks others to do the work for it, its very existence can in fact be dispensed with. Secretary Stephen LAM has repeatedly said that no political review will be conducted until 2004 or 2005. In that case, what is the Constitutional Affairs Bureau going to do in the interim? If the Bureau does not have any work to do, then why should taxpayers give it several million dollars for nothing in return? The political system aside, as was also mentioned by Ms Emily LAU, nothing has been done to put in place a mechanism for amending the Basic Law even though it is now six whole years into the reunification. We have been asking the Government why it has not drawn up any mechanism for amending the Basic Law. What we are implementing is quite rightly a minor constitution, but still, why is there no mechanism for amending it? If some people say that there is a pressing need to enact legislation on implementing Article 23 of the Basic Law, I must ask them in return (as what Ms Emily LAU did earlier on), "Do you think that there is no pressing need to do likewise for Article 159?" We have to implement the Basic Law, but there is no mechanism for amending it. That being the case, is the Basic Law complete as a constitution?

Secretary Stephen LAM may dismiss the above criticism as our subjective judgement, as a viewpoint not supported by any objective statistical analysis. In response to the Secretary's request, I wish to quote some simple data to prove that our criticism is not based on our subjective judgement, but on the opinions of the masses. The Public Opinion Programme of the University of Hong Kong has been running an opinion poll on the approval ratings of accountability officials. As we all know, the approval rating of the Secretary has been on the low side throughout. His rating over the past 10 months has even dropped below 50%, showing that the Secretary's performance has failed to gain people's approval. I think the punitive reduction of funding for the Constitutional Affairs Bureau this time around is solidly backed up by public opinions.

Secretary Stephen LAM and Members against the adjustment may perhaps say that the reduction of funding will give the Constitutional Affairs Bureau an even bigger excuse for "not attending to its proper business". In the words of Mr Howard YOUNG who spoke a moment ago, the Bureau will have a stronger reason for doing nothing. But no matter what, we simply cannot continue to provide unlimited resources to Secretary Stephen LAM, in the very naive hope that he can be moved by his conscience to do the things requested by us and the public. We think that whether as a Bureau Director or an employee, he should be concerned about his employer and try to do a better job. The current political system is so ramshackle, so why do our government officials not consider how they can perform better? As early as last year when we discussed the accountability system for principal officials, some Members already proposed to delete the post of Secretary for Constitutional Affairs and transfer his portfolio to the Chief Secretary for Administration. I think this is really a very far-sighted proposal, for to begin with, the proposal can save government expenditure. In his lobby letter to Members, in which he asks them to oppose the amendment, Secretary Stephen LAM cites the active response of the Constitutional Affairs Bureau to the Government's call for expenditure reduction in the past one year as an achievement of the Bureau, saying that the expenditure estimates of the Bureau this year are \$1 million less than those of last year. In fact, if the Constitutional Affairs Bureau is really dismantled, the Government will be able to save \$5,008,000 a year. This will contribute greatly to the Government's efforts of cutting down expenditure. Therefore, in this connection, Secretary Stephen LAM should consider the idea of sacrificing himself for the common good.

In addition, the transfer of the relevant portfolio to the Chief Secretary for Administration will also highlight the Government's concern about the political system. In his lobby letter to Members, Secretary Stephen LAM points out that the Government's decision last year to retain the Constitutional Affairs Bureau already shows the importance that it attaches to constitutional affairs. But we have to ask, "Is not the direct handling of constitutional affairs by the Chief Secretary for Administration a clearer indication of the Government's strong concern for constitutional affairs?" As pointed out by Secretary Stephen LAM in the letter, the establishment of the Constitutional Affairs Bureau is the smallest in the Government and its expenditure occupies just a very small proportion of the total government expenditure. That being the case, what is point of having a separate bureau? Why do we not transfer the relevant portfolio to the Chief Secretary for Administration? This can save even more administrative costs.

Many of the Constitutional Affairs Bureau's current responsibilities actually overlap those of the Chief Secretary for Administration. One example is the Hong Kong/Guangdong relationship, which is now basically put under the charge of the Chief Secretary for Administration. Since the Chief Secretary for Administration is the representative of Hong Kong on the Hong Kong/Guangdong Co-operation Joint Conference, what is the point of placing the Secretariat of the Joint Conference under the Constitutional Affairs Bureau? Is it not much direct and straightforward to place the Secretariat under the Office of the Chief Secretary for Administration? This can prevent the wastage of resources too.

What is more, in the handling of Taiwan affairs, the Constitutional Affairs Bureau has been much too over-cautious, or even more conservative than the Central Government. For example, the China affairs spokesman for the Democratic Progressive Party administration in Taipei has been allowed to visit the Mainland, but Secretary Stephen LAM does not even have the courage to see Mr CHANG Liang-je, the representative of the Taipei Government in Hong Kong. Since he does not dare to make a decision, it is better for him to hand over the power to his senior colleague, the Chief Secretary for Administration.

Besides, the electoral affairs under the charge of the Constitutional Affairs Bureau are mostly under the Electoral Affairs Commission, for which there is already a separate expenditure estimate. Therefore, even if the resources for the Constitutional Affairs Bureau are reduced, the conduct of electoral affairs will not be affected. So, why do we not just kill two birds with one stone?



Madam Chairman, the proposed adjustment of the Constitutional Affairs Bureau's expenditure estimates is just an attempt of the legislature to exercise its power, in order to make the executive authorities more accountable to the people and the Legislative Council. The aim is to indicate clearly that the Legislative Council will not tolerate the inaction of any government departments and any wastage of public money. I hope that discussions on the accountability system can be held as an annual exercise, and that the portfolio of the Constitutional Affairs Bureau can be transferred to the Chief Secretary for Administration. As I pointed out just now, this can save unnecessary expenses on the one hand and make government operation more efficient on the other. Therefore, I will support Ms Emily LAU's amendment.

I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, on behalf of the Hong Kong Confederation of Trade Unions, I wish to express support for Ms Emily LAU's amendment. The Financial Secretary can testify that I seldom support the cutting down of any item of government expenditure, because I never believe in the idea of "small government". On this occasion, too, I have not been led by any belief in "small government" to support the reduction of the expenditure item concerned. Rather, my support is based on these eight words: "no work, no pay; no vote, no tax".

First, "no work, no pay". All is very simple, in the sense that if there is no work, there will be no pay. I am a representative of the labour sector, and I can say that all employees will like to receive the same treatment as Secretary Stephen LAM — getting paid for no work done. There was a popular saying in the past: "One will always be paid 36 dollars no matter one does any work or not". If "one will always be paid \$2.7 million no matter one does any work or not", it will of course be even better. But to taxpayers, this is of course not acceptable at all, because there is no reason why the Secretary should continue to receive salaries without having to work. This is a very simple principle. That is why if the Secretary is idling around, his post should be deleted. Ms Emily LAU said earlier on that the Secretary might not necessarily have to be held responsible for his own idleness, because he was not the one to decide whether a political review was to be conducted immediately; after all, the decision was made by the Government, by TUNG Chee-hwa himself. TUNG Chee-hwa has decided not to conduct any review now, so the Secretary is forced to idle around.

To a certain extent, TUNG Chee-hwa has victimized the Secretary. I do not think that there is any reason for victimizing anyone, so I agree that the post should be deleted so that the Secretary could be more complacent. The rationale is so simple: the post should not exist when there is no work to be done.

What then is meant by "no vote, no tax"? The present amendment is actually a kind of protest against the Hong Kong Government's failure to conduct a political review, against the deprivation of people's voting power to select their Chief Executive and against the absence of universal suffrage for the election of Legislative Council Members. When the people do not have the right to vote, how can the Government have any authority to collect taxes from them? The Financial Secretary's Budget contains many proposals for tax increase which make the middle classes very discontented and angry. The middle classes cannot understand why the Government should make them the targets. Upon deeper analysis, we will see that inability is not so much a cause of discontent — I mean, though there are undoubtedly many negative asset owners, this should be a separate issue. Generally speaking, it is not quite so true to say that the middle classes are unable to afford the tax increases. Rather, they are just "having a grudge". Why do they have to pay taxes to such an incompetent government? This is precisely the grievance of the middle classes. The Government has told all the Hong Kong people that it does not intend to conduct a political review so soon, saying that such a review will be deferred until after 2007. In other words, there will be no review even in 2007, meaning that the matter will again be delayed for several years more. This is what makes the middle classes so "grudging", what makes them think that they should not be required to pay any taxes.

Why have I hit upon the idea of "no vote, no tax"? That is because of a historical incident before the American Independence. In 1763, the British Parliament held a debate and passed a resolution enabling the British Government to collect taxes from the British people living in the American colonies. In other words, the British Government could collect taxes from those British who had settled down in the American colonies. The news of this spread to Massachusetts in America, and the local representative assembly also passed a resolution. This resolution was written in rather old-fashioned English and is thus not easy to translate. I now read it out in English: "That the sole right of giving and granting the money of the people of this province is vested in them, as the legal representatives; and that the imposition of taxes and duties the Parliament of Great Britain upon a people who are not represented in the House

of Commons, is absolutely irreconcilable with their right. That no man can justly take the property of another without his consent; upon which principle the right of representation in the same body which exercises the power of making laws for levying taxes, one of the main pillars of the British Constitution, is evidently founded."

In brief, the British living in the American colonies were strongly opposed to the British Government's imposition of taxation on them. The last sentence of the resolution reads: "Taxation without representation is tyranny". So, to tax people who are not given any votes is tyranny. Hong Kong is no different from the American colonies in 1763. We have no vote and no say in the composition of the Government, but all of us, the 6 million or so people in Hong Kong, are required to pay taxes. The Government is not prepared to conduct a political review, so why should we pay any taxes? Since we will no chance to elect the Chief Executive, since we will sooner or later be crushed dead by this undemocratic political system, why should we still pay any taxes? Certainly, taxation is a civil responsibility. The people of Hong Kong should pay taxes because they are provided with many public services. However, since we pay taxes, the Government should give us the vote and allow us to elect our own government. Only through this can make us feel "ungrudging" when paying taxes. To make us feel "ungrudging", the Government should let us see a beam of hope. The beam of hope we would like to see is a political review, a totally democratic political system. We should all be striving towards this direction.

The reason why I support the amendment is very simple. First, since the Government is not prepared to conduct a political review and the Secretary is thus made idle, why not have his post deleted? Second, since the Government is not prepared to conduct a political review, all tax increases cannot be justified, and it would cause the people to query the reasons for such increases. The people of Hong Kong will ask, "It is the Government which decides against a political review, but why is that the people are made to bear the consequences?" This is the most fundamental problem. That is why I will support the amendment. Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, will you please summon more Members to the Chamber to listen to my speech. I think that a quorum of the whole Council is not present now.

**CHAIRMAN** (in Cantonese): Mr Martin LEE, please be seated. Please wait for a while. We will now ring the bell to summon Members to return to the Chamber.

(After the summon bell is rung, several Members returned to the Chamber)

**CHAIRMAN** (in Cantonese): Mr Martin LEE, a quorum is now present, you may deliver your speech.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I support Ms Emily LAU's amendment. However, Ms LAU and Mr LEE Cheuk-yan apparently do not understand that the major duty of our incumbent Secretary for Constitutional Affairs is to "play Taichi", to be evasive in the political field, in Mr LEE Cheuk-yan's words, "no matter whether he does it or not, he will get pay, but by doing nothing, he will get ten times even more". Because the Chief Executive expects him to do as little as possible, so that the target date for Chief Executive to be returned by direct election can be delayed.

Why do I have to urge Members to return to this Chamber? Because I hope that they can listen carefully to the address made by Mr JI Pengfei, the Chairman of the Drafting Committee for the Basic Law, that I am going to quote. Every Member, in fact, would have one copy at hand, which is that incorporated in the Basic Law. This is a very important address. Without this, people may think that the adoption of a direct election of the Chief Executive will only have a chance after 2007.

First of all, let us turn to Annex I to the Basic Law, that is page 40 (Chinese version). In the first paragraph, it says, "the Chief Executive shall be elected by a broadly representative Election Committee in accordance with this Law and appointed by the Central People's Government." In the seventh paragraph, it says "if there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval." Though "subsequent to the year 2007" is mentioned, how should

the word "subsequent" be interpreted? Mr JI Pengfei has in fact given a very clear explanation.

Madam Chairman, the address of Mr JI Pengfei is at the Appendix on page 54 (Chinese version). Let us turn to page 62 (Chinese version). In the last paragraph, "the method for the selection of the Chief Executive. The draft stipulates that the Chief Executive shall be selected by election or through consultations ....." — the Joint Declaration also says so — "..... and be appointed by the Central People's Government. The method for selecting the Chief Executive shall be worked out in the light of the actual situation in Hong Kong and applied in a gradual and orderly way. The ultimate goal is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. Based on these provisions, Annex I provides specific rules on selecting the Chief Executive. In the 10 years between 1997 and 2007 ....." — the phrase "in ..... between" is very important — "..... the Chief Executive will be elected by a broadly representative election committee. If there is need to amend this method of election after that period ....." — that is, in the 10 years between 1997 and 2007 — "..... such amendments must be made with the endorsement of a two-thirds majority of all members of the Legislative Council and the consent of the Chief Executive, and they must be submitted to the Standing Committee of the National People's Congress for approval. The method for selecting the Chief Executive is provided in an annex to make it more amenable to revision when necessary." The progress of the Legislative Council is stated in paragraph (3). From the second line of the paragraph, "according to the draft Basic Law, the Legislative Council will be constituted by election. The method for forming the Legislative Council will be worked out in the light of the actual situation in Hong Kong and applied in a gradual and orderly way. The ultimate goal is the election of all the members of the Legislative Council by universal suffrage ....." During the first 10 years after the Special Administrative Region is established, the number of seats in the Legislative Council for members elected by geographical constituencies through direct elections will be increased with each passing council, and the number of seats elected by the Election Committee will be gradually reduced. When the third Legislative Council is formed, members elected by functional constituencies and geographical constituencies through direct elections will each share half the seats of the Legislative Council." About nine lines after this, it says, "Ten years after the establishment of the Special Administrative Region, if ....." — the timing after 10 years is again referred to — "..... there is a need to improve the

method for forming the Legislative Council and its procedures for voting on bills and motions, such improvements shall be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they must be reported to the Standing Committee of the National People's Congress for the record. The method for forming the Legislative Council and the Council's procedures for voting on bills and motions are provided in an annex because it is more amenable to revision when necessary."

When the Basic Law is drafted, the 10-year period has been set out clearly, and the gradual and orderly way stated is to be applied within these 10 years. Therefore, according to the Basic Law, the year 2007 is a very important year to the progress of democracy. Election of the members of the Legislative Council was, in the beginning, held every four years. If the "throughtrain" approach had been adopted since the year 1995, the terms of office of the following elections of the Legislative Council should have been 1995 to 1999, 1999 to 2003 and 2003 to 2007. Since the election of the Chief Executive is held every five years, the first two terms of office should then be 1997 to 2002 and 2002 to 2007. From 1997 to 2007, there are exactly 10 years. Therefore, no matter whether it is the election of the Chief Executive or that of the Members of the Legislative Council, they can be adopted in a gradual and orderly way. The progress towards democracy is attained steadily in a gradual and orderly way within the 10-year period. If things are to be left open within 10 years, public consultation and review must be carried out. This is what the Government should do now. What will the situation be after this 10-year period? For the Legislative Council, since the "throughtrain" approach had not been adopted, and the Provisional Legislative Council had a one-year term of office, the above period has to be extended for another year to 2008. However, still the original intention is to have a 10-year transitional period. The reason is simply that the progress of democracy should not be pushed ahead too fast.

With regard to this problem, when I was the Chairman of the Democratic Party, I have heard many times on numerous occasions that Mr James TIEN and Mr Jasper TSANG were in support of the direct election of all Members of the Legislative Council in the year 2008, as well as the direct election of the Chief Executive in the year 2007. Of course, they have been backtracking. But, at least, they have not said that direct election of the Chief Executive had to be implemented after 2007, which means in the year 2012. Therefore, I hope Secretary Stephen LAM will not come up with some "weird measures". In fact,

since the establishment of the Government of the Hong Kong Special Administrative Region (SAR), senior officials have been telling officials of overseas' government, including ambassadors and consulate generals, not to worry. They often say that democracy progress would certainly be enhanced and that the Chief Executive and all Members of the Legislative Council would be returned by direct election in 2007 and 2008 respectively. I have asked overseas consulate generals in Hong Kong several times about how the government officials of the SAR had told them as regards the direct election of the Chief Executive. They told me that government officials have been telling them all the time that the direct election would be carried out in 2007.

Therefore, I hope Members would return to this Chamber to listen to me, and that the Government would no longer play the game in an unfair way. In fact, the address by Mr JI Pengfei quoted just now is very important. Mr JI submitted the Hong Kong Basic Law (Draft) to the National People's Congress on 28 March 1990 for examination. We can find this on page 54 (Chinese version) of the Basic Law. It is stated that "..... has submitted to the current session of the National People's Congress for examination ....." The Basic Law was adopted on 4 April 1990. With reference to the *Pepper vs Hart* case under the British common law, if the explanation of the draft is not clear, the judge can refer to the address of the minister who proposed the draft. This is, in fact, the practice adopted by most countries observing the common law. The address of Mr JI Pengfei is thus of utmost importance.

Some Members may say, just as Mr Howard YOUNG has said, that if the appropriation is not approved by the Legislative Council, the progress will be further held back. This seems to be right at sight. However, he does not have to worry. If the Secretary for Constitutional Affairs does work hard on this and subsequently finds that the provision is insufficient, he can come to this Council to apply for funds again. Even if the application were not approved, I believe the Democratic Party and Members of the pro-democracy camp will be willing to raise funds on the streets for the 2007 election. I believe many wealthy merchants are willing to donate, because they have had enough of Mr TUNG Chee-hwa within these 10 years. If they know that the Chief Executive of the coming term will again be elected by way of an election committee, I think most of them will make donations rightaway. Therefore, there is no need for the Secretary to worry about insufficient funding; funds would certainly be enough. Thank you, Madam Chairman.

**MS CYD HO** (in Cantonese): Madam Chairman, I remember that in 1998, when Hong Kong was being battered by the financial turmoil, the Government hastened to put forward the Enhanced Productivity Programme. By enhanced productivity, it meant that all Policy Bureaux and government departments were required to increase their productivity by 5% within three years. The productivity increase could be achieved either through expenditure saving or the addition of new work. I remember that the Constitutional Affairs Bureau was one of the few Policy Bureaux that managed to achieve the 5% enhanced productivity target in less than three years. Mr Michael SUEN, then the Secretary for Constitutional Affairs, was naturally very delighted, but we told him that it was actually not difficult at all for his Bureau to achieve the target, and that there was still plenty of room for the Bureau to save resources. I made this point simply from the financial perspective. I also wish to say a few words on why Ms Emily LAU said that at the beginning, she actually wanted to propose a 70% reduction. My experience of convening Constitutional Affairs Panel meetings in the past one year tells me that the biggest function of the Secretary seems to be posing hindrance to all aspects of work. Since this is his sole function, the Secretary and his colleagues should be excused from the meetings, so that they can serve as "expensive" public relations officers and concentrate on dealing with Members, the media and foreign consuls in Hong Kong. That way, an appropriation of \$10 million or so should be enough, and there should be no need for \$30 million. This was exactly the reason why we once intended to propose a 70% reduction.

Actually, from the policy address and the special meetings of the Finance Committee, we notice that the Constitutional Affairs Bureau has failed to perform well in two aspects. Some parts of its work and resources can in fact be transferred to other relevant government departments. The first aspect involves Hong Kong/Guangdong co-operation. At the special meetings of the Finance Committee, many Members said that in terms of commerce and trade, there were already some kinds of integration between Hong Kong and China, between Hong Kong and Guangdong, in particular the Pearl River Delta. But Members also commented that in terms of public health and infectious diseases, particularly atypical pneumonia, it seemed that we could do nothing at all. After studying the Budget, we find out something which, we think, is really as significant as discovering the new world: actually, it is the job of the Constitutional Affairs Bureau to pose as a lead for the various government departments in the communications with their counterparts in the Mainland. So, in respect of preventing the spread of atypical pneumonia and other contagious



diseases, what has the Constitutional Affairs Bureau done? What function has it served? What role has it played? Well, it has now turned out that the Constitutional Affairs Bureau was there only to do some work at the beginning, and after the initial contacts, it would simply leave the rest of the work to the departments concerned. I believe that by now the Policy Bureaux and departments concerned should have done a lot to foster co-operation with their mainland counterparts; in particular, both sides should be able to co-operate much more swiftly than before at times of emergency. Therefore, this particular job of the Constitutional Affairs Bureau can actually be handed over to other Policy Bureaux and government departments. That way, the officials with the relevant professional expertise will surely be able to do things more effectively and appropriately. That is why the appropriation concerned could be deleted.

Madam Chairman, the second aspect concerns the consultancy studies on political development. This year, I have asked all departments to inform me whether they have conducted any studies. The Constitutional Affairs Bureau has not conducted any studies on political reform, but somehow unexpectedly, the Central Policy Unit has been conducting some studies on the social, economic and political developments in South Korea, Taiwan, Thailand, Malaysia, Singapore and, more recently, Guangdong Province. These studies have been going on since 2000, spanning more than just one year. Frankly speaking, since the Central Policy Unit has been conducting all these studies and thus possesses the relevant knowledge and research personnel, it will be better to let it take over and continue with its ongoing studies. I, as well as the opinion I gather, think that since the Constitutional Affairs Bureau has not discharged its function in this respect despite the appropriation, and also since the Central Policy Unit has been conducting the relevant studies, it would be better to transfer the relevant job and resources from the former to the latter.

Initially, I still hoped that the Constitutional Affairs Bureau could conduct its own studies. That was why at the meeting on the policy address, I asked the Secretary several times whether he had set down any timetable for political reforms and deployed any manpower for the job. I believe Members who were also present at the meeting should remember that the Secretary virtually refused to disclose anything at the beginning, apart from saying that the work would commence in due course. It was not until we referred to the policy agenda, reminding him of the work which had to be undertaken within the 18-month time limit, that he finally told us that some internal studies were underway. He disclosed that two of his colleagues in the Constitutional Affairs Bureau were

conducting the relevant studies. In contrast, however, in the Central Policy Unit, there are many full-time and part-time consultants, so it is possible to conduct studies on the social, economic and political developments in many different places. For this reason, I believe that to let the latter continue with its studies should be far better than asking the Constitutional Affairs Bureau to do it all from scratch.

Some Members said that "even the cleverest housewife cannot cook a meal without any rice". According to these Members, if we do not allocate funding to the Bureau, it may even fail to do the work it wants to do. However, based on the experience in the past year, I can say that the housewife does not really want to cook any meal; even if she is given some rice, she may not necessarily cook it, and she may even throw them away. If we do not cut down the funding for the Bureau, it may just "throw the rice away" in the end.

Many Members just now talked about a political review in 2007. The latest explanations offered by the Secretary make us worry that in the review concerned, they may just put some manpower and resources together and then think out some strange ways to hinder the progress of democratic political reforms. This worry is also one of the main reasons why we propose to cut down the funding for the Constitutional Affairs Bureau. However, if the Secretary applies for funding after working out a concrete scheme of work, I am sure that Members will not hesitate to entertain his request. There were lots of cases in the past, where we rendered our full co-operation and approved an emergency appropriation request within just a few days. Aviation insurance guarantees were not subject to any ceiling, but we still approved the funding request in just a few days; and, we also approved an emergency funding of \$200 million in just two to three days to deal with atypical pneumonia. Therefore, Members need not worry that after we have cut down the funding, the Secretary will not have the resources required to do his work. What is most important is that he should provide all the details concerning specific timeframes, programmes of work, manpower requirements and resource deployment for scrutiny by the Legislative Council. We will welcome it very much if the Secretary is to do this. Thank you, Madam Chairman.

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

(No Member responded)

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, Ms Emily LAU has proposed an amendment to reduce resources allocated to the Constitutional Affairs Bureau (the Bureau) for the year 2003-04 by 30%. After listening to today's debate, Members should be perfectly clear that Ms LAU and Members from the democratic camp are trying to display a political posture, instead of presenting us with an objective, value-for-money evaluation.

When talking about this, even Ms LAU admitted that she had initially proposed to slash funding by 90%, but later changed her mind to 60% during a Finance Committee meeting. Today, she suggested a 30% cut. We can see very clearly from beginning to end that Ms LAU was wavering, though she has been also extremely frank. It is clear from the coverage and explanation given in newspapers last week that her position was far from scientific and objective. It is really very disappointing that such an experienced Member as Ms LAU could have proposed such a slapdash and unfounded amendment.

Madam Chairman, I have written to all Honourable Members last week with respect to the work of the Bureau. I am not going to repeat it in detail today. However, I would like to highlight several important points.

To start with, since my assumption of office in July last year, the Bureau has addressed a number of problems relating to electoral policies. For instance, there will be more directly-elected seats in the 2003 District Council elections. With respect to the 2004 Legislative Council elections, we have proposed to divide the territory into five constituencies with each returning between four and eight seats. In addition, a "\$10 for one vote" funding scheme is also in place for the elections. Work has also commenced with respect to the 2007 constitutional review, a matter of our utmost concern, with an internal study being undertaken as the first step of the review.

Secondly, after the reunification, the Bureau has taken over a number of new tasks. Examples are the implementation and review of the accountability system for principal officials (the accountability system), and the handling of Taiwan affairs. All these responsibilities are being handled with existing resources. Madam Chairman, concerning Taiwan affairs, I have to reiterate that the Government of the Hong Kong Special Administrative Region must act in strict compliance with "Qian's Seven Remarks". The Chung Hwa Travel Service is not an official agency. Ms LAU should respect the "one China"

principle and should in no circumstances allow staff of Taiwanese agencies set up in Hong Kong to act in their official capacity. Madam Chairman, I have always been a pragmatic person. I have always stated that Taiwan affairs will be handled by Directorate-grade staff of the Bureau. I have also stated that, when necessary, I as head of the Bureau will personally take charge of Taiwan affairs. I have just met with Mr CHANG Liang-jen today in an exchange of information with him with respect to the outbreak of atypical pneumonia in Hong Kong and Taiwan.

Back to our Budget again. Despite the rise in workload within the Bureau, we are prepared to trim our establishment and expenditure. Among the existing 11 Policy Bureaux, the Bureau has the smallest establishment and budget. This fully reflects our workload and our devotion to our duties and responsibilities. There are several points I wish to raise here. We have decided to lower the rank of the Permanent Secretary from D8 to D6. In the middle of this year, we will freeze a Principal Assistant Secretary (D2) post and scrap an Administrative Officer post. The work of these two posts will then be shared among other colleagues of the Bureau. Besides these posts, we are also prepared to, in the coming future, continue trimming our establishment by up to 10% and curbing our expenditure in a bid to resolve the budget deficit problem in conjunction with the Government.

According to Ms LAU, as remarked by other Honourable Members as well, one of the reasons for slashing the Bureau's expenditure is Members' dissatisfaction with the progress of our constitutional review. Actually, I have communicated with and explained to Ms LAU repeatedly our prime time slots and consideration when making preparations for the relevant work. Perhaps I should repeat it once again here today in the hope that Ms LAU can hear it clearly. We plan to concentrate our efforts on internal research in 2004 and deal with public consultation in 2004 or 2005, and hopefully enactment of local legislation in 2006.

During a meeting with Ms LAU and other deputations on Monday, I tried to encapsulate the scope of our research in three aspects. First, insofar as the constitutional review is concerned, views are indeed divided among members of the community. I note that people from different strata and sectors are divided over a number of issues, ranging from the direction, manner, priorities to the progress of the review. Let me cite the composition of the Legislative Council as an example. Some opine that more directly-elected seats should be

introduced, but some think that functional constituency seats should be retained. In handling the constitutional review, we will give careful consideration to views expressed by all sides in order that the future proposal can look after Hong Kong's long-term interests.

Second, we have to continue with our studies with respect to a number of practical electoral arrangements, such as the size of each constituency, the number of electors in each constituency, and the number of seats allocated to each constituency. We find it necessary to summarize the experience gained over the past five years or so since the reunification in order to come up with a proposal tailored to the future needs of society.

Third, as mentioned by Ms LAU and as per the discussion between Ms LAU and me, the Basic Law has provided for ways to amend the electoral system after 2007 and a mechanism for this purpose is already put in place. We have to examine the procedures and the time required to be taken before activating the mechanism. Referring to the two relevant Annexes contained in the Basic Law, Ms LAU indicated that she was dissatisfied with the position we took in carrying out the study. I actually told her on Monday that the composition of the fourth term of the Legislative Council in 2008 can, subject to the review, be amended under Annex II to the Basic Law. As regards whether the method for selecting the Chief Executive for the third term can be amended under Annex I, I said that it was necessary for the Government to examine the matter in detail. This is because Annex I is formulated in such a way that the method for selecting the Chief Executives for the terms subsequent to the year 2007 can be amended in accordance with the established mechanism. Nevertheless, we have to study the matter carefully because the expression "subsequent to the year 2007" is not absolutely clear. My response to Ms LAU is that I have always adopted a prudent attitude in handling my work. Since the meaning of the last paragraph of Annex I is not 100% clear, I am just being responsible by pointing out the need to handle the matter with care before making my position clear.

There is no need for Ms LAU to worry. We will conduct the study with a very serious attitude. I have also discussed the matter with Ms LAU and other deputations. I note that Prof XIAO Weiyun has his own view on this issue, and we will give careful consideration to it. Likewise, consideration will be given to other views expressed by members of the community. I would like to express my gratitude to Mr Martin LEE for reading out some information he considered useful. We were aware of the information. However, talking

about Mr LEE, I would like to make two points of comment: First, being an experienced barrister, Mr LEE should know it very well that extreme care should be exercised if the wordings of a segment of written law are obscure. This is essentially the attitude we are adopting at the moment.

Second, I think it necessary to express my scepticism. Mr LEE is always fond of quoting "hearsay evidence" when appearing on public and non-public occasions. But I think he is giving "hearsay non-evidence" today. I do not know what factual basis he has had. Madam Chairman, I would like to ask Mr LEE this question: On what occasion and which Secretary of Departments or Director of Bureau told him precisely that the composition for the Chief Executive elections and Legislative Council elections subsequent to the year 2007 has been finalized. Madam Chairman, insofar as I know, the study has yet been finalized and we will continue to study and review the matter carefully.

Coming back to Annex I to the Basic Law, I know it very well that a number of my colleagues have been questioned by Ms LAU over the past few years. So far, no one has ever directly answered her questions. Madam Chairman, it was perfectly responsible for me to make my situation very clear to Ms LAU on Monday. It was unreasonable of Ms LAU to refuse accepting my position, not to mention that she has even resorted to distorting our replies to a higher plane of principle and two-line struggle. Our position is that we should act and conduct our study in accordance with the Basic Law, what is so improper about it?

Madam Chairman, Ms LAU has also made reference to certain newspaper coverage, speculating that the Directors of Bureaux have had certain views on the constitutional review to be carried out in 2007. It appears that Ms LAU is also fond of hearsay and hoping to provoke disputes by making use of such speculative coverage.

The entire team of principal officials is supportive of the common stand taken by various Secretaries of Departments and Directors of Bureaux as stated in the policy agenda that suitable preparations must be made for the conduct of the constitutional review after 2007.

I see that some Secretaries of Departments and Directors of Bureaux are seated here today. I can tell Ms LAU and Honourable Members in unequivocal terms that we are "sitting in the same boat" in facing public aspirations and

"demonstrating the same mentality" in serving the community. Therefore, no one can succeed in provoking disputes among us.

In fact, during today's short debate lasting for only an hour, Members can see it very clearly that two tactics have been adopted by Members supportive of Ms LAU's motion. First, to play down the pragmatic work done by us; second, to deliberately discredit the position held by the Government with respect to the constitutional review scheduled for 2007.

I have been pondering these questions for quite some time: Why are Ms LAU and other Members so eager to move such an amendment? Why is Ms LAU so eager to invite me to take part in the TV show, *The Weakest Link*? Actually, I am not a difficult opponent. Perhaps Ms LAU thinks that she will not be able to "strike at the very heart of the problem" and implement the 2007 constitutional review proposal, a matter of her concern, so long as I am still here. Or may be she hopes no Policy Bureau will stand in the way between their wishes and the Government so that she can present her suggestions directly to the Registration and Electoral Office for implementation.

To maintain my impartiality, I will listen to all views. In this Council, Madam Chairman, the message conveyed in the motion debate held on 19 February was absolutely clear. Opinions are actually greatly divided on the constitutional review scheduled for 2007, both within and outside the Council. Nevertheless, I respect the views expressed by Ms LAU, my colleagues and Honourable Members. While Honourable Members have their own positions, we have our own commitments.

Madam Chairman, I would like to say a few words on the accountability system because a few Members have mentioned this issue. In the handling of the accountability system, I have always hoped to table a down-to-earth report, such as the one submitted in June, to this Council.

Several key points were raised at that time. Concerning the restructuring of a number of policy bureaux and departments, some progress has been made. It is also clear that more than \$40 million, in excess of the expenditure incurred for the implementation of the accountability system, can be saved a year. I have also announced our decision to lower the rank of Permanent Secretary from D8 to D6 in several Policy Bureaux.

All these are matters of concern to the general public as well as to the legislature. Can the accountability system enable resources to be used in an appropriate manner? There were quite a number of people who asked us whether the accountability system, upon its implementation, would prove effective and be able to face social aspirations and pressure. I remember it very well that when the policy address and policy agenda were discussed in this Council in January, I made it very clear that with respect to such matters as the "penny stock" incident, some principal officials were willing to apologize to the public in response to the aspirations of the community. By virtue of the spirit of accountability, we are able to look forward in assuming responsibilities. This is precisely the change we can expect to see with respect to governance under the accountability system.

Madam Chairman, concerning today's amendment, I was already fully prepared psychologically to bear political pressure when indicating my willingness to be a politically-appointed official nine or 10 months ago. As the saying goes, "one should put up with the thirst if he chooses to eat salted fish" (accepting the consequences of one's decision).

Madam Chairman, I have no idea if Ms LAU is aware that her proposal of slashing expenditure by 30% will affect some 40 civil servants working in the Bureau, with over half of them being middle or lower grade civil servants, such as secretaries, clerical staff, and so on.

These colleagues have always been working with a very serious attitude. The amendment proposed by Ms LAU today, if passed, will affect the job stability of these civil servants. Conceding that her amendment is lack of a scientific basis, Ms LAU is basically hoping to stage a political show involving politically-neutral civil servants in disputes. Such an act is neither responsible nor reasonable.

However, I am not at all surprised by the move taken by Ms LAU because this is in conformity with her usual style — lack of careful planning, preference of politics to reason .....

**MR MARTIN LEE** (in Cantonese): Madam Chairman, should the remarks of the Secretary be regarded as an attack on Members?



**CHAIRMAN** (in Cantonese): Mr Martin LEE, are you requesting me to make a ruling on whether the Secretary's remarks are offensive to Members?

**MR MARTIN LEE** (in Cantonese): Yes, Madam Chairman.

**CHAIRMAN** (in Cantonese): Can you let me know which remark of the Secretary is offensive?

**MR MARTIN LEE** (in Cantonese): Madam Chairman, the remark the Secretary has just made.

**CHAIRMAN** (in Cantonese): Mr Martin LEE, you are referring to the remark the Secretary has just made. I must view the video tape again. I now suspend the meeting. The meeting will resume a little later.

7.15 pm

Meeting suspended

7.22 pm

Committee then resumed.

**CHAIRMAN** (in Cantonese): Honourable Members, for the sake of prudence, I have listened to the tape-recording of the remarks made by the Secretary for Constitutional Affairs. I rule that the remarks are neither insulting nor offensive and thus do not violate the Rules of Procedure of the Legislative Council.

Secretary for Constitutional Affairs, you may continue.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Thank you, Madam Chairman. I always believe in frankness in dialogues and truthfulness in debates.

Madam Chairman, Ms LAU and Honourable Members of the democratic camp have made it clear that what they aim for is to reprimand the Government and not me as an individual. That they have made their position clear shows that the way they think no longer conforms to existing rules and practices. For in the Legislative Council, importance should be attached to resources, financial matters and objective facts. However, it is not fair when they try to decide whether the Constitutional Affairs Bureau should exist on the basis of the political views they hold.

Madam Chairman, having said that, I still have great admiration for Ms LAU for her zeal and unwavering stand in constitutional developments and urging for a review of the constitutional system. Madam Chairman, with your permission, I would like to say a few words to Ms LAU. Ms LAU, in the same way as you hold fast to your beliefs, we in the Government have our commitment. When you were working in the press many years ago, our colleagues began to follow up the Joint Declaration and we formed the Sino-British Liaison Group. When you became a Member of the legislature, in the run-up to the reunification, we made the preparations as required, such as founding the Court of Final Appeal, the issue of the SAR passport and worked out visa-free arrangements for Hong Kong people and so on. Now when Ms LAU is actively urging for a review of the constitutional system and holding the view that public consultation should begin for the review, we in the Government are doing our part to prepare the way for this review in a systematic and orderly manner and in accordance with the stipulations of the Basic Law.

After I assumed office last year, I have met Ms LAU on a few occasions and she has my respect. Every time when we met, discussed and debated, I would try my best to make the occasion as constructive and positive as possible. In last September, Ms LAU led representatives of various groups to the Constitutional Affairs Bureau to present their views and discuss with us. At that time I laid down three principles for this review of the constitutional system, and these were: first, the review would be conducted in accordance with the stipulations of the Basic Law; second, we would set aside sufficient time for public consultation; and third, we would also set aside sufficient time for legislation in the SAR.

In February this year, when we had a debate on this motion, I set out the major events leading to the review of our constitutional system and the constitutional developments after 2007. In the beginning of this week, I explained again to Ms LAU and other groups in our meeting that our preparation for the review of the constitutional system would include these three areas as I have just mentioned.

Therefore, Madam Chairman, on the whole, I have outlined the scope of the review. However, we are handling a host of other matters both outside and inside this Council which are also the common concerns of the people of Hong Kong, and the review of the constitutional system is only one of the many problems and challenges that we face. I am convinced that our colleagues in the Government will work closely with Honourable Members and we will do the best we can. As for me and my colleagues in the Bureau, we will try to minimize differences and seek more common grounds with a view to reaching a consensus in matters related to the development of the constitutional system after 2007 and the review of the constitutional system.

Madam Chairman, I urge Honourable Members to vote against this amendment. Thank you, Madam Chairman.

**MS EMILY LAU** (in Cantonese): Madam Chairman, my thanks to Members for their remarks. I also listened to the Secretary's remarkable and provocative speech. This is fine enough because there should be sparkles in a debate. But the Secretary said I was being provocative, and that I had intended to foment discord. Secretary YEOH Eng-kiong also said I was trying to foment discord. And, in this Chamber, Mr TUNG Chee-hwa also accused the Democratic Party of fomenting discord.

Madam Chairman, now I realize that anyone who says anything to the dislike of the TUNG Chee-hwa clique will be accused of fomenting discord. This is really too much. My proposed rate of reduction is criticized for being arbitrary, but let us all reason things out here. Why have I proposed a 30% reduction? I have just counted what little work the Secretary has done. Incidentally, Madam Chairman, this debate may still have benefited someone — CHANG Liang-jen. But, this may not necessarily be the case. Anyway, the meeting was held this morning, but when Dr YEUNG Sum made an enquiry

several weeks ago, he had not yet seen him. Someone has obviously taken an immediate remedial step. The TUNG Chee-hwa clique is probably in the habit of taking remedial steps. When what the Financial Secretary had done came to light, he refused to remember anything though everyone tried so hard to make him remember. But then, following media coverage, they hastened to say, "That's right, and he has also quickly come out to donate money for charity." There is nothing wrong with taking any remedial step, but I will leave this topic for the moment until we debate Dr YEUNG Sum's motion. Anyway, the Secretary could still find time to see Mr CHANG Liang-jen, and he even said that he had long since wished to hold thorough discussions with Taiwan, only that he had not had the time to do so. Anyway, now that he has found time for a meeting, it is fine enough.

However, I hope the Secretary can understand that I have given a full account of what he has done, and people all do not think that he can satisfy their demand. I said many times before that a reduction of 30% was actually much too modest. But my colleagues in the Democratic Party insisted that they would still like to cherish some illusions about the Secretary, so they asked me not to be so heavy-handed. I also respected them very much and discussed with them. The reduction rate being proposed is precisely the outcome of my discussions with them; it has not been worked out from castles in the air.

The one who is trying to foment discord is really the Secretary himself, who says that I am driving civil servants out of work. It is good that Secretary for the Civil Service Mr Joseph WONG is here now. Honestly, even if the proposed amendment is passed, will any civil servants, 10 or even dozens of them, lose their jobs immediately? They all have an "iron rice bowl", so how can this ever happen? But what will happen to them then? They can be transferred to other departments. Just pass the problem to Mr Joseph WONG. There are always other posts for these civil servants anyway. Incidentally, since all the Secretaries are here today, I may as well mention the following point. As I mentioned at the beginning, the life of some Secretaries is really very tough; they have lots of work to do because their portfolios each cover several categories of affairs. However, the Bureau, that is, the Bureau under the charge of Mr LAM, just has very little work to do. In fact, all its work can be listed out with scientific precision. Some Secretaries here today are virtually exhausted due to their heavy workload. I guess they will sometimes wonder why the arrangements are so unfair, and why some have so much to do while others have so little.

Madam Chairman, on the question of having little work to do, Dr TANG Siu-tong has tried to defend the Secretary, saying that he did have a lot of work to do. Dr TANG Siu-tong is not a member of the Panel on Constitutional Affairs, and this is probably why he has said so. But we — I mean, I am the Deputy Chairman of the Panel — can testify that because the Secretary does not have too much to do, the Panel has been directly affected. How? In the sense that there is nothing for us to discuss. I believe that some of the members of the Panel can still remember what matters we discussed most of the time during the meetings of the Panel in the past two or three months. There should have been some matters to discuss, though. For example, Mr LEUNG Yiu-chung has frequently asked for amendments to the Basic Law, and I have also advocated the launching of political reforms. But the Secretary has all the time said "no" on the ground that he has not made any preparation.

The Secretary may later on speak for the second, or even the third time. When he does so, he may perhaps tell Members whether it was really complete silence most of time during the Panel meetings. Mr Andrew WONG said at the time that if this situation went on, no further meetings should be held. He actually said so a number of times. It is only because of the sudden disclosure of the "car purchase" incident connected with the Financial Secretary that we can have something to discuss, or else there will be no need to convene any meeting at all. The Secretary really has nothing to do. Other Secretaries have so much to do, they have to attend four meetings a month and are exhausted. But the Secretary has no meeting to attend. I am sure that there will not be any problem even if the Panel does not hold any meeting for one or two months. This is a hard fact which proves that he does not have any work to do.

As pointed out by a fellow Member, the Secretary may not necessarily be the one to blame. But I do not know why he has said that I want to attend the *Weakest Link* to "have him knock out" or something like "drive straight to the enemy stronghold". Frankly, I do not understand what he is talking about. When my colleagues asked me just now, I was also puzzled and could not understand how I could "drive straight to the enemy stronghold". Anyway, our purpose is to get something done by moving this motion. We are not trying to abuse the rules of the game, and people should not say that we will forget all about the rules in the future. If our moving of this motion was really against the rules, the President would not have approved it. Similarly, Mr James TO would not have moved his motions on reducing the informers' fees and the expenditure of the Complaints Against Police Office over the past few years.

Mr Howard YOUNG remarked earlier on that the subject matter of this motion could be debated on other occasions. But Madam Chairman, I must say that this is already the most appropriate occasion. In the United States, as we can see, the Congress will group things together like putting ornaments onto a Christmas tree. But in Hong Kong, many issues are just handled separately. This debate is on the Budget, on whether the Government can spend money properly. That is why I think there is every reason to discuss the subject matter of the motion in this debate.

Not too many Members have spoken today, Madam Chairman, and I do not know why. But I do very often hear many people say that they are extremely doubtful about the worth of the Constitutional Affairs Bureau because they do not know how much work it has done. I hope that the Secretary can stop throwing the seed of discord among Members of this Council. We can all see clearly that he has failed to do anything worth the name. I wish to see the launching of political reforms as quickly as possible. But my proposal to reduce the funding for the Bureau does not mean that I no longer wish to see the launching of political reforms. As mentioned by my colleagues many times before (and I very much agree with them), should the Bureau decide to launch political reforms, it can always come to us for appropriation. The point is that even if funding is now provided to the Bureau, there is no guarantee that it will start the work. The Secretary has made it very clear that only internal studies will be conducted this year.

Madam Chairman, when Mr Michael SUEN was in charge of this Bureau, he already told us many times that internal studies had been underway for at least one or two years. I hope the incumbent Secretary for Constitutional Affairs, Mr Stephen LAM, can tell us whether the efforts made years back have all been brushed aside. Is the Bureau going to start from the very beginning again? Or, is it true that there are already lots of internal research findings, only that the Bureau just wants to put up further delay by carrying on the studies for a year or more? What is point of this?

Madam Chairman, during our discussions with the Secretary this Monday, we repeatedly asked him whether he could set down a clear timeframe. The reason for our asking him this is that if there is to be a review in 2007, there can be a countdown. If the mechanism is to be invoked in 2007, as he has also mentioned, there should be public consultation in 2004 or 2005, and the enactment of local legislation should take place in 2006. Can all this really be done?

We also asked some questions on the election for the Chief Executive on that day, Madam Chairman. At that time, the Secretary did not give us such a horrifying answer. He just replied that he would have to study Annex I to the Basic Law. We assumed at that time that the Chief Executive Election would definitely be included in the discussions because it is no ordinary matter, and according to paragraph 7 of Annex, it must be reported to the Standing Committee of the National People's Congress for approval. I believe the Secretary can verify that the accountability system for principal officials was held up for a while because the Central Authorities was given only very little time for vetting and only a list of names was submitted. The Central Authorities was extremely displeased; I am sure that the Secretary would have known of this as well. Even some Deputies to the National People's Congress commented publicly that the Central Authorities should not be treated as a rubber stamp. Therefore, in terms of timeframe, assuming that the election for the Chief Executive will also be reviewed, how are we going to determine the time required by the National People's Congress to give its approval? Besides, at the meeting this Monday, we also asked the Secretary what would happen if the National People's Congress does not give its approval. How is the mechanism going to work? And, how will the entire matter be handled?

Madam Chairman, we also said at the meeting that the election for the Chief Executive would necessitate an amendment to Article 45 of the Basic Law. We wish to have universal suffrage, and this means the unrestricted participation of the people in the form of "one person one vote". However, Article 45 of the Basic Law provides that the Chief Executive is to be selected by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. Our concern is that such a nominating committee may sooner or later become something like the present Election Committee of 800 members. We told the Secretary that we could not accept this. We explained that under such an arrangement, we might well be allowed to nominate, say, three candidates only; in that case, universal suffrage would have lost all its meaning. Should we also discuss the amendment of the Basic Law? Has the Secretary considered this? The point is that if the Basic Law is to be discussed as well, the schedule will be very tight indeed.

We also asked a question on the criteria defining public consultation. The public consultation on Article 23 of the Basic Law has infuriated many people. After everybody has submitted his or her views, what they could get in return is the Secretary for Security coming out to say what she herself would say, and some statistics have also been distorted. Madam Chairman, we have raised

so many issues. We hope to proceed quickly and we also hope that Secretary Stephen LAM can offer an explanation to the public as soon as possible.

The motion I have moved today is not intended to be a political show. Madam Chairman, you and the Secretary both know that I have been fighting for universal suffrage all along, and that I have always hoped to proceed with political reforms as quickly as possible. So, what is the point of waiting particularly for Secretary Stephen LAM, even if I was to put up a show? Why did I not propose the reduction last year or the year before last? I think there must be something to do with the fact that many recent developments have made the people more and more agitated. Another reason is that there is not much time left. If we are to cling to the milestone announced in the past, that is, if we insist on conducting public consultation only after the next Legislative Council Election in September next year, then it will be nearly 2005 when start our work. I just do not know what kind of consultation can still be conducted by that time. There is also the need to interpret Annex I, so I really do not know when the studies can be completed. Some may ask, "Is it necessary to consult Beijing or any particular person?" This is really very puzzling. What are we going to do? If we are told that according to the interpretation of Annex 1, nothing can be done in 2007, I will certainly be very disappointed. If someone said that I had once said anything, the Government had not indicated that it can surely make it in the year 2007 either.

Madam Chairman, on 14 March 2002, I moved a motion on the Chief Executive Election. I said at that time I was worried that something might sooner or later go wrong with respect to this problem. I then quoted the *Ci Hai* to prove that "after the year" 2007 should cover the year 2007. What was especially important was that I had read a book written in English by Prof HSAIO Weiyun. At that time, I read the paragraph concerned aloud in its entirety. I shall read it aloud once again today. I believe the Secretary must have read this book too, but I still wish to read it aloud now. The book is entitled "*One Country, Two Systems*" — *An Account of the Drafting of the Hong Kong Basic Law*. On page 280, Prof HSAIO said: "However, in view of demands from residents that the Chief Executive should be selected by universal suffrage, it is further provided that after the year 2007, amendments can be made to Annex I (that is, of the Basic Law), that is, either, in order to facilitate Hong Kong's stability and prosperity, the election method should remain unchanged for 10 years between 1997 and 2007. After 2007, that is, the 10th anniversary of the founding of the HKSAR, and upon the expiry of the second term of office



and the beginning of the third term of office of Chief Executive, amendments can be made to Annex I: Method for the Selection of the Chief Executive of the HKSAR. As to the method for selecting the Chief Executive after the year (including the method for selecting the third Chief Executive in 2007), it is provided in Annex I that it can either be amended or remain unchanged."

Madam Chairman, I understand that the viewpoint of Prof HSAIO may be interpreted in many different ways. But a reasonable man, having read his argument, will know clearly that changes can already be possible in the year 2007. The Secretary still insists that studies are required; I do not know how much longer his studies will take, nor do I know whom he will consult. In any case, I hope that he will not "throw the rice away" as mentioned by Ms Cyd HO. I mean, I am afraid that after the money has been spent, there is still no solution to the most important problems of Hong Kong — political reforms and the relationship between the executive and the legislature. I am even more afraid that they may come up with various excuses to hinder the progress of democratization in Hong Kong. Should this happen, the money spent will absolutely be money wasted.

I so submit.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I actually wish to ask the Secretary whether any people, including he himself, or other senior officials of the SAR, or any senior officials of the former British Hong Kong Administration, including former Governors, have ever said to any foreign visitors to Hong Kong, or have ever said to anyone while overseas, that under the Basic Law, in the year 2007, the third Chief Executive may be elected by universal suffrage? I mean, have they ever said that there is at least such a chance? Have they ever said anything like this? He should not ask us but should ask himself instead. Actually, no one simply has ever said this before. I also wish to ask the Secretary just at what time did people within the Government start to think that 'after the year 2007' should be interpreted to mean that we must wait until 2012? When did they say so openly?" He should tell us that, and we will have a very clear idea about the whole thing.

Actually, Madam Chairman, Members all know very well the circumstances under which this particular provision of the Basic Law was passed. It was passed on 4 April 1990, just 10 months after the 4 June incident in 1989.

At that time, even the Chinese leadership wondered whether its position would be secured, so its policy towards Hong Kong (as I have actually said many times before) could simply be summed up by the phrase "tight control". However, in spite of this, a 10-year period for transition to democracy was still set down. This is very clear.

Today, our country is prosperous and stable; it has joined the World Trade Organization, and Beijing will soon host the Olympic Games. That being the case, would you also agree that it is very shameful for Hong Kong to go for the path of regression? Admittedly, it can rightly be asked whether it is at all scientific to propose a cut of funding by one third. Frankly speaking, that is not scientific enough, but at least the proposal is more scientific than the figure of 1.67 million people once publicized by the Government. At that time, when handling the right-of-abode issue, the Government threatened that as many as 1.67 million people would come to Hong Kong in a matter of several years. The Government has so far failed to explain to us formally why the figure should be 1.67 million. Even if this figure is likewise reduced by one third, there should still be 1.11 million. Have people really come here in that number anyway? So, please do not accuse others of not being scientific so very easily. One must first check whether oneself is scientific enough. Honestly, it is very difficult to attain scientific precision unless the Government can work out a formula of some kind which can show that money can be saved if there is no need to do anything in respect of the election for the Chief Executive. But please tell us how much can be saved. But then, the Government is reluctant to do so and only said that it would only make a decision as such.

Therefore, Madam Chairman, we will support the amendment.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Ms Emily LAU 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)

Ms Emily LAU rose to claim a division.

**CHAIRMAN** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for one minute.

**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.

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG

Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-  
kwok voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 27 were present, five were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 14 were in favour of the amendment and 11 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 144 stand part of the schedule.

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

(No Member responded)

**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): I now put the question to you and that is: That the schedule as amended stand part of the Bill. According to Rule 68(4) of the Rules of Procedure, this question is neither amendable nor debatable.

**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): We are to consider the clauses of the Bill. I now propose the question to you and that is: That the following clauses stand part of the Bill.

**CLERK** (in Cantonese): Clauses 1 and 2.

**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.

### **APPROPRIATION BILL 2003**

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the

Appropriation 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 Appropriation Bill 2003 be read the Third time and do pass. According to Rule 70 of the Rules of Procedure, this question shall be voted on without amendment or debate.

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

(Members raised their hands)

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

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

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

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

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

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Kam-lam, 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 Timothy FOK, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok voted for the motion.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss Margaret NG, 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 Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted against the motion.

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

THE PRESIDENT announced that there were 55 Members present, 33 were in favour of the motion and 21 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Appropriation Bill 2003.

## **MOTION**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Import and Export (Removal of Articles) (Amendment) Regulation 2003 and the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

### **SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:**

Madam President, I move that the motion as printed on the Agenda be passed.

To prepare for the introduction of electronic services for processing cargo manifests, we have made the Import and Export (General) (Amendment) Regulation 2003, the Import and Export (Registration) (Amendment) Regulation 2003, the Import and Export (Removal of Articles) (Amendment) Regulation 2003, the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003 and two related law commencement notices. The Legislative Council has subsequently set up a Subcommittee to examine the subsidiary legislation carefully. I would like to take this opportunity to thank the Honourable Kenneth TING, Chairman, and other members of the Subcommittee for their efforts.

The motion seeks to make minor technical amendments to section 6 of the Import and Export (Removal of Articles) (Amendment) Regulation 2003 and sections 3 to 5 of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003. These amendments have been endorsed by the Legislative Council Subcommittee.

Thank you, Madam President.



**The Secretary for Commerce, Industry and technology moved the following motion:**

"That -

- (a) the Import and Export (Removal of Articles) (Amendment) Regulation 2003, published in the Gazette as Legal Notice No. 34 of 2003 and laid on the table of the Legislative Council on 19 February 2003, be amended, in section 6, in the new Schedule 2, in item 7, by repealing "該船隻、飛機或車輛的收貨人或" and substituting "所涉物品的收貨人或該船隻、飛機或車輛的";
- (b) the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003, published in the Gazette as Legal Notice No. 35 of 2003 and laid on the table of the Legislative Council on 19 February 2003, be amended -
  - (i) in section 3(2), in the new regulation 5(3), by repealing "11(2)(b)" and substituting "11(1)(d)";
  - (ii) in section 4(4), in the new regulation 6(2A), by repealing "11(2)(b)" and substituting "11(1)(d)";
  - (iii) in section 5(2), in the new regulation 8(3), by repealing "12(2)(b)" and substituting "12(1)(d)".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Commerce, Industry and Technology 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.

## **MEMBERS' BILLS**

### **First Reading of Members' Bill**

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

## **DAUGHTERS OF MARY HELP OF CHRISTIANS INCORPORATION (AMENDMENT) BILL 2002**

**CLERK** (in Cantonese): Daughters of Mary Help of Christians Incorporation (Amendment) Bill 2002.

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

### **Second Reading of Members' Bill**

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

Mr Andrew WONG, you may now move the Second Reading of your Bill.

**DAUGHTERS OF MARY HELP OF CHRISTIANS INCORPORATION  
(AMENDMENT) BILL 2002**

**MR ANDREW WONG:** Madam President, I move that the Daughters of Mary Help of Christians Incorporation (Amendment) Bill 2002 be read the Second time.

The Daughters of Mary Help of Christians Incorporation (Amendment) Bill 2002 seeks to provide the Mother Provincial of the Daughters of Mary Help of Christians (Hong Kong) the powers to deal with landed and house properties.

The Mother Provincial of the Daughters of Mary Help of Christians (Hong Kong) is a recognized charitable institution in Hong Kong. It is incorporated under the Daughters of Mary Help of Christians Incorporation Ordinance (Cap. 1070).

A clause which seeks to endow the corporation with the powers to deal with landed and house properties originally appeared in the Bill when it was first presented to the Legislative Council back in 1954. However, subsequently it was accidentally omitted in the enacted Ordinance. The present Bill aims to remedy such an omission.

Clause 2 of the Bill, a very simple Bill, seeks to add the missing clause in the Ordinance to provide the corporation with the powers to deal with lands, buildings, messuages, tenements and mortgages.

Madam President, the powers to deal with landed and house properties are essential to the operation of a corporation, as such, the Bill is a reasonable and necessary instrument to remedy the old mistake.

I commend the Bill to Members.

Thank you, Madam President.

**PRESIDENT** (In Cantonese): I now propose the question to you and that is: That the Daughters of Mary Help of Christians Incorporation (Amendment) Bill 2002 be read the Second time.

The debate is now adjourned and the Bill referred to the House Committee.

### **Resumption of Second Reading Debate on Members' Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on The Bank of East Asia, Limited (Merger of Subsidiaries) Bill.

### **THE BANK OF EAST ASIA, LIMITED (MERGER OF SUBSIDIARIES) BILL**

#### **Resumption of debate on Second Reading which was moved on 12 March 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 Bank of East Asia Limited (Merger of Subsidiaries) Bill introduced by Mr NG Leung-sing.

Our policy is to support the consolidation of the banking industry in Hong Kong in order to enhance the competitiveness of the industry, strengthen its systemic 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.

**PRESIDENT** (in Cantonese): I now call upon Mr NG Leung-sing to reply.

**MR NG LEUNG-SING** (in Cantonese): Madam President, The Bank of East Asia, Limited (Merger of Subsidiaries) Bill (the Bill) proposed by me earlier had

secured the co-ordination of respective government departments and support of the Legislative Council Secretariat, on top of concerns of colleagues in this Council via the Financial Affairs Panel and the subsequent endorsement of its Second Reading commended by Honourable Members in the House Committee meeting. I would like to take this opportunity to express my gratitude to all these things.

The Bill provides for the smooth merger of East Asia Credit Company Limited (EACredit) and East Asia Finance Company, Limited (EAFinance) with The Bank of East Asia, Limited (Bank of East Asia). The purpose of the Bill is to transfer all of the undertakings of EACredit and EAFinance to Bank of East Asia on an appointed day upon which the merger will take effect. The merger of the three institutes seeks to enhance the effective operation of the bank, with a view to complementing and enhancing the competitiveness within the banking industry and promoting the overall development of the financial sector.

The content of the Bill has been explained to this Council earlier, and I will not repeat that again. I hope Honourable Members would keep on supporting the Bill in the remaining Legislative process.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Bank of East Asia, Limited (Merger of Subsidiaries) 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): The Bank of East Asia, Limited (Merger of Subsidiaries) Bill.

Council went into Committee.

### **Committee Stage**

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

### **THE BANK OF EAST ASIA, LIMITED (MERGER OF SUBSIDIARIES) BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of The Bank of East Asia, Limited (Merger of Subsidiaries) Bill.

**CLERK** (in Cantonese): Clauses 1 to 17.

**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.

**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.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bill**

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

**THE BANK OF EAST ASIA, LIMITED (MERGER OF SUBSIDIARIES) BILL**

**MR NG LEUNG-SING** (in Cantonese): Madam President,

The Bank of East Asia, Limited (Merger of Subsidiaries) Bill

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 Bank of East Asia, Limited (Merger of Subsidiaries) 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): The Bank of East Asia, Limited (Merger of Subsidiaries) Bill.



**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Public Revenue Protection (Revenue) Order 2003.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MS AUDREY EU** (in Cantonese): Madam President, I move that the motion under my name, as printed on the Agenda, be passed.

At the meeting of the House Committee on 21 March 2003, Members agreed to set up a Subcommittee to study the Public Revenue Protection (Revenue) Order 2003 (the Order) tabled in Council on 12 March 2003. I was elected Chairman of the Subcommittee. In view the far-reaching implication of the Order and concerns from all walks of life, and to give the Subcommittee enough time for deliberation and to report on the result of deliberation to the House Committee, I move, in my capacity as Chairman of the Subcommittee, the extension of the period for deliberation of the subsidiary legislation to 30 April 2003.

Madam President, I urge Members to support this motion.

**Ms Audrey EU moved the following motion:**

"That in relation to the Public Revenue Protection (Revenue) Order 2003, published in the Gazette as Legal Notice No. 59 of 2003 and laid on the table of the Legislative Council on 12 March 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 Ms Audrey EU be passed.

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

(No Member responded)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Audrey EU be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Proposed resolution under the Legislative Council (Powers and Privileges) Ordinance.

### **PROPOSED RESOLUTION UNDER THE LEGISLATIVE COUNCIL (POWER AND PRIVILEGES) ORDINANCE**

**DR YEUNG SUM** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

The incident of purchasing a vehicle by the Financial Secretary Mr Antony LEUNG before the release of the Budget has aroused doubts in people about his integrity. Although the Secretary had held a press conference, and the Chief Executive had issued a statement, meanwhile, the Secretary and the Government had responded to some questions raised by Members in a meeting of the Panel on

Constitutional Affairs, and the reports submitted by the Secretary to the Chief Executive on 10 March and 13 March respectively as well as the resignation letter submitted on 11 March (subsequently clarified as 12 March 2003) had been released, all such information unfortunately failed to remove the concerns held by the public and us. On the contrary, the replies given by the Secretary at the meeting of the Panel on Constitutional Affairs, together with other information, have intensified our doubts as well as our queries on his integrity.

In his report to the Chief Executive on 10 March, the Secretary mentioned that the issue of raising the motor vehicle first registration tax was first discussed in detail in October of last year. However, why had he not mentioned this in his press conference held on 9 March? Had he deliberately skipped information that was unfavourable to him? In the same report, the Secretary also had not mentioned that the Budget Strategy Group reviewed 18 proposed revenue measures on 14 January. He mentioned in the report to the Chief Executive dated 13 March that he remembered a meeting had been held on 14 January when the issue of increasing the motor vehicle first registration tax was discussed. He said he could recall this only after he had checked his files in greater detail in his office on 21 March. Did he intend to conceal this deliberately from the Chief Executive as he had not disclosed such significant information in his first report to Mr TUNG? In the Executive Council meeting held on 5 March, when the Secretary for Health, Welfare and Food made a declaration regarding his purchase of a private vehicle, why did the Secretary not realize that he needed to do the same? Was he deliberately omitting anything? On 15 March, the Chief Executive said the Secretary had once tendered his resignation. Yesterday, in the meeting of the Panel on Constitutional Affairs, the Secretary said he had told the Chief Executive orally that he could resign, if necessary. Therefore, on 11 March, he submitted his resignation letter to the Chief Executive. However, in the evening of yesterday, the Secretary sent a letter to Mr Andrew WONG, Chairman of the Panel on Constitutional Affairs, telling him that he had made a mistake regarding the date of submitting the resignation letter, and the English letter was typed by his Administrative Assistant. His Administrative Assistant pointed out in a statement that, the resignation letter was dated 10 March, but in fact, he typed the letter two days later. However, in the paper submitted by the Secretary to the Panel on Constitutional Affairs on 4 April in response to questions raised by Members on the dates of submitting his resignation letter, he said that he had already submitted the resignation letter to the Chief Executive on 11 March. His repeated mistakes in something so personal and significant have eroded our confidence in him completely. He made mistakes repeatedly

regarding the date of his submitting the resignation letter; if we pursue further, will he come up with a third version? Even in the report submitted to the Chief Executive on 13 March, the Secretary did not mention that he had tendered his resignation to the Chief Executive. If the Secretary did submit his resignation letter to the Chief Executive on 12 March, why did he not say so immediately? After such information was released, it would only give rise to further doubts, shattering completely the confidence of the people in the accountability system for principal officials (the accountability system). After the meeting of yesterday, as well as the further clarification by the Secretary on the date of submitting his resignation letter, our doubts in fact have intensified. With such a string of questions, the Panel on Constitutional Affairs actually cannot effectively pursue the questions and procure the necessary information as it does not have the power and protection conferred by the Legislative Council (Power and Privileges) Ordinance. Therefore, we think the most effective approach is to establish an independent Commission of Inquiry to conduct a detailed and in-depth investigation.

As long as these doubts are not removed, the public will continue to have doubts about the integrity of the Secretary. The establishment of a Commission of Inquiry in fact would do the Secretary justice. The more unwilling the Government or principal officials are in disclosing the information, the more people will doubt about the integrity of the Secretary. "Justice must be seen to be done", the same is true for the accountability system. In a democratic society, when principal officials have committed mistakes, especially those that involve actions related to one's integrity, the only way for the Government and the officials concerned to restore their credibility and integrity is to make a full and truthful disclosure of the relevant information, and to provide a clarification to the people as soon as possible. Only in this way can the spirit of accountability be reflected. The officials who have committed mistakes should resign as soon as possible to uphold the principle of shouldering the responsibilities in a courageous manner.

However, whatever the Secretary and the Chief Executive have done are just opposite to the standards I have just mentioned. First of all, it was not until 8 March that the Secretary responded to questions raised by the media on his purchase of a vehicle before the tax increase, and subsequently held a press conference on 9 March to provide further responses. Today, we have grasped more information and now we realized that he had not disclosed the relevant information in a comprehensive and truthful manner. When he met with

reporters on 9 March, he only mentioned that the Budget Strategy Group had held meetings in February to decide on the items of tax increase, but he did not mention information that was extremely unfavourable to him, namely, the meetings held in October of last year and 14 January of this year. On 10 March, the Chief Executive has only said that the Secretary had been negligent in the way he handled the issue. He just wanted to wind up the case hastily. Adopting such attitudes, the Secretary and the Chief Executive obviously wish to bet on their luck in trying to cheat everyone. If it were not due to the requests made by the Members for holding a meeting of the Panel on Constitutional Affairs to request him to explain the process of the incident, would he disclose the chronology of the whole incident? If it was not because Members had discovered there were so many doubts in the whole incident, thereby putting forward a checklist of information to be confirmed or disclosed, would the Government tell us that Dr YEOH Eng-kiong had made a declaration regarding his purchase of a vehicle in the Executive Council meeting on 5 March? Unfortunately, this Government which claimed to have implemented the accountability system has actually acted like a suspect in the court. In the face of such unfavourable evidences, the Government just answered questions in a piecemeal manner. What was worse, it even had not told us the whole truth, and wanted to hastily wind up the case. Most unfortunate of all, even for the request made by Members to the Chief Executive Mr TUNG Chee-hwa for adopting a fair and impartial approach of establishing an independent Commission of Inquiry, it was immediately voted down by the "government party" and the royalists in the Legislative Council. Of course, the Democratic Party understands that, at the moment, it is very important to solve the economic and employment difficulties, as well as to counter the SARS outbreak. However, if the integrity of principal officials is in doubt, it will be as if the Government is suffering from SARS. If not treated prudently, the lung will develop ulcers and the accountability system will crumble. The credibility of the Government will go down the drain. How can it continue governing Hong Kong?

Madam President, the Democratic Party thinks that the overall approach of the Chief Executive in handling the incident had been very rough and casual. His approach will only cause the accountability system, which has just started for ten months, to collapse. On 10 March, after reading the first report, the Chief Executive just briefly said to the media that he thought the Secretary had been negligent in the incident, and the way he handled it was also improper, but he did not say that the Secretary had violated the Code for Principal Officials under the Accountability System (the Code). Even if the Chief Executive on that day did

not know that, several days prior to the purchase of the vehicle by the Secretary, that is, 14 January, the Budget Strategy Group had reviewed the proposal to increase the motor vehicle first registration tax, he still should know that a relevant meeting had been held in early October of 2002. In that meeting, the proposal to increase the motor vehicle first registration tax in fact had already been accepted tentatively. As such, how can the Chief Executive come to the conclusion that the Secretary had only been negligent? In the letter written by the Chief Executive to the Secretary on 15 March, Mr TUNG said the Secretary had violated clauses 5.1 and 5.4 of the Code, but he was of the view that the Secretary did not have to resign. Madam President, in fact, principal officials should guard against any actual or possible occurrences of conflicts of interests at all times. This includes the exercise of the conferred power to influence the value of the properties in his possession or to minimize any losses. If principal officials fail to achieve the above standards, he should resign. From the examples of Mr LEUNG Min-yin, former Director of Immigration and Mr WONG Ho-sang, former Commissioner of Inland Revenue, we can see that, failure in making truthful declaration of interests would result in compulsory termination of service. This is the standards governing the Civil Service, if the Code has the same standards, why should the Secretary be allowed to stay? This illustrates that the accountability system has already been degraded to the ancient King-Ministers regime, for when Mr TUNG said Mr LEUNG did not have to resign, then he would not have to resign.

Lastly, I would like to discuss the three points in my resolution. First, the Chief Executive said that the Secretary had only violated clauses 5.1 and 5.4 of the Code, but the Democratic Party thinks that the Secretary may have also violated clauses 1.2(6), "Principal officials shall observe the highest standards of personal conduct and integrity at all times" and 1.2(7), "Principal officials shall ensure that no actual or potential conflict arises between their public duties and their private interests", Chapter One of the Code. The Secretary, being the person charged with the responsibility of formulating the Budget, purchased a vehicle before the tax increase, and a case of conflict of interests did exist. Why did the Chief Executive say that he had only violated clauses 5.1 and 5.4 of the Code? Besides, certain reports said that someone had suggested amending those parts of the minutes of the Executive Council meeting held on 5 March 2003 relating to the declaration of interests regarding the purchase of personal vehicles by those who had attended the meeting. This made us feel very uncomfortable. Even at the meeting of the Panel on Constitutional Affairs held on 17 March, the Secretary for Constitutional Affairs said no one had suggested amending the minutes of the Executive Council meeting on

5 March. However, when Members asked the Chief Executive to confirm this, the Chief Executive's Office issued a statement which confirmed that at the Executive Council meeting on 11 March, none of its Members had proposed to amend the minutes of the Executive Council meeting on 5 March, but there was a Member proposed to discuss whether the Secretary for Health, Welfare and Food needed to make a declaration regarding his purchase of a private vehicle. The way of disclosing information by the Secretary and the Government as a whole really cause us to suspect whether the Government had fully and truthfully disclosed the information. What was the actual motive of that Member of the Executive Council in proposing such a discussion? Had the Government disclosed all the information? All such speculations make us feel very uncomfortable, because the further we pursue the questions, the more we would query the integrity of the Secretary and the more we would have doubts about whether the Government had covered up anything in this incident. Therefore, we think it is extremely necessary for the Legislative Council to establish a Commission of Inquiry to request the Government to provide full and truthful information. True accountability is open and transparent. For an official who has committed some mistakes, if he is accountable, he should disclose the whole truth to the people, face up to the people and have the courage to shoulder the responsibilities. Only in this way can the Government restore the confidence of the people.

Other Members of the Democratic Party will further discuss the doubts surrounding the incident, and will elaborate on the significance of conducting an inquiry on the importance of implementing the accountability system.

Madam President, I so submit.

**Dr YEUNG Sum moved the following motion:**

"That this Council appoints a select committee to investigate:

- (a) whether the purchase of a personal vehicle by the Financial Secretary before the adjustments to the motor vehicle first registration tax constitutes a breach of clauses 1.2(6) and 1.2(7) of the Code for Principal Officials under the Accountability System, namely, "Principal officials shall observe the highest standards of personal conduct and integrity at all times" and "Principal officials shall ensure that no actual or potential conflict arises between their public duties and their private interests";

- (b) whether any person suggested amending those parts of the minutes of the Executive Council meeting held on 5 March 2003 relating to the declaration of interests regarding the purchase of personal vehicles by those who had attended the meeting; and
- (c) whether the Government has provided this Council with complete and truthful information on the discussions at the Executive Council meeting(s) relating to the declaration of interests in the purchase of personal vehicles;

and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Power and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

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

**MRS SELINA CHOW** (in Cantonese): Madam President, first of all, I would like to state clearly that, the Liberal Party absolutely agrees that the Legislative Council has the rights and the obligations to raise queries, conduct studies and inquiries on any matter of concern to the public or this Council.

In fact, regarding the incident involved in this motion, that is, the purchase of a car by the Financial Secretary, what we need to study is, whether the Legislative Council has been blocked from obtaining any information, or whether or not it has not procured the co-operation of the Government, or whether or not the incident has such a high degree of complexity, involving a lot of facts and complications that the Legislative Council has to exercise the power conferred by the Legislative Council (Power and Privileges) Ordinance to set up a select committee.

If we take a look at what happened before this: Up till now, we have conducted more than one meeting to discuss the incident in this Chamber, and we have even invited the Secretary to come and answer queries raised by Members. The Government has kept on providing information, and we have continued to raise questions. I believe we shall continue this procedure. We had also



mentioned at the meetings of the House Committee that, if Honourable colleagues thought that they could not follow this up anymore in the Panel on Constitutional Affairs, or if they felt dissatisfied in any way, we could still take our discussions further on the incident in the House Committee.

In fact, what we have to discuss now is to compare the procedures and the mechanisms Members may use in investigating this incident or in obtaining information. Actually how should we make the comparison? We may recall that, at a meeting of the House Committee held several weeks ago, the Democratic Party had proposed to establish a Commission of Inquiry to be appointed by the Chief Executive. The Liberal Party had already voiced our objection at that time. The reasons held by us at that time were similar to those we put forward today, that is, we think we already have in place the channel and mechanism to procure the necessary information. On the contrary, if other methods were adopted, such as by way of a Commission of Inquiry to be appointed by the Chief Executive, or a select committee as discussed by us today, the time required will be very long, and it will consume a lot of manpower as well as other resources.

I believe you all still have a very fresh recollection of the inquiry on the circumstances surrounding the opening of the new airport. The Commission of Inquiry was chaired by Justice WOO Kwok-hing. In fact, it was just a venue for lawyers from various parties to conduct very detailed and in-depth debates. But what kind of findings did we obtain in the end? Of course, we also have a more recent example, that is, we still have a select committee studying the work of the Housing Authority. Up to this moment, the Select Committee has only presented the first part of its report, but this has taken a very long time, and on the financial side, as I understand, it has already spent more than \$14 million. Is it not worthwhile for us to spend money in this way? I did not mean to say that. But, in comparison, if we Members have other mechanisms to achieve the same purpose, the Liberal Party thinks that we may make use of such available mechanisms to do the work.

On the contrary, if we have to investigate this incident by way of a select committee, then, is this incident so very complicated, involving so much information, that we must conduct an inquiry by a select committee? Besides, if we investigate it in the form of a select committee, of course the time required will be longer, and the whole process will be very formal, such that it will be somewhat different from the meetings of the Panel on Constitutional affairs. A

select committee would place emphasis on the procedure and the legal processes. Sometimes, we may not be able to raise queries as directly as in a Panel meeting.

Therefore, if we adopt this approach, then the Legislative Council could have to take a very long time or may have to adopt a very high-level approach to handle an incident which does not require such a treatment. Hong Kong will not derive much benefit from it. I think, if there are other existing means, we should make use of such existing means to conduct our investigations. Therefore, we do not support the motion moved by Dr YEUNG Sum. Thank you, Madam President.

**MISS MARGARET NG:** Madam President, the piecemeal fashion in which information has been provided by the Government on this sorry affair of the Financial Secretary's confessed misconduct makes a proper and full inquiry by a Select Committee of this house necessary.

Yesterday morning, we were given the latest instalment, or so we thought. We were provided with a copy of Mr Antony LEUNG's resignation letter dated 10 March. Mr LEUNG was asked how it came to be written. His reply was that he wrote the letter himself in his office in the evening of 10 March, gave it to his secretary to type in the morning of 11 March, and handed it personally to the Chief Executive that afternoon.

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

Now, the first time we knew of the existence of the resignation letter was on 17 March. When the Chairman of the Panel on Constitutional Affairs, the Honourable Andrew WONG, asked Mr LEUNG whether there was a written resignation. The verbatim minutes record, and I translate:

Chairman: After the Chief Executive made a public statement on this matter, that evening, after further consideration, you finally decided to tender your resignation to the Chief Executive. Did you send him a letter of resignation? Was it the written report? Now it doesn't seem so, because that report was presented to him at noon. Was it the report you presented on the 13th?

Financial Secretary: No, Chairman.

Chairman: Was it another letter?

Financial Secretary: Chairman, it was another letter.

Up to that point in time, members had not been provided with the reports of 10 and 13 March. They had, however, been given a written chronology. Regarding 10 March, the Financial Secretary said, "I met with the Chief Executive around noontime, ..... I told him that I was willing to resign if necessary. After the Chief Executive had done a media stand-up on the incident, I further reflected over the matter that evening and decided to formally tender my resignation. In early afternoon, I provided the Chief Executive with a written report on the events." In this chronology, there is no mention of any letter of resignation being written or sent, neither on 10 nor 11 March.

Members also had the Chief Executive's letter to Mr LEUNG dated 15 March. In that letter, Mr TUNG referred to the resignation in these terms: "You indeed offered to resign on 10 March. I take this as an honourable act on your part." There was no mention of a letter of immediate resignation.

Subsequently, on 21 March, members were provided with the reports of 10 and 13 March, neither mentioned nor gave any hint of resigning or a letter of resignation.

Then, on 4 April, members were provided with a copy of the resignation letter dated 10 March. In the covering paper, Mr LEUNG added this new piece of information: "I informed the Chief Executive that evening (that is, the 10th) that I would tender my resignation. A resignation was submitted to him on 11 March."

As I said earlier, in reply to questions yesterday, Mr LEUNG said that he wrote the letter on 10 March, had his secretary typed it out on 11 March, and handed it to Mr TUNG personally that afternoon. Members have asked for proof that his secretary did type it, and for record of receipt by the Chief Executive's Office. The implications of these requests are very serious indeed. Yet, the way the disclosure of the existence of the resignation letter has come about promotes suspicion. The fact that it does not fit well into documents and

information made known to the public before 17 March promotes suspicion. The internal evidence of the letter of resignation promotes suspicion.

This morning, yet another story is published in the press. This time, Mr LEUNG says that he drafted the resignation letter on the evening of 10 March in English. He then prepared a Chinese version. The next day, he did not get his letter typed — because he was "preoccupied" with the Executive Council and other work. Now he said that it was on 12 March that he passed the draft resignation letter to his Administrative Assistant, who made some revisions and typed it out on his computer. Mr LEUNG said that he then signed it and delivered it personally to the Chief Executive that afternoon. The letter, at least the copy provided to members, is nevertheless not dated 12 March, but backdated to 10 March 2003.

Madam Deputy, if a witness changes his evidence as many times as Mr LEUNG in a Court of law, he would have no credibility left. But do we have the final version and the whole truth now?

Another crucial question is: Why did Mr LEUNG say nothing about his purchase of a car until he was confronted with a query from the press? In particular, why did he say nothing at the Executive Council meeting on the morning of 5 March?

Let us bear in mind that the public did not learn about the 5 March Executive Council meeting until 15 or 16 March.

In his report to the Chief Executive on 10 March, Mr LEUNG said, "I had not associated my purchase of a car to an increase in the First Registration Tax until questions were raised by the media on 8 March 2003." That was the basic position that he put to members in the meeting on 17 March.

But by 17 March, the story of the Executive Council meeting of 5 March has become public property. Mr LEUNG was saved from having to explain himself only by the Secretary for Constitutional Affairs ably refusing to confirm the story by maintaining the supposed rule of confidentiality of Executive Council meetings.

By late evening of 18 March, this line of resistance also broke down, when the Chief Executive's Office issued two statements of limited disclosure. It is

now official that in the Executive Council meeting on 5 March, Dr YEOH Eng-kiong declared his interest in relation to the Revenue Protection Order. We know now that this became a matter for discussion in the Executive Council meeting on 11 March, after the car purchase became public. What could the discussion have been about but as to the anomaly of Dr YEOH's declaration on the one hand and Mr LEUNG's silence on the other?

When Mr LEUNG next attended the Panel's meeting yesterday, he had to explain why he did not made a disclosure of his purchase on 5 March. His explanation was so weak as to be incredible. He said that it was because he kept his public and private affairs too separate from each other. At that meeting, he briefed the Executive Council on the Budget, including the First Registration Tax. The Revenue Protection Order was dealt with next, and Dr YEOH declared interest, but by then the meeting was coming to an end, and his mind was not on it. His mind was already on his work in that afternoon.....

Madam Deputy, this is what we call an "imbecile's defence". Are we to accept that the Financial Secretary is an imbecile? Are we to accept an imbecile for the Financial Secretary? Can we leave the matter unresolved, and this dilemma in the air? A full and proper inquiry is the only answer.

By now, I am sorry to say that the matter can no longer be confined to Mr LEUNG. We now know that by the time Mr TUNG wrote his letter on 15 March, Mr TUNG already knew about the non-disclosure on 5 March. He had already heard its serious implications discussed on 11 March. Mr LEUNG's account of the resignation letter cannot be maintained without the collaboration of the Chief Executive's Office. The public is entitled to know the truth.

"Murder will out", as the saying goes, and "fire cannot be covered up with paper". I support the Honourable YEUNG Sum's proposal to appoint a Select Committee.

Thank you.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Deputy, when the Budget debate was conducted last Wednesday, I mentioned the remark made by the Financial Secretary that "it was the best of times", and I also pointed out that, as far as the Secretary was concerned, this was the best of times, because all the

attention of society has been focused on the SARS outbreak, thus the concern of the people about his purchase of a private vehicle is lessened. It gives the Secretary a chance to take a break. After the lapse of a week, I feel that, apart from the above advantages, SARS also enables us to cherish the present system and culture of Hong Kong. The SARS incident highlights the significance of maintaining an existing system of open information and fairness in Hong Kong. One of the key points is how we can enhance the transparency of the Government as well as how to stop the Government from taking the lead in creating privileges for a certain group of people. Today, the significance of the motion moved by Dr YEUNG Sum is not just confined to the establishment of a select committee to investigate the incident relating to the purchase of a car. It is sending a clear message to the people, and even to the international community that the Legislative Council and the people as a whole do not allow the Government to cover up the misconduct of public officials, neither would they allow Hong Kong to degrade into a paradise of privileges; the motion is declaring to the world that the Legislative Council and the people as a whole will persist till the end in the pursuit of truth in order to maintain the system of fairness and impartiality in Hong Kong.

The incident of the purchase of a vehicle by the Secretary is not just a matter of conflict of interests; it also involves problems such as social justice and open information. If we do not investigate the incident thoroughly, allowing the Financial Secretary to put forward such feeble excuses as "separating private and official businesses too clearly", then apart from the fact that the Government was treating the Hong Kong people as "idiots", as pointed out by Ms Audrey EU last week, this will also cause the people to worry about whether the culture of the mainland officialdom such as corruption and abuse of power would be spread to Hong Kong after the reunification, thereby ruining overnight the clean society Hong Kong has built up during the past 20 to 30 years amidst great hardship. Therefore, we must investigate the incident thoroughly. We must find out whether the Secretary had made use of his special privilege to "buy at the earliest opportunity" so as to avoid paying the increased tax. We must find out whether there were Members of the Executive Council who suggested amending the minutes of meeting in order to protect the Secretary. In fact, during the past few weeks, through the hard efforts of Honourable colleagues and the Panel on Constitutional Affairs, more and more information has been disclosed. The harder the officials want to cover up the issues, the more loopholes are exposed. For example, at the meeting of the Panel on Constitutional Affairs held yesterday, it was revealed very explicitly that Dr YEOH Eng-kiong, the Secretary for

Health, Welfare and Food, had made a declaration of his purchase of a private vehicle at a meeting of the Executive Council, and that Secretary LEUNG attributed his failure to make a declaration at that time to his over-concentration on the Budget. We believe that, with the establishment of a select committee conferred with greater authority, there will be a greater chance for truth to be revealed and greater certainty for the people to be in control of the truth; and if the Secretary really possesses noble aspirations, his innocence can hence be proved and he can be saved from improper judgement by public opinions.

Perhaps some people may say that, as the Chief Executive had already refused to accept the resignation of the Secretary, why should we still insist on conducting an inquiry? Madam Deputy, first of all, the salary of the Financial Secretary is paid by the taxpayers, so he is not just accountable to the Chief Executive, but to the people of Hong Kong as well. In fact, in the discussion on the accountability system for principal officials held last year, we had already pointed out that accountable officials should be accountable to the people of Hong Kong as well. Although there are shortcomings in the present system which makes them accountable only to the Chief Executive, I still insist that this is totally not acceptable.

Meanwhile, the Chief Executive had declared that the Financial Secretary did not have to resign even before conducting any investigation, he was obviously trying to harbour his subordinate. However, this is not the first instance of harbouring subordinates on the part of the Chief Executive. Earlier instances included Ms Elsie LEUNG, the Secretary for Justice, in the Sally AW case and LO Cheung-on in the Opinion Survey incident. These cases had undermined the existing systems in Hong Kong, including the rule of law and academic freedom. If the Chief Executive is allowed to harbour his subordinate once again, the existing systems in Hong Kong will be further undermined. I am afraid our system would eventually fall apart. I would like to ask you this question, are we willing to see this happen?

The Chief Executive has been harbouring his subordinates repeatedly. This reminds me of the story of "The scorpion and the frog" in *Aesop's Fables*. The story is like this: A scorpion wants to cross the river, but it cannot swim. What should it do? The scorpion finds a frog which is taking a rest by the side of the river. So the scorpion comes to the frog to ask if it is willing to carry it across the river. The frog says, "Would I not be very stupid if I do that? If I were bitten by you half the way, would I not be dead? I surely would not do that." The scorpion says, "What a silly frog you are. If you are dead, and I

cannot swim, I would be drowned as well. No one would act in such a silly manner." The frog thinks for a while and finds that reasonable, so it agrees to carry the scorpion across the river. However, while they are in the middle of the river, the frog feels a bite in its back, and thinks that it is the scorpion which bites it. So the frog asks the scorpion if the bite is from it. The scorpion admits that it is his bite. The frog is very angry and asks why it has to bite. The scorpion says he could not help doing so because biting is its natural instinct.

Madam Deputy, this story is not meant to say that abusing power for personal gains is the natural instinct of the Financial Secretary. I just want to say that the Chief Executive's practice of harbouring his subordinates will not only drag himself into fatal trouble, but it will also even ruin the development of Hong Kong as a whole. We hope that Hong Kong have in place a system which is complete, proper, fair and impartial. However, the present attitude and special feature of protecting and harbouring each others will, I am afraid, undermine the system in Hong Kong. And if the community of Hong Kong continue to allow the Chief Executive to act in that way, Hong Kong will be led into a desperate dead alley, and the governing authority of the Administration will be undermined as well. I think we should restrict the personal instinct of everyone, and the most important point is we need to build up proper systems and statutes. Unfortunately, the present Code for Principal Officials under the Accountability System does not specify the penalty for negligence of duties. The Code also has not specified the penalty even for officials who have acted in contravention of provisions on conflict of interests, and has not specified that such officials have to resign if a motion of no-confidence is passed in the Legislative Council. Therefore, I think, by establishing a select committee, apart from conducting an inquiry into the incident, we can build up or identify a set of penalty system, so that the accountability system for principal officials could in effect be geared to development towards a good direction.

Madam Deputy, an inquiry of the vehicle purchase incident is not just aiming to build a set of system for enhancing the accountability of the principal officials, so as to curb the abuse of power for personal gains; but also, more importantly, it is for compelling the Government to enhance the transparency on everything. There are really quite a lot of doubts surrounding the incident of the purchase of a vehicle. For example, in the paper submitted by the Government, it was revealed that the Chief Executive had already decided on 10 March that the Financial Secretary did not have to resign, but why had the Secretary still drafted the written resignation on the following day? As the



Chief Executive, the boss, had already treated the issue leniently, why should the Secretary still have to submit his resignation? Was that an indication of the noble aspiration of the Secretary? Actions as such really beyond our comprehension. There are too many similar questions and doubts. In order to answer such questions, to protect the freedom of information in Hong Kong, to prevent the recurrence similar incidents in future, I feel we must establish a select committee to conduct an inquiry, which would present a complete and true picture of the whole incident before the eyes of the people of Hong Kong, thereby enabling our present system to be more transparent and impartial.

Madam Deputy, Emmanuel Joseph SIEYES, a prominent leading figure in the French Revolution, pointed out in his famous work *On Privileges* that, "Privilege is a miserable invention. Even for a perfect society, once a person is given the privileges, all the others will suffer some kinds of losses." Therefore, he supported equality and had drafted *the Declaration of Human Rights*. Madam Deputy, if Hong Kong is to continue to prosper, and continue to remain stable, we must insist on maintaining the superiority of its systems, its freedom of information and the free flow of information, we must maintain the impartial system, so that we can eliminate privileges even when such a trend is starting to grow.

With these remarks, Madam Deputy, I support the motion of Dr YEUNG Sum.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Deputy, the car purchase scandal of Antony LEUNG challenges the moral principles and common sense of the community.

The most important moral principles that an accountability official in a high position should observe when exercising his power and performing his duties are integrity and probity. Public opinion will conclude whether the work of a senior official is successful or not and people are able to tell what is fair. However, in evaluating a senior official, they would sometimes focus on his integrity and probity rather than whether he is successful or not. Integrity and probity are just like the eyes, which are the windows opening up the souls of senior officials, and we should not forget about that.

In the car purchase scandal of Antony LEUNG, he has made a mistake in buying a car before an increase in the Motor Vehicles First Registration Tax was

imposed (before tax), and his greater mistake is in hiding the truth and evading declaration. Antony LEUNG may explain away his buying a car before tax by saying that he was negligent, but he has to pay out his integrity for hiding the truth and evading declaration.

One careless move and the whole game is lost.

Madam Deputy, the car purchase scandal of Antony LEUNG has five important points and we must get to the bottom of the matter.

First, Antony LEUNG has concealed his purchase of a car before tax. On 9 March when Antony LEUNG's purchase of a car before tax was brought to light, he already started hiding the facts. That morning, he called up TUNG Chee-hwa to explain the course of his purchase of a car in January this year. He also told TUNG Chee-hwa that discussions about the Motor Vehicles First Registration Tax started on 31 October last year and a decision was made to increase the tax in February this year. However, when Antony LEUNG met reporters only an hour later, he hid the fact about the meeting about the tax increase on 31 October last year and misled the public and the media, causing people to believe that he decided to increase the tax after he bought a car in order to cover up his mistake of buying a car before tax.

Second, has Antony LEUNG abused his powers to seek personal gains? On 14 January, Antony LEUNG decided upon the rate of increase in the Motor Vehicles First Registration Tax, but he visited the showrooms and had a few test drives around 14 January, he even signed an Order Form and bought a new car on 20 January. How could there be a case so ridiculous as such in this world — a person who had the right to make a decision to increase the Motor Vehicles First Registration Tax stayed ahead of others and bought a car around the time the decision was made and on the eve of the release of the Budget. Circumstantial evidence made people query that somebody might have abused his powers and sought personal gains. Nevertheless, the first written report submitted by Antony LEUNG to TUNG Chee-hwa had missed out the meeting about the increase in the Motor Vehicles First Registration Tax on 14 January. The "omission" was certainly beneficial to Antony LEUNG for it could hide his failure to keep his public and private affairs apart in that he had bought a car on one hand and increased tax on the other. Yet, we must clarify whether the important omission was made to conceal something or done out of negligence.

Third, why did Antony LEUNG evade declaration? There were a total of 45 days from 20 January when Antony LEUNG paid a deposit to buy a car to 5 March when the Budget was released. Why had Antony LEUNG not made a declaration to the Chief Executive within these 45 days in accordance with the Code for Principal Officials under the Accountability System (the Code)? Antony LEUNG had explained his failure to make a declaration away by saying that he kept his public and private affairs too separate from each other. Madam Deputy, could "keeping public and private affairs apart" be as ridiculous as to this extent, could it cause a person to act in a schizophrenic manner? By deciding to increase tax in his official capacity on the one hand, and privately stealing a head start and bought a car on the other, he had simply challenged the common sense and wisdom of the general public. Nevertheless, the argument that he kept his public and private affairs too separate from each other really fell to the ground at the Executive Council meeting on 5 March. When YEOH Eng-kiong learnt from Antony LEUNG that there would be an increase in Motor Vehicles First Registration Tax, he felt that there would be a conflict of interest and so took the initiative to make a declaration. Antony LEUNG still remained indifferent at that moment and did not make a declaration as though he had not bought a car before tax, he was not the Financial Secretary and he did not have any conflict of interest involved. All these clearly illustrate that Antony LEUNG had intentionally hidden his mistake and evaded declaration, and he did not have the integrity and probity required of accountability officials.

Fourth, had TUNG Chee-hwa harboured Antony LEUNG? At the beginning, the mistake of Antony LEUNG was a one-man show, but after the media had exposed the car purchase scandal of Antony LEUNG on 9 March, TUNG Chee-hwa spared no effort to protect Antony LEUNG at all costs and he finally made a mistake similar to that committed by Antony LEUNG. A shocking fact was that around noontime on 10 March, TUNG Chee-hwa turned down the resignation of Antony LEUNG and determined that the mistake in the incident was an oversight, but he had not yet read the two reports submitted by Antony LEUNG and did not know all the truth about the car purchase scandal. When the truth of the scandal was gradually disclosed, this Council wished to summon Antony LEUNG and public opinion was for Antony LEUNG to resign, TUNG Chee-hwa indicated to the public on 15 March that Antony LEUNG had breached the Code which amounted to gross negligence, that his behaviour was highly inappropriate and his mistake warranted criticism but not his resignation. This letter which has seemingly criticized him but actually protected him indicated once again that TUNG Chee-hwa harboured Antony LEUNG and

shielded his fault. He sacrificed the Accountability System for the sake of protecting Antony LEUNG. From now on, the Code is similar to waste paper and the Accountability System has turned into a patriarchal system. In the car purchase scandal of Antony LEUNG, facts were hidden and faults were shielded, the attempt to hide the mistake only made it more conspicuous that his public and private affairs were not set apart; it became an international laughing stock and broke the promise that the Government made to the people. All those who love Hong Kong will be left aghast and speechless at the thought of that.

Fifth, was the resignation letter of Antony LEUNG real or fake? Madam Deputy, a scandal is just like a tube of toothpaste which will produce more on squeezing, and what comes out will become more and more complicated. Antony LEUNG pointed out that he had offered his resignation to TUNG Chee-hwa around noontime and in the evening on 10 March, but the chronology of events provided by Antony LEUNG had not mentioned the date and record of the resignation letter. Even though Antony LEUNG had submitted two reports to TUNG Chee-hwa on 10 March and 13 March, he had no intention to resign. Antony LEUNG kept telling the media that he would continue to serve the public with utmost sincerity. Had Antony LEUNG written a resignation letter on the evening of 10 March? Antony LEUNG's resignation letter was handed to TUNG Chee-hwa on 12 March, why was the letter dated 10 March? Was the letter typed on 10 March? Was there a typographical error or was there another story? Was the resignation letter of Antony LEUNG written subsequently or immediately written on 10 March? TUNG Chee-hwa has already turned down Antony LEUNG's resignation on 10 March. At the Executive Council meeting on 11 March, a mysterious person attempted to delete the record of YEOH Eng-kiong's declaration to shield Antony LEUNG from his mistake in evading declaration under the guise of the deletion. In other words, Antony LEUNG handed to TUNG Chee-hwa the so-called resignation letter on 12 March when his position as Financial Secretary was ensured and he would certainly be asked to stay. Was he really resigning if he knew in advance that he would be asked to stay? Was the action of handing in a resignation letter subsequently indicative of a hypocritical act? Could the exchange of letters and the cheap trick of asking the person who resigned to stay be recognized as "noble sentiments"?

(THE PRESIDENT resumed the Chair)

Madam President, the car purchase scandal of Antony LEUNG has so far been a case without any clues, in which there were continuous concealments, changes, modifications and exposure. It was related to the integrity and probity of Antony LEUNG, the effectiveness of the Accountability System and the public interests. The whole truth must come out and the official who concealed the truth and evaded declaration should step down from his post, to let senior officials and the community understand the moral principle of keeping public and private affairs apart. Therefore, I support Dr YEUNG Sum's resolution about setting up a select committee to investigate the car purchase by Antony LEUNG.

Lastly, I wish to respond to the question asked by Mrs Selina CHOW about whether it is necessary to set up a select committee. Before citing the Legislative Council (Power and Privileges) Ordinance, it is most crucial for us to find out whether or not we have failed to obtain some information. If so, certainly we may have to set up a select committee under the Legislative Council (Power and Privileges) Ordinance; if not, and we only need to adopt existing means to achieve the objective, why should a select committee be set up? I would like to tell Mrs Selina CHOW that it is necessary to do so. At the meeting of the House Committee chaired by Mrs Selina CHOW on 21 March, the Government was asked about which member had proposed discussions about whether it was necessary for the Secretary, Dr YEOH Eng-kiong, to declare the order he placed for a private car at the meeting of the Executive Council held on 11 March 2003 and whether the discussions could be made public. The reply given by the Administration was that the discussions of the Executive Council were confidential, and no supplementary information could be provided on the statement made by the Chief Executive's Office on 18 March 2003 and the response made by the government spokesman to the inquiry made by the press on the same day. I have just said that there was a mysterious person in the Executive Council who was intent to delete the record on the declaration of interests by the Secretary, Dr YEOH Eng-kiong, and to discuss the matter. This Council is very interested in knowing and really wishes to know who that mysterious person was. However, the Government replied that the discussions of the Executive Council were confidential and we have certainly failed to obtain the relevant information.

Members should have noted that point (b) of Dr YEUNG Sum's resolution today is whether any person (that is, the mysterious person) suggested amending those parts of the minutes of the Executive Council meeting held on 5 March 2003 relating to the declaration of interests regarding the purchase of

personal vehicles by those who had attended the meeting. This illustrates that Mrs Selina CHOW should support Dr YEUNG Sum's resolution to set up an independent select committee to investigate the matter and invoke the Legislative Council (Power and Privileges) Ordinance to find out who was the mysterious person who suggested amending some parts of the minutes or discussing the matter. If this is the most crucial factor affecting whether or not the Liberal Party would decide to support Dr YEUNG Sum's resolution, based upon my reply as this, I believe the Liberal Party should change its position and support the setting up of an independent select committee. Mrs Selina CHOW is a senior Legislative Council Member and she has chaired many select committees in a very impartial manner. I have also participated in the work of these select committees and I fully understand that information, especially protected or even confidential information, was extremely important to select committees. Dr YEUNG Sum's resolution today has also touched upon such information. I hope this reply of mine would change the decision to be made by Members of the Liberal Party and convince them to support Dr YEUNG Sum's resolution. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Honourable Members, there are still four minutes to go before 9 pm and only one Member is waiting to speak. I think this Council should be able to finish this agenda item before midnight, so the meeting will continue to proceed.

**MS AUDREY EU** (in Cantonese): Madam President, with the latest development of the incident of the purchase of a vehicle by the Financial Secretary Mr Antony LEUNG in advance of the tax increase, this incident, as far as I am concerned, Madam President, is crystal clear. I had indicated my stand on the incident when I delivered my speech on the Budget last week. I feel that the case is definitely not a storm in a teacup. Instead, it is a matter involving major principles in public administration. A most fundamental issue.

Madam President, I read an article in a certain newspaper which usually supports the Government. The article, in fact very much in line with its usual stand, criticized some "so-called Democrats". However, Madam President, when mentioning the resignation of the Secretary, the article said, "Mr TUNG should take the proactive move of appointing some authoritative persons in the legal field to conduct an inquiry. This will achieve a better effect than making a

decision based on his personal authority. At least, the Government would not be placed in a passive position, even the critics would have to wait for the findings of the inquiry before drawing any conclusion." Madam President, please think about this: even a traditionally pro-Government newspaper would publish such an article, hence, it is evident that the problem is really a very serious one.

Madam President, even in the most courteous language, I feel that I have to say, it would be a sorrow for Hong Kong if we have to leave the control of our finances to a Financial Secretary who has a dark cloud over his head, especially at a time such as the present one. If Mr TUNG said he did not wish to accept the resignation of the Secretary because he was worried that we could not find a better candidate, Madam President, this is a problem for Mr TUNG, and this is also a sorrow for the Hong Kong people. In refusing to accept the resignation of Mr LEUNG, Mr TUNG said the resignation of the Secretary had illustrated his noble aspirations, or he thought that his blunder was not as serious as one that warrants his resignation.

Madam President, I could only say that I have to express my deepest regret about this. I feel that if he really thinks in this manner, it has exactly verified the realistic nature of the "nickname" given to our Chief Executive by some people and certain sarcastic cartoons. I believe I do not have to spell out in concrete terms what that "nickname" is.

On the motion moved by Dr YEUNG Sum, I have thought about it for a long time because appointing a select committee is an expensive project. I think, in view of the present circumstances, the best option is to ask the Secretary to take what he had first considered the most appropriate move, namely, "to resign". I hope he would not think that no one other than himself would possess the abilities, or no one other than himself is capable of working for Hong Kong.

Madam President, I remember, some years ago, I had heard a speech delivered by Mrs Aquino CORAZON, the former President of the Philippines on an occasion. She said the term of her presidency would soon come to an end. Many people have requested her to amend the Constitution of the Philippines, in order to enable her to stay in the office of the President for another term. Some people told her that she was really indispensable — could not be replaced, could not be missed out. Mrs CORAZON asked on that occasion, in very simple language: Were there really people indispensable? Please go to any cemetery and take a look, there are plenty of such people there.

Madam President, regarding the motion of today, I really regret about it because it is not a motion of no-confidence; if so, my choice would be very clear and simple. Instead, the motion is to request for the appointment of a select committee. In fact, Members who have spoken today, including Mrs Selina CHOW who has just delivered her speech, all agree that this is an issue which the public is very concerned about and there are a lot of uncertainties awaiting further investigation. However, as far as myself is concerned, I think this request is made more for the sake of principles than for actual needs. This is because, though a lot of ambiguities and doubts do exist, I think the information we have so far is more than sufficient to show that the present situation cannot be allowed to continue, be our considerations based on the issues of the integrity or the abilities of the Secretary. This explains why I find it so difficult to vote on this resolution.

However, Madam President, although I have just said that the motion is moved more for the sake of principles than for actual needs, I still have to vote. Of course, it is not possible for me to abstain because I am not short of a stand on the issue, and my stand is indeed a clear and strong one. Although I feel that this incident is crystal clear to myself and that the information I have grasped is very sufficient, other Honourable colleagues may feel that there is the need to find out the ultimate truth under the present circumstances, and we should exercise our power and privileges to obtain some special, sensitive or usually not disclosable information. In this connection, even though I think this may not be of utmost importance to me, still I cannot possibly oppose the request of other Honourable colleagues in appointing a select committee to investigate the incident.

Therefore, basing on the above reasons, Madam President, my ultimate decision is to vote in support of this resolution. Thank you, Madam President.

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

**MS EMILY LAU** (in Cantonese): Madam President, I am speaking in support of the motion moved by Dr YEUNG Sum.

Madam President, it has been exactly one month since then. Life is really full of coincidences. On 9 March, the *Apple Daily* report rocked the whole community of Hong Kong. It was Sunday, I did not buy any newspaper.



Later on that day, I attended an occasion together with Mr Andrew WONG, who told me the incident. So I immediately bought a copy of the newspaper and read the report. One month is a long period of time. In Britain, a former Prime Minister once said that one week was already a long period of time. So, a month is really a very long time. However, one month is not sufficient for us to forget an incident. Madam President, the Financial Secretary (the Secretary) should feel that he is probably a beneficiary from the SARS outbreak, because at present the whole society has no time to address their concern about this incident. But I still keep receiving email and fax messages which urge us to voice our complaint because many people object to allowing the Secretary to continue working in his present position, and they also feel that the way the Chief Executive handled the issue was wrong.

Why do I support the resolution of Dr YEUNG Sum? In fact, he has omitted one item. At that time, he had consulted us, we said that we should ask for more information so as to conduct a more in-depth inquiry. However, we should also make some suggestions. From the information collected from the inquiry, what kinds of suggestions should the select committee make? Maybe by the time the information is collected, we know what the conclusion is. If we can add that into our suggestion, it would be more comprehensive, and it may not be necessary for us to move any motion of no-confidence or take any other actions.

I feel that an inquiry of this incident should be conducted. The only possible reason for finding the establishment of a select committee unnecessary is the resignation of the Secretary. Should that happen, then there is no need to pursue any further. Of course, even if the Secretary had resigned, it does not mean that the Independent Commission Against Corruption (ICAC) will not conduct an investigation of the incident. But that would be the business of the ICAC to decide whether it would continue with its action. I would come back to this point later. The Secretary said that he would continue to serve Hong Kong. The Chief Executive has also completed his investigation within a short time. A disciplinary hearing on a civil servant would normally last for two to three years, but the Chief Executive could complete his investigation in five days. Is it not a bit too casual?

I believe in the rule of law, and also believe in procedures. Therefore, soon after the incident was uncovered, I had already written to the Chief Executive in the hope that he would appoint a Commission of Inquiry to look into

the incident. It would be especially good if a Judge, no matter incumbent or retired, could be appointed to conduct the inquiry, because we all know this should be something very serious. It is likely to involve a lot of intricacies and could be very complicated. Therefore, it would be good if a Judge could be appointed to conduct an inquiry. It could demonstrate to us that the Administration, the Legislature and the Judiciary are independent operations, and it could embody their respective independence. I have made such comments the other day, and I shall make the same comments today.

I understand what Miss Margaret NG has said. She has come to a conclusion, and feels that she has already known the whole truth. The Secretary has written a letter to the Chief Executive, admitting that he had acted in contravention of clause 5.1 of the Code for Principal Officials under the Accountability System (the Code). If he knew that he had acted against the Code and then he resigned, there would not be any problem. However, he stays on after having contravened the Code. The Chief Executive also said that the Secretary had acted against the Code, but then he suddenly described the Secretary as "having noble aspirations", so we naturally found this strange. On the one hand, the Chief Executive said that the Secretary had violated the Code, and it was extremely inappropriate and was considered a serious negligence. However, on the other hand, he said the Secretary had "noble aspirations", so there was no need for him to resign. Madam President, on reviewing the development of the whole incident, we feel that there are many things which are inexplicable and beyond our comprehension. How can the Chief Executive act in such a way?

In our last debate, the discussion had also touched on the accountability system for principal officials (the Accountability System). Earlier on, we have discussed certain issues such as the penny stock incident and the enactment of laws in respect of Article 23 of the Basic Law and so on. As for the present issue of the purchase of a private vehicle, I believe the Secretary for Constitutional Affairs Mr Stephen LAM must have it included in his report to be tabled in June. This incident of buying a car may cause the Accountability System to fail completely. We all said that we cannot see how the Accountability System could have embodied its accountable nature. If the Chief Executive could claim so causally that he had completed the investigation within several days and felt that there were no problems, and that these were just some criticism targeted at the Secretary, but then he did not have to resign and was allowed to stay, how can this be convincing to the people? How can this convince this Council?

Although most of the Members will not support this resolution, and there will not be sufficient votes to carry it, I believe that, on the minds of many Members, the incident has made them feel very uncomfortable. I suggested to a Member not belonging to the democratic camp for him to conduct the inquiry. Can you guess what was the reply of that Member? Madam President, no problem, I am not going to reveal his name. He said if he had known that the findings would lead to the conclusion that there was no problems, he would definitely go ahead to conduct the inquiry. This has revealed what is on the mind of many people, especially those of the executive authorities.

Very often, people responsible for conducting the inquiry are willing to take up the job only if they know what the findings would be, because it is just a show. However, I believe that Member and many other Members know that, even if a "show-like" inquiry is to be conducted in a critical manner, the findings may not come to the conclusion that there is nothing wrong. That is why many people oppose the conduct of an inquiry. If everyone opposes the inquiry, and no inquiry is conducted, then the issue would be allowed to get by under muddled circumstances, and someone would say the Secretary should be allowed to remain in his post to serve Hong Kong; or someone would say the Secretary has noble aspirations, and that is a serious omission and so on, and then the issue could continue to be "fixed up". However, if a select committee is really established to conduct an inquiry, and if the inquiry really finds out that there are concrete evidences, how can the relevant persons face the disgrace by then?

Some Members may not think that, as what Ms Audrey EU had commented, we could not do without the Secretary. Yet they might think that at the present time of uncertainties and disturbances, an act of replacing the Financial Secretary may deal a major blow to Hong Kong. Some people may even ask, who will be willing to take up this job? I feel that this is not a problem. Someone must be willing to take up a post as significant as that. The major issue is whether TUNG Chee-hwa would trust that person, and whether he is willing to let that person do something in that post.

Yesterday, I told the Secretary that if the findings of the inquiry concluded that there was nothing wrong, I thought it would be beneficial to the person involved as well as everyone because the trial by public opinion such as the present one will not take place. I feel this is meaningless. Even if it is

proceeded by way of a hearing to be conducted by the Panel, in much the same way as squeezing a tube of toothpaste, asking questions on this and that, I do not think it would be a desirable approach.

The most ridiculous part is: after the question-and-answer session conducted the other day, the Secretary sent another letter to us (many Honourable colleagues have talked about that). In the letter, the Secretary said he was sorry because he had provided some incorrect information to Members on that day. Oh, Madam President, how could the Secretary act like that? When the Secretary came to the Legislative Council, though not appearing before a select committee, still he would have known for sure that he had come here to answer questions raised by Members. He had produced a letter of resignation, and he must surely know what he would be required to say, but still he could get the facts all mixed up. Hence, I could not help quoting the remark made by the University of Hong Kong some years ago about LO Cheung-on in its investigation of its Vice Chancellor, "that he is stupid". I feel that the Secretary was really a bit "stupid". How could the Secretary possibly write to us to say that some facts were mixed up several hours just after answering our questions here? Who did the typing of the letter to make the mistake? There was a mistake about the exact date, were mistakes actually made in the Budget? Madam President, in fact, many people are saying that there might be mistakes in the Budget, so maybe it is a good idea to re-shuffle the cards and start the game all over again.

Have we ever had any other Policy Secretaries who came to the Legislative Council to say something in the first place and then later declare what they had previously said was wrong? Madam President, how can an action as such maintain trust in the hearts of the people? Therefore, I had already said at the meeting that Members did not believe that letter of resignation was really written at that time. Some people even thought that, throughout the process, the Chief Executive and the Secretary had co-ordinated with each other before the latter drafted the resignation, that at the time of writing the letter, the Secretary should have already known that he did not have to resign. Such an allegation could be right, but it could be wrong as well. If a select committee could be established to investigate, what will happen? Madam President, if an inquiry could be conducted, all the relevant persons could be summoned to attend the meetings, right? Which assistant typed the letter for the Secretary? Which personal secretary do the various jobs? Even the Chief Executive has to be summoned to answer questions in order to find out what actually had happened.

It would be extremely expensive to establish a select committee. As a member of the Legislative Council Commission, I know this very well. The "short piling incident" has spent over \$20 million, and we still do not know whether this would be sufficient for closing the case. However, sometimes we should spend the money if it is really necessary to spend it, and we should not spend any money at all if it is not justified. But when there is really a worthy cause, I would strongly agree to spending the money. I really hope my Honourable colleagues ..... May be I am in fact wasting my breath in this. Madam President, some people say that I am banging my head against the wall. So if I request them to support me, they would also think that I should not bother.

Perhaps, finally, let me say this: Some people think that the Secretary had already resigned, and it was just the Chief Executive who did not accept the resignation. In fact, we can see that, some people would resign for the blunders they make. This is not uncommon. In the contemporary times, the peoples and the voters of many countries often look down upon those who take part in politics. They even label these people as "the political men". I have said many times before, not all those who take part in politics are "the political men"; only those taking part in politics with the intention of obtaining advantages by improper means and deceiving the people should be labelled as "the political men". Very often, some persons in the political scene, after having committed blunders, choose to drag on refusing to resign; others may not be able to figure out what to do next; but some will opt to leave the scene.

We could easily identify some examples. One example occurred in Britain in 1998. The relevant person is Peter MENDELSON, the Trade and Industry Secretary of the Labour Party then. Why did he have to step down at that time? It was because he had obtained a personal loan from another Member of the Parliament for purchasing a property. However, there was a certain ambiguity about the loan, and there existed some possible conflicts of interests, and the case aroused a lot of criticisms. So he chose to step down on his own initiative. However, the Prime Minister Tony BLAIR liked him very much, so, after some time, he was appointed the Secretary for Northern Ireland. Surprisingly, he really had a lot of unexpected encounters. This time, he was alleged to have assisted an Indian tycoon in obtaining a British passport. So the issue was unfolded and he was said to have called up a certain official. After some cumbersome controversies, he stepped down again. I do not know whether he would make another comeback in future. This was an incident which happened in Britain.

Madam President, in August 2002, three incidents happened. The first one happened in South Korea. At that time, a lady Prime Minister-designate CHANG Sang was elected and would assume the post soon. In South Korea, the system is different from ours. The appointment of a Prime Minister requires the confirmation of the Parliament. What had gone wrong actually? The problem arose from her allegedly fabricated academic background, which made people cast doubt on her ethical standard. Therefore, her nomination was rejected by the Parliament. This was not a resignation. Instead, it was the Members of the Parliament who did not allow her to take up the office of the Prime Minister.

In the same month that year, an incident happened in Japan. Madam President, I believe you would recall that a lady by the name TANAKA Makiko was once the Foreign Secretary of Japan. She was the daughter of former Prime Minister TANAKA Kakuei. Later, as she could not get along well with the Prime Minister JUNICHIRO Koizumi, she stopped working under him. But she was still a Member of the Parliament. In August 2002, she was alleged to have used the money earmarked as the salary for her secretary on something else; the issue developed into a scandal. In fact, the money, instead of making payments to her secretary, was still spent on office affairs. But the rule is so stringent. The same is true for this Council. If a sum of money is allocated to A, then it must be paid to A. A problem would arise if the money is given to B. The incident has aroused major queries. So she had to resign.

That same month, an incident involved the opposition party of Germany, namely Social Democratic Party (previously the Communist Party). The leader of the Party was called Gregor GYSI, who was also the Deputy Mayor of Berlin. What had he done? He had travelled extensively by air in his official capacity, so he had accumulated a lot of frequent flyer miles and bonus points. He used those frequent flyer miles for his personal trip to Cuba with his family. The incident evolved into a scandal after it had been made public. This is considered, so it should be, a scandal. Finally, he has to resign.

Madam President, lastly, I would like to mention this person — he was not an official. Yet, you may consider him an official. TOSHIHIKO Fukui worked in the Central Bank of Japan as the Deputy Governor. In 1998, a division head working under him was alleged to have received improper interests from several banks. In fact, the whole incident had nothing to do with this Deputy Governor. However, as the relevant division head under him had made

use of some sensitive information in exchange for interests, this gave rise to a scandal. The Deputy Governor felt that he should be held responsible for this, so he chose to step down. At that time, he was highly commended by the press for his moral courage and integrity. Madam President, what happened next? In February this year, TOSHIHIKO Fukui was appointed by the Prime Minister as the new Governor of the Central Bank. Sometimes, if you have the courage to take up the responsibility, it does not necessarily mean that you are doomed politically. However, if you are unwilling to shoulder the responsibility, you will have to face the curse of the people.

With these remarks, I support the resolution.

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

**MR ALBERT HO** (in Cantonese): Madam President, the scandal of the suspected evasion of tax liability in the purchase of a car by the Financial Secretary (the Secretary) astonished the community very much and aroused the utmost concern of the international financial sector. As regards the development of events so far, the Secretary had personally attended two meetings of the Panel on Constitutional Affairs, provided some documents and answered some questions raised by Members, but unfortunately, the new information and replies aroused even more questions. I will not repeat the various questions just raised by Honourable colleagues, which made them find it necessary to follow up and investigate the matter further. I wish to emphasize that the Secretary holds a high position, and is in charge of the financial and monetary affairs of Hong Kong, so his integrity definitely cannot be questioned. If it is integrity that is open to doubt, I believe the Secretary himself and many people who support him will agree that he should resign for the sake of public interests.

We have really found some evidence in this incident sufficient to make us question the integrity and probity of the Secretary and which indicates that he was not simply negligent. Some may retort and ask, though we have the right to question, whether there is a reasonable doubt about the incident. As lawyers, we may be queried about why we have not noticed whether there is a doubt in such a serious allegation, no matter how slight the doubt may be. If there is a doubt, should the benefit of doubt go to the Secretary? However, I wish to

emphasize that this is not a criminal trial and we are not in a criminal court in which the Secretary could be considered as innocent and not guilty if he could point out that there is reasonable doubt. It is not an issue about whether he is guilty or not.

Madam President, everybody agrees that the integrity and probity of the Financial Secretary are of paramount importance under the accountability system for principal officials. The Secretary has the responsibility of convincing the community, satisfying them with the fact that his integrity and probity are not open to doubt, while the community has the right to ask the Secretary to prove that he is beyond doubt. Therefore, the onus and standard of proof are completely different. We are talking about a high standard which is of course what we expect of the Secretary and senior officials.

The requirement of the Government for the integrity of senior officials in the past was actually not low. I think Honourable Members would remember that Mr WONG Ho-sang, former Commissioner of Inland Revenue, had his contract terminated and lost the end-of-contract gratuity he should be entitled to because he failed to declare interest in a company owned by his wife or to obtain due approval. Mr LEUNG Ming-yin, former Director of Immigration, and Mr Alex TSUI, former Deputy Director of Operations of the Independent Commission Against Corruption, were dismissed by the Government after their personal integrity and probity had been questioned.

How would the Secretary deal with the incident if it happened to his subordinate? If we find that there is misconduct such as insider dealing in the financial market in future, but the person involved in the insider dealing says that he is only grossly negligent and forgetful, would the Secretary think that the person can be so easily relieved of his responsibility?

Madam President, about these questions, some Honourable colleagues such as Ms Audrey EU think that it is not difficult to draw a final conclusion at all. However, we, after all, hope that we can handle these matters by following suitable procedures. This is an essential factor upon which a system depends to maintain its credibility. It was precisely why we supported Ms Emily LAU's suggestion earlier on to set up an independent committee for a sufficiently independent person such as a Judge to investigate the matter and draw a conclusion. We think that it is the best solution and we should not only rely on



public opinion or the questions raised by a panel of this Council to solve many problems. Unfortunately, the Chief Executive obstinately refused to entertain the request.

Hence, today we can only ask this Council to set up a select committee again to hold hearings into the matter and find out the truth. Members who have recently participated in the work of select committees would be a bit scared when they hear such suggestions because they are a bit fed up with too many meetings. But as some Honourable colleagues have said, those are our duties and we can only make such a request when we have to investigate certain facts and there are not any other means.

I would like to emphasize again that, in the inquiry, we should try our best to obtain some truth that has not been available so far in the hope of making a judgement deemed fair by the public and the community after we have completed the inquiry. Such a way of doing things is fair to the Secretary, the Government and the whole community. We emphasize that we certainly do not have any alternative if even this means is not available. As some Honourable colleagues have said, a lot of evidence has already shown that it is convincing to the public that the Secretary's integrity is not open to doubt. If there is no chance for an independent inquiry, we really believe that Miss Margaret NG will later propose a motion of no confidence, and there is perhaps no other alternative. People who have been viewing the incident with suspicion can only continue to indicate that they have no confidence.

I call upon Honourable colleagues that, if they take the accountability system for principal officials seriously and hope that the credibility of this system can be maintained by adhering to some suitable procedures, they should support an independent inquiry.

With these remarks, I urge Members to support Dr YEUNG Sum's motion.

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

**DR RAYMOND HO** (in Cantonese): Madam President, Mr Antony LEUNG, the Financial Secretary (the Secretary), is the principal official in charge of financial affairs in Hong Kong and he bought a car not long before an increase in

the Motor Vehicles First Registration Tax was announced, which easily made the public question that the incident might have involved a conflict of interest.

After the incident has been exposed, the information provided by the Government to Members of this Council on the course of events has not changed people's impression about the incident. The record of the Administration shows that the timing of the purchase of the car is really open to question. On 14 January 2003, the Budget Strategy Group chaired by the Secretary held a meeting and went through a list of 18 revenue measures recommended, and the Group agreed to discuss several items including the adjustment to the Motor Vehicles First Registration Tax. The Secretary, however, made a decision to buy a car on 18 January 2003, four days after the meeting, without any attempt to avoid arousing suspicion.

The Secretary explained at a meeting of the Panel on Constitutional Affairs of this Council on 17 March that he had done so because he kept public and private affairs too separate from each another. Nevertheless, his argument that he kept public and private affairs separate from each another could not be understood by way of common logical thinking. Common sense tells us that his decision to buy a car obviously involved a conflict of interest. At the meeting of the Executive Council on 5 March, the Secretary for Health, Welfare and Food declared that he had placed order for a car, but the Secretary had not followed suit and made a declaration. He had still failed to make a declaration on 11 March when the declaration was discussed, making people suspicious of whether the mistake of his omission of declaration should be taken as an unintended negligence.

As a principal official under the accountability system, the Secretary should strictly observe the highest standards of personal conduct and integrity at all times and act according to the principles and guidelines of the Code for Principal Officials under the Accountability System gazetted on 28 June 2002. There are also explicit provisions in the employment contracts for principal officials under the Accountability System to prevent the conflict of interest. Besides, the Secretary has worked for the Government for more than two years before becoming a principal official and he should have been familiar with the relevant guidelines on the conflict of interest issued to civil servants.

The Panel on Constitutional Affairs of this Council had discussed the prevention of conflict of interest and the related matters such as the arrangement for the declaration of interests by principal officials at the meetings held on

9 July, 7 October and 21 October. The Secretary should clearly understand that the general public has fairly high requirements for the personal conduct and integrity of principal officials.

Regardless of whether or not the mistake made by the Secretary in his car purchase incident was an oversight, people cannot help being suspicious of his ability to make a judgement and his political sensitivity. At the meeting of the Panel on Constitutional Affairs on 17 March, I asked the Secretary this question: After his car purchase incident, how could people still have confidence that he could continue to serve the general public and formulate the remaining four budgets? The Secretary indicated in his reply that the incident had dealt a heavy blow to him, that he had learned a hard lesson, and that he would certainly try his best to serve the community.

Dr YEUNG Sum's motion asks this Council to set up a select committee to investigate this car purchase incident of the Secretary and I have thoroughly considered the position that I should take. This Council has set up a select committee to investigate the incident of the disorderly commencement of operation of the airport at Chek Lap Kok on 6 July 1998 and I was the Deputy Chairman of the Select Committee. After seven months of hard work, we arrived at the truth for a lot of matters. This Council has also set up a select committee to investigate the site problems of the Housing Department more than two years ago and I was a member of the Select Committee. The second part of the report has not yet been completed after more than two years. I deeply understand that a select committee is very effective. In case an incident is very complicated which involves many people, an in-depth investigation should be conducted and the people concerned should present themselves for hearings and give evidence. It is a very long process and a lot of human and material resources are required. Ms Audrey EU has just said that this incident is fairly explicit and we are already in possession of very sufficient information. If this Council still has to ask for documents on some more discussions of the Executive Council, do we really have the right to obtain the relevant documents under the Legislative Council (Power and Privileges) Ordinance? I am still probing into the matter.

Madam President, the present situation of Hong Kong is rather severe and the continuous spread of atypical pneumonia has dealt a further blow to our weak economy. There must be an experienced Financial Secretary to lead Hong Kong out of the predicament. At such a level, I repeat, at such a level, the Secretary is after all a suitable candidate. It may not necessarily be the best

option for Hong Kong to replace the Financial Secretary at this time. In the face of danger, we can only take the interests of the whole into account.

Madam President, since there is no sign of a solution for the problem of the atypical pneumonia epidemic, I think Hong Kong should first tackle the problem and the considerable economic losses incurred; we should not be engaged in further arguments about the car purchase incident that should divert public attention from fighting the atypical pneumonia epidemic. I hope the Secretary can learn a lesson from this bitter experience and try his best to improve our economy to atone for his mistake through his good deeds.

Madam President, I so submit. Thank you.

**MR ALBERT CHAN** (in Cantonese): Madam President, when I entered the Legislative Council Building at 2.30 pm, there were many protesters outside the building and one of them, "female Long Hair", asked me to bring this liquid "Chung killer" in. She said that nobody was willing to accept it and bring it in. I told her that I had no intention of killing anybody. And though I look fierce, I am actually very kind (*laughter*). I am a social worker and has handled many family disputes and problems, and offered help to many problem families. Since nobody was willing to take this liquid "Chung killer" from her or bring this liquid "Chung killer" in for her, due to a sense of pity, I had found "female Long Hair" very pitiable, I brought it in for her so that the views of some people could be expressed.

Madam President, basically, our views are sharply divided in this debate today. Members of the ruling league have spoken very little because many of them do not wish to speak against their conscience. However, based on political need, they will collectively vote against this motion later.

Today, I am basically speaking on behalf of a group of civil servants, especially a group of lower ranking civil servants. Secretaries of Departments and Bureau Directors are no longer members of the Civil Service and they are the so-called elite and privileged class that is beyond the civil service system, whom the Chief Executive thinks highly of. The 170 000 civil servants attach great importance to system, integrity, discipline and rules. I am now speaking on behalf of civil servants especially the lower ranking civil servants subject to disciplinary proceedings. Complaints were lodged against them in 1996 and the

Independent Commission Against Corruption (ICAC) investigated them afterwards. The investigations were completed in 1997 because the ICAC did not have any evidence to support the initiation of prosecution. Nevertheless, they were subject to disciplinary proceedings one by one in 2002. Sixty civil servants are involved and disciplinary proceedings have been conducted on more than a dozen of them and will be conducted on some others as well. They are censured for failing to fill out records of attendance clearly. Some of them have been subject to dismissal as ordered after the investigations and they would lose the pension for more than 20 years of service and some of them have been forced to retire early. Since the Chief Executive does not harbour these lower ranking civil servants who do not have privileges, they must face up to the predicament. I am speaking out the hearts of these people today.

Concerning the car purchase incident of the Financial Secretary, we were initially embroiled in arguments about integrity. The Financial Secretary repeatedly said that his integrity was not open to doubt, and he repeated this point twice at the meeting yesterday. I criticized yesterday that he, as a senior official of Hong Kong, had given "integrity" a new definition after the implementation of the new ministerial system, and this new definition will in future make the so-called "integrity" of the senior officials of Hong Kong an international laughing stock. Even I will also feel ashamed for the Financial Secretary when he attends international meetings and summits of finance ministers and sit side by side with the officials of other countries in future.

Recently, some problems have been disclosed, and I think that not only his integrity is open to doubt. The way the Financial Secretary has recently acted and the information he has disclosed show that even his ability is also open to doubt. In respect of integrity and ability, we can have four assumptions. Firstly, integrity and ability are not open to doubt; secondly, ability but not integrity is open to doubt; thirdly, integrity but not ability is open to doubt; lastly, integrity and ability are open to doubt. Having witnessed what has recently happened, read a number of documents and listened to the replies given by the Financial Secretary at some meetings, I think that the fourth option is a reasonable conclusion for him. In other words, I think that his integrity and ability are open to doubt.

I will simply prove my analysis and deduction in four areas or on the basis of four of his recent actions. Firstly, as the Financial Secretary, he was appointed to several senior posts in the Government in the past and he should be clear about the rules to be observed by a senior official holding such an important

office. Insofar as the formulation of the Budget is concerned, ordinary officials would know how to avoid arousing suspicion and understand that there may be conflicts of interests. The Financial Secretary may have worked in the banking sector and engaged in the speculative buying of financial products and foreign currencies for too long, and the industry is basically accustomed to making use of information for the speculative buying of foreign currencies and reaping staggering profits with the aid of news that adds fuel to the flames in the market. Perhaps he is accustomed to such a working environment and has not yet adapted to the new working environment, the rights conferred by the Office of the Financial Secretary and the responsibilities that he should have, therefore, it has never come to his mind that he has to avoid arousing suspicion after he has assumed office or that he has to gain a clear idea of the points in the Code for Principal Officials under the Accountability System to which he has to pay attention. It was not until the incident was disclosed in newspapers that he considered what he did was wrong, for he had never considered or thought about the need to avoid arousing suspicion beforehand. I do not believe that he had any intention to evade the tax liability but his responsibility of observing the rules and avoiding arousing suspicion was obviously not on his mind.

Secondly, we have heard on radio that a car salesman had asked the Financial Secretary whether there would be a tax increase when he met the Secretary who wanted to buy a car, but the Secretary said that he could not remember any person asking him that question. His selective hearing loss would be questioned. Some have said that he has selective amnesia and I am not sure whether he is suffering from selective hearing loss or selective amnesia. He always says that he knows what is on his mind but only heaven and he himself know that. Of course, I do not know what is on his mind and only he himself knows that. The car salesman said that he asked the Secretary the question when he was talking with him face to face, how could the Secretary say that he had not heard that question? The car salesman remarked on radio that he should have heard him and the colleagues of the car salesman also thought the same, yet, the Secretary said that he had not heard him. Was that selective hearing loss or selective amnesia? Anyway, it equally showed that his integrity and ability were open to doubt. It turned out that the Secretary cannot hear it even if you are talking with him face to face.

Thirdly, when the Secretary, Dr YEOH Eng-kiong, declared interest at an Executive Council meeting, the Financial Secretary said that he was preoccupied with how the problems should be dealt with after the meeting. He had not paid

attention at all when an Executive Council Member was speaking, and just for this behaviour he should be dismissed. It was an Executive Council meeting rather than a social gathering among several friends at which they chatted over glasses of wine. How could he say that he had not paid attention when an Executive Council Member was formally declaring interest? I am not sure if his integrity or ability is open to doubt, but I think that both are open to doubt.

Fourthly, the problem related to his resignation letter discussed at the meeting the day before yesterday is even more ridiculous. The problem is simply about whether he handed in a resignation letter at the beginning. It was quite ambiguous and we were not sure whether a resignation letter had been handed in. However, the Financial Secretary later said that he had done so. He had not given an explicit answer when we asked him when he actually handed in his resignation letter after he told us that he had done so. He said that he handed in the letter on 10 March at the beginning and he said at a later meeting that he did so on 11 March but stated in his statement that he did so on 12 March. He has made a mistake even about a very simple thing, that is, the person who typed the letter. It showed that he had concealed a lot of things and we were not sure when he was telling the truth and when he was telling lies. He selectively said something and held something back when he made a reply because there was a lot of untrue information and what he said was partly true and partly untrue. So, what seemed untrue was true and what seemed true was untrue, as things were in the *Dream of Red Chambers*, and we could hardly differentiate something true from something untrue. His behaviour on the day before yesterday was really lamentable. As the Financial Secretary of Hong Kong who plays a pivotal role in public finance and formulates the Budget that will affect so many people, he has made a mistake about a piece of information that was so simple but so important, how could he have behaved like that? If he could make such a mistake, showed selective hearing loss and amnesia, and could not remember any such information, how would he be able to convince more than 6 million people in Hong Kong that he has the ability to lead Hong Kong and take charge of public finance?

Many colleagues have said that we are now facing economic problems and the problem of atypical pneumonia, and some of them have even mentioned an "atypical good-for-nothing", and I believe everybody knows who has been referred to. At this important time when the situation is so severe and Hong Kong is in turmoil, how can a person whose ability and integrity are open to doubt and questions be a leader for Hong Kong? In fact, not only Members in this Chamber have questioned his ability and integrity. We just have to go over

newspapers, opinion polls and the views expressed by visitors to certain websites (the views expressed by these visitors are most independent for they are neither political men nor interested parties, and they are not acquainted with the Financial Secretary) and we will find that the views of ordinary people are very explicit. The Secretary is faced with so many problems and his ability and integrity have been questioned, who will believe in him if he continues to lead Hong Kong? Political leadership involves the trust of people, that is, whether people trust that he has the ability, authority, quality and integrity. At present, ordinary people have negative views on whether or not the Financial Secretary possesses these attributes.

On the issue of resignation, the Financial Secretary has further disclosed his hypocrisy and insincerity. If he had decided to resign, he should go ahead and hand in a resignation letter after he had made up his mind. However, he had not done so but had asked the Chief Executive whether he had to resign, and only if so would he consider what he would do. He asked the Chief Executive whether he had to resign and handed in a resignation letter later after the Chief Executive had asked him to stay. He only handed in the letter after the Chief Executive had said that he did not need to resign. He only handed in the letter after he had known perfectly well that he would be asked to stay. After he had known that the Chief Executive would ask him to stay, he seemed to be very delighted and immediately accepted the Chief Executive's request for him to stay. What was the use in handing in the letter after he had known that the Chief Executive would ask him to stay? Was he just play acting? Even though he knew that the Chief Executive would ask him to stay, he should insist on not accepting the Chief Executive's request for him to stay after he had handed in the resignation letter. He still handed in the resignation letter after he had known perfectly well that he would be asked to stay, and he accepted the Chief Executive's asking him to stay when the Chief Executive did so after he had handed in the letter. If such were not insincerity and hypocrisy, what would they be? How can he convince the public into believing in him? How can he lead Hong Kong .....

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

**PRESIDENT** (in Cantonese): Chief Secretary for Administration, do you have a point of order to raise?



**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, since Mr Albert CHAN described the Financial Secretary being insincere and hypocritical, should such language be considered offensive according to Rule 41 of the Rules of Procedure?

**PRESIDENT** (in Cantonese): I have to view again the videotape containing the speech being delivered by Mr Albert CHAN. I now suspend the meeting. The meeting will be resumed in due course.

9.48 pm

Meeting suspended.

10.02 pm

Council then resumed.

**PRESIDENT** (in Cantonese): I have examined the videotape carefully. Mr Albert CHAN raised a question in his speech, that is: If that is not insincerity, hypocrisy, what would that be? Since it is only a question and it is not directly referring to any person, Member or official being insincere and hypocritical, he has not violated the Rules of Procedure. However, I would like to remind Honourable Members that in legislatures of the Western world, the use of language such as insincerity and hypocrisy at a parliamentary meeting is considered improper. For that reason, Honourable Members should be vigilant in the course of speaking, as it is pointless to cause unnecessary misunderstanding.

Mr Albert CHAN, you may carry on with your speech.

**MR ALBERT CHAN** (in Cantonese): Madam President, I have used these terms because I wish to make a contrast with the term "noble sentiments" used by the Chief Executive. I would not have thought about these terms if the Chief Executive has not used the term "noble sentiments".

I would like to thank the Chief Secretary for Administration for the question. This is the merit of a debate and I believe that the more one debates, the more the truth could be revealed. Of course, this Council has its rules but I think Members actually know deep in their hearts who was insincere and hypocritical.

Madam President, our line of thought must not be interrupted during a debate because it is really very difficult to get back on to the track once our train of thought has been derailed (*laughter*). I think that the Chief Secretary for Administration has helped the Financial Secretary because he interrupted my line of thought. I would become more and more excited in the course of speaking and I would have more and more ideas and use more and more terms, but I do not know how I am going to continue once my line of thought has been interrupted.

Madam President, there is only one basic question about the setting up of a select committee, that is, why do we not set up a select committee? Some people are worried that a lot of money will have to be spent. I think that their fear of the setting up of a select committee outweighs their worries about spending money. A lot of money was also spent on the investigations into the substandard piling incident. They neither dare to nor wish to, nor are willing to set up a select committee to investigate such an important subject because they basically fear that more and more dirty deeds would be revealed and the authority for governance as a whole may be affected. Therefore, if we think that setting up a select committee can reveal the truth and prove that the Financial Secretary is innocent, we should support the decision to do so.

Madam President, although I still wish to make a lot of remarks, my line of thought has been interrupted and I will not go on. I hope Members would support this motion.

Thank you, Madam President.

**MR MARTIN LEE** (in Cantonese): Madam President, in my opinion, it is best for us to take a look at the chronology of events provided by the Financial Secretary (the Secretary) before we discuss the resignation of the Secretary. According to the Secretary, having reviewed the matter, he decided on 10 March 2003 to increase his donation to the Community Chest from \$100,000 to \$380,000. He also stated, "around noontime on 10 March, I met the Chief

Executive and expressed my regret over the matter which has caused increasing pressure on the Government. I told the Chief Executive that I was willing to resign if necessary." He was saying that he would resign if the Chief Executive found it necessary. He then stated, "in the evening after the Chief Executive made a public statement on the incident, I .....". I would touch upon what happened that evening later and I would talk about what happened around noontime first. "In early afternoon, I provided the Chief Executive with a written report on the events." In other words, on 10 March, he told the Chief Executive that he would resign if necessary and he submitted a written report that afternoon. "I did a media stand-up around 6 pm, saying that I accepted the criticism of the Chief Executive. A copy of the transcript of the media stand-up session is at Annex B." When the Secretary met the media, he orally indicated that he would resign if necessary. I am now going to read out the last part of Annex B: "I admitted that I was negligent in handling the incident but I hoped the public would accept that the mistake was an oversight and I had no intention to evade the tax liability. I would learn the lesson and I hoped that I could continue to serve the general public with my utmost sincerity. Thank you."

Evidently, Mr Antony LEUNG wanted to continue to hold the office of the Secretary, but why had he written the resignation letter later if he had already indicated that he wished to continue to hold the office? Let me read out the part about that evening. The Secretary stated, "I further reflected over the matter that evening and decided to formally tender my resignation to the Chief Executive." The Secretary formally tendered his resignation at last, but how did he formally tender his resignation? Let us take a look at the letter from him to Mr Andrew WONG, Chairman of the Panel on Constitutional Affairs of this Council, last evening. The Secretary stated, "after a further review (that is, the Secretary had got the time and date wrong before), I could confirm that the course of my resignation was actually as follows (that is, the Secretary thought that was the final version): on the evening (he referred back to the evening) of 10 March 2003, I told the Chief Executive my decision to formally tender my resignation (that is, he offered his resignation orally that evening). I drafted a resignation letter addressed to the Chief Executive in my office that evening (he wrote the letter immediately after he offered his resignation orally), as a written record of my resignation. I drafted the letter in English at the beginning but I later wished to draft it in Chinese ....." Let me read out the second paragraph first: "On 11 March 2003, I did not get the letter typed because I was preoccupied with the Executive Council meeting and other work in the office." In other words, the letter has already been drafted but it was not typed yet.

What else happened on 11 March? Let us take another look at the chronology of events. The Secretary stated that in the afternoon of 11 March, "I reviewed my records in greater detail and found out that on 14 January 2003, the Budget Strategy Group went through a list of 18 revenue measures/options recommended thus far and considered that some of the items, including the magnitude of increase in Motor Vehicles First Registration Tax, should be further reviewed. As this was close to the date of my car purchase and I did not flag this up in my last report, I informed the Chief Executive of this immediately that afternoon." The Secretary stated that although he was very busy on 11 March, he had reviewed his records. Did he report to the Chief Executive again that afternoon because he found that he had missed out something? I find it a bit strange that it was very simple for him to get the letter typed on that day and it would only take half a minute because he only had to find someone to type the letter as he did not type it himself. Why had he not done so on that day? I am a bit suspicious of that because the Secretary had already reviewed the records, if he really found it necessary to write a resignation letter, he could obviously have the letter ready on 11 March, but he had not done so.

In his letter last evening, the Secretary stated that the letter was typed on 12 March 2003 and he signed the English letter, and he handed the letter in person to the Chief Executive later that afternoon. In other words, he only handed in the letter on the afternoon of 12 March. The resignation letter is in English, and it is stated in the first paragraph that "I write to tender my resignation from the Office of the Financial Secretary of the Hong Kong Special Administrative Region with immediate effect." After expressing his gratitude to the Chief Executive, he finally writes that "I am confident that under your leadership, Hong Kong will overcome the current economic difficulties and regain its vigour soon." The message of the resignation by the Financial Secretary is very clear.

Let us take a look at the chronology of events again. The Secretary stated that on 13 March, "I provided a supplementary report to the Chief Executive." The Secretary found that there was something missing on 11 March and he provided a supplementary report on 13 March, and the letter was handed to the Chief Executive on the afternoon on 12 March. The Secretary stated, "I received a letter from the Chief Executive ....." The letter was disclosed to Members of this Council and reported in newspapers. The Secretary also stated, "..... saying that he had come to the conclusion that my mistake warranted a

formal criticism from him but not my resignation. At the request of the Chief Executive, I withdrew my offer to resign."

The Chief Executive should have received the resignation letter from the Secretary and the letter was entitled "Resignation", thus, the message of resignation was very clear. The letter of the Chief Executive was entitled "Perceived conflict of interest in your purchase of a car", and following this, it was stated that "this letter sets out formally in writing the decision that I have made on this subject, having considered the written report (the first written report) you gave me on 10 March and the supplementary written report you made to me on 13 March, and having taken into account the standard required of Principal Officials as set out in the Code for Principal Officials under the Accountability System." The resignation letter was not mentioned at all. The letter by the Chief Executive was dated 15 March and he should have received the resignation letter from the Secretary on 12 March, but the resignation letter of the Secretary was not mentioned in this letter at all. It had only touched upon his written reports and that "it would inevitably arouse public suspicion of conflict of interest." The Chief Executive had stated that the Secretary had no intention to evade tax liability and the mistake was mere negligence. However, what he had done amounted to gross negligence and his behaviour was highly inappropriate. What the Chief Executive then stated was very important: "You indeed offered to resign on 10 March." The Secretary certainly offered to resign on 10 March orally because he only tendered his resignation in writing on 12 March. Why had the Chief Executive not mentioned his resignation in writing? Resignation offered orally is certainly not as clear as resignation in writing. At the end of that paragraph, the Chief Executive stated, "I have come to the conclusion that your mistake warrants a formal criticism from me but not your resignation (that is, the resignation offered orally). This letter now sets out my conclusion in writing for the record. You have accepted this conclusion and have withdrawn your offer to resign." As far as we understand it, it is not a proposed resignation but a very explicit act of resignation. Nevertheless, the above was stated in the letter of the Chief Executive.

Let us revisit what happened on 15 March, the Secretary stated, "I did a media stand-up saying that I fully accept the formal criticism from the Chief Executive. I made an apology to the general public. A copy of the transcript of the media stand-up session is at Annex C." The major contents of Annex C were: "I would like to reiterate that I had no intention to evade tax liability and that the mistake is mere negligence. I have offered to resign on 10 March (the

offer to resign was made orally on 10 March). The Chief Executive has now come to the conclusion that .....” If the Secretary had a resignation letter ready, why had he not handed in the letter? Now that the Secretary had a resignation letter ready on 12 March, why had he stated that he tendered his resignation to the Chief Executive on 10 March instead of on 12 March? According to the Secretary, the Chief Executive had come to the conclusion that “my mistake warrants a formal criticism from him but not my resignation.”

Madam President, after taking a look at these documents, we cannot help having doubts about the whole matter of resignation and this is a very important point concerning the integrity of the Secretary. If the matter is worth our suspicion and we have justifications, is it an expression of noble sentiments for the Secretary to be the subject of an investigation? Is it all right for him to be verbally criticized only? Madam President, I think the questions are worth considering. What problems will there be if a select committee is set up to investigate the matter? Mrs Selina CHOW has said that we can conduct an investigation if there is inadequate information while Dr Raymond HO has said that we can conduct an investigation if the matter is complex.

I remember that when I joined this Council and became a Member long ago, two Select Committees were set up in 1985 and 1986 and I participated in the work of the Select Committees as the representative of the legal sector. At that time, Senior Member Ms Lydia DUNN thought highly of me and nominated me for appointment on both occasions. At that time, her nomination was required, otherwise, the Governor would not make the appointment. The first Committee was related to the prosecution and trial of complex commercial crimes and the records showed that the first meeting was held on 19 December 1985, the Government met us in January 1986 and a total of eight public hearings were held.

Another Committee was related to the Hong Kong Memorial Fund and I also participated in its work. Following the first meeting held on 4 January 1986, there were two public hearings and one closed meeting before the report was made. Of course, Members know that some Select Committees took longer but I think that the investigation on this incident involving the Secretary should not take too long. Besides, if we do not set up a select committee, we will not have the right to call witnesses. Without the privilege granted to a select committee, we do not have the right to call witnesses, ask other people to provide us with documents, ask witnesses to make statements on

oath or make cross-examination, and most importantly, we cannot have a judgement. Many Members have pointed out that it may not necessarily be fair to the Secretary because some people have cast doubt on him but no judgement has been passed. Certainly, we may not have unanimous views on the judgement but it does not matter because the majority may provide a report, while the minority may also provide another report, and offer both reports for discussion by the general public.

I think that this incident involves a lot of issues and we should set up a select committee to investigate the matter. However, I think that it will not take too long because the relevant problems are not too complex. Although the problems are not too complex, we cannot overlook the seriousness of the incident, therefore, I support the motion.

**MR IP KWOK-HIM** (in Cantonese): Madam President, the Democratic Alliance for Betterment of Hong Kong (DAB) will oppose the resolution proposed by Dr YEUNG Sum today. First of all, I wish to discuss a principle with Honourable colleagues. Should our manner of dealing with people and affairs be lenient with ourselves before imposing any standard for other people? I believe Members would agree that we should do so. Why have I raised this question? It is because I think that we should deal with people and affairs in a fair and impartial manner. So long as we require others to have noble moral conduct and integrity, we should have higher requirements for ourselves. In its engagement of the Only View Company Limited, should the integrity of the Democratic Party not be questioned? It has, in making use of the grey area for claiming allowance, engaged a shell company to provide consultant services and claimed allowance amounting to \$6 million within two years. In the collection of consultant fees through a shell company, should its integrity not be questioned?

Concerning this car purchase and tax evasion incident, the Secretary, Mr Antony LEUNG, has attended different meetings since 17 March and given Members an account of the whole incident from beginning to end. He has given Members explanations and accounted for the incident, Honourable colleagues have had detailed discussions about the incident and the Government has provided Members with the relevant supplementary information that they asked for after the meetings. Every Honourable colleague in this Chamber who had just spoken has actually made his own judgement and the stand of each of them

on the incident has been sufficiently defined. So, is it necessary to ask for the setting up of a select committee to be given powers and privileges? The DAB thinks that it is not necessary to do so.

In fact, I have already talked about this but I only wish to restate the position of the DAB on the incident.

The DAB thinks that the way in which the Secretary handled this incident already constitutes gross negligence, and has noted that the Secretary admitted a few times he was negligent in the incident and that he has made a public apology to the public. The DAB has also noted that the Secretary, formerly being the Asia-Pacific President of a multinational financial institution earning an annual salary of more than \$10 million before he became a government official of the Hong Kong Special Administrative Region, was still willing to give up his high salary job and serve Hong Kong people. He has also donated to the charities more than \$300,000, the difference in his pay, after he has become a principal official under the Accountability System. By observing insignificant details, it will prove to us that the Secretary is not a person who is keen on getting petty advantages. The DAB thinks that the Secretary had so behaved not because he was greedy and wanted to save more than \$100,000 or because his integrity was open to doubt. Therefore, the DAB agrees with the judgement made by the Chief Executive about the incident.

Madam President, atypical pneumonia wreaked havoc and Hong Kong has immediately become a "city of masks", a heavy blow has been dealt to our economy and various trades and industries, and it is really impossible to estimate how much we would lose. What is the pressing task of Honourable Members as representatives of the organization that represents public opinion and monitors the Government? Should we reprove the Government for "dereliction of its duties" or "being inefficient"? I believe that is not what the public wishes to see. At present, Hong Kong people are concerned about how Members and government officials can make joint efforts to help Hong Kong tide over difficulties and restore the confidence of the international community in Hong Kong, to control the spread of the epidemic without delay, to consolidate the arrangement for closer economic ties with the Guangdong Province and to minimize the unfavourable impacts of the war between the United States and Iraq and that of atypical pneumonia on our economy. I believe that is the aspirations of the people.



With these remarks, Madam President, I oppose Dr YEUNG Sum's resolution on behalf of the DAB. Thank you, Madam President.

**DR LAW CHI-KWONG** (in Cantonese): Madam President, I would like to briefly clarify the information furnished in relation to a question raised by Mr IP Kwok-him earlier with respect to the integrity of the Democratic Party.

First, according to a 21 March report in the *Oriental Daily News*, the newspaper that condemns the Democratic Party most frequently, District Council member, Mr CHAN Wan-sang, allegedly made an inquiry to the Independent Commission Against Corruption (ICAC) on 19 March, two days before the coverage of the report, and was told by the ICAC that bribery was not involved in the engagement of the Only View Company Limited by the Democratic Party.

Second, I hope Mr IP Kwok-him can pay attention to the fact that the auditor's report compiled for the company on an annual basis demonstrates that there are ongoing activities in the Only View Company every year. It is therefore not a shell company.

Third, I also hope Mr IP can appreciate this point. The casting of doubts, so to speak, over the Democratic Party for its hiring of staff through the Only View Company to undertake research in relation to certain tasks of this Council is an interesting phenomenon. The Democratic Party was questioned for the first time when the integrity of an Honourable Member from the Democratic Alliance for Betterment of Hong Kong (DAB) was questioned too. Several days after the incident came to light, some people started to question the Democratic Party in connection with the "Only View" incident through the newspapers. Today, a few days after the integrity of the Financial Secretary was questioned, two newspapers raked up the old stories by again mentioning the doubts persistently raised by them about the Democratic Party over the years. Every time when the integrity of non-democrats is questioned, some people will make use of the two newspapers to continue questioning the Democratic Party. About three years ago, the Secretariat of the Legislative Council has also indicated in its reply to a relevant question raised by the media that the arrangement was in line with the rules enforced at that time.

Thank you, Madam President.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I speak on behalf of the Hong Kong Confederation of Trade Unions to support the motion moved by Dr YEUNG Sum on the setting up of a select committee.

The motion moved by Dr YEUNG Sum is to a certain extent doing some sort of justice to the Financial Secretary. The motion is about investigations which are founded on suspicion, but some room for manoeuvre is given in that the Financial Secretary is given the benefit of doubt. What we are most concerned is that whether or not the issue of integrity is involved in the incident. I believe the public will agree that if this is the case, that is, if the integrity of the Financial Secretary is open to question, that how can he be expected to take the lead in managing such a large set of public accounts and oversee the entire financial system, especially when there could be possibilities of insider trading in it? That is why if the issue of integrity is involved, it would cast doubts on the entire financial system of Hong Kong. I am not saying now that the integrity of the Secretary is questionable, I am only urging for an investigation to be made into the issue of integrity. When Mr IP Kwok-him is opposed to the idea of setting up a select committee, I think he is doing the Financial Secretary injustice. For even if no investigation is made, the people may have reached some conclusions when they have heard so much, and these conclusions may or may not be fair, but in any case, all the relevant information will never have a chance to be made public.

There was a time during a meeting of the Panel on Constitutional Affairs when the Financial Secretary in effect said the following: "Ever since 9 March to the present, I have been pondering the matter over and over again and I ask myself why it has come to this. I ask why have I put myself in this situation? Why is it that I have not tried to avoid giving other people the impression that I have some conflict of interest? Why is it that starting from the end of last October when this tax was first discussed up to now, I have failed to make myself aware of the possible conflicts of interest? Why is it that when I bought the car on 18 January I forgot that the issue of increasing the first registration tax for motor vehicles was discussed in the House Committee a few days ago? Why is it that after buying the car I failed to notice the problem whenever I amended the draft of the budget speech? Why is it that on 5 March when the Executive Council deliberated on laws related to the motor vehicles first registration tax, I forgot to declare my interest? When is it that when the Budget was being delivered and during the few days afterwards that I failed to be aware of the problem not until it was reported by the media? " Then after much soul-searching, he is of the view that he did not evade the tax deliberately. Then he

made the following much quoted remark to this effect: "I have kept my official and family matters entirely separate from each other and that is why the two events of buying a car and adjusting the motor vehicles first registration tax which should have been related (he is of the view that the two are related), failed to be associated at all in my mind."

The Secretary has in fact admitted and that means the public is right in their suspicions. After asking the many whys, the public will still ask why. That could be a perennial mystery and I am not sure if an inquiry will ever unlock it. It may, and it may not. If it does, then I hope that can do the Financial Secretary some justice. He could open himself up to all the people of Hong Kong so that they can see why. As the details of the event unfold, it is getting more and more sinister as people add their views to it. I do not want to speak so much here. Mr Martin LEE has just spoken on the entire process of the resignation attempt and I do not want to repeat the details here. However, there are indeed quite a lot of contradictions therein.

I have read a letter written by the Secretary to the chairman of the Panel on Constitutional Affairs and some additional information was provided. The Secretary explained that he did not finish drafting the letter of resignation on 11 March and it was because he was preoccupied with work in the Executive Council and other work in his office. But in an information paper which he gave us, he said that on 11 March: "I reviewed my records in greater detail and found out that on 14 January 2003, the Budget Strategy Group went through a list of 18 revenue measures/options recommended thus far and considered that some of the items, including the magnitude of increase in the motor vehicles first registration tax, should be further reviewed. As this was close to the date of my car purchase and I did not flag this up in my last report, I informed the Chief Executive of this immediately that afternoon." So what did the Secretary do on 11 March? He did not have the time to draft his resignation letter because he was searching through the records. It suddenly dawned on him that the motor vehicles first registration tax was first discussed on 14 January and he informed the Chief Executive of that. The sequence of these events is contradictory, for he had no time to draft his letter, yet he could have the time to look through the records and report to the Chief Executive. These events have already involved a lot of problems.

I would think that it is unfair to the Financial Secretary when the Chief Executive urged him to stay. For that was done in a very bad timing. It was on 10 March. The Secretary said that he would resign if that was needed. But

the Chief Executive told him that he did not need to resign. First, we would doubt why then he wrote the letter. Second, the Secretary had a lot of reports he had to submit to the Chief Executive. The Secretary said that it was only on 11 March that he looked up the records and found that the magnitude of the increase in motor vehicles first registration tax had been discussed on 14 January. Before that he went to the showroom and subsequently bought a car. It was on 11 March that he informed the Chief Executive of these events, but the Chief Executive had already urged him to stay before he had any knowledge of the information. This is not a good move to make and it is not in any favour to the Secretary. Obviously, the Chief Executive has not taken a serious view when he handled the case. What he did was to jump to the defence of the Financial Secretary and that is not really good for the Secretary.

Now the "royalist party" and other "royalist" Members are saying no to an investigation. And so this perennial mystery may never be brought to light. The arguments advanced to forbid an inquiry are far from being sensible. For example, an Honourable Member gives a reason which is totally absurd and he thinks that the most pressing concern for our society is SARS and the economic impact of the United States-Iraq war on the Hong Kong economy. If it is really the view of the DAB that the most pressing tasks are the war in Iraq and economic issues, then why is legislating for the implementation of Article 23 of the Basic Law be seen as such a pressing task? Is it because the DAB holds the position of apprehending the urgency felt by the Government and thinking in the way it thinks? So, we do not have to look at its stand for all that the DAB is doing is to follow the footsteps of the Government and think in the way it thinks.

When people just follow the footsteps of the Government, think in the way it thinks and apprehend its urgency, then it would do no good to the handling of this matter, just as what I have frequently stressed. I think the best way is to conduct an inquiry. When all the information comes to light, the Secretary may have a chance to turn over a new leaf if he is found to have done anything wrong. But if the mystery is allowed to remain forever locked up, then the Secretary may be deprived of this chance and it will do him no good. So I would think that it is fair for the Secretary if an inquiry is conducted. It will only add another burden to the Government if the matter is covered up. The Chief Executive always stresses that we should look ahead and learn the lessons, but what we see from the accountability system for principal officials is that it is like a heavy stone and a burden put on the shoulders of the Chief Executive. And he can only inch his way with this heavy load. That will certainly slow down the pace which the Government is moving onward. It will also hamper the ability of the

Government to move forward. In the end, it will only cause public grievances to build up. But then, is that a good thing to do?

I remember the Chief Secretary Donald TSANG once said that he is a powerful person for he has ear muffers and he can muffle his ears so that he cannot hear any seducing siren song. I do not recall if that person is someone from Greek mythology, but Secretary TSANG has really said that he can muffle his ears so that he cannot hear any seducing calls. That was something he said when he was the Financial Secretary. It may be true that all those who are in the Government have their ears muffled up forever, that is why they cannot hear anything said and any suggestions made for the benefit of Hong Kong. Thank you, Madam President.

**MR MICHAEL MAK** (in Cantonese): Madam President, originally I do not intend to speak. It is because what I have been hoping for recently is more bread, or put it other way, more resources. This outbreak of SARS has left both me and my voters swelling with all kinds of feelings, we think we should be given more resources to win this fight against SARS. However, I also think that apart from getting more bread, we should get more love and love is the drive to find out the truth.

Last week, someone who is a well-known figure phoned me to remind me to ask Mr Antony LEUNG, the Financial Secretary, to do justice to our community. This friend of mine is quite a well-known figure and he represents the view of many people in the upper class. This incident of car purchase is fraught with puzzles. I hope it is out of love that we can find out the truth. Love is a heart-to-heart feeling, or laying bare your heart to someone. The Secretary says that he is laying bare his heart to the people, to the community. I am totally against what Dr Raymond HO says, for he proposed that this incident be put aside since we have to put in all our efforts to drive away the economic woes and SARS, so there is no need to dig into the heart of the matter and find out the truth.

In my opinion, a lot remains unaccounted for in this incident. On 9 March, the *Apple Daily* first brought this incident into light and a car salesman phoned in a radio programme and said that when the Financial Secretary came to his showroom, he asked whether taxes for cars would be increased. The

Secretary admits that he went to many showrooms to look for a car and test drove some cars. I think there must be people who recognized the Secretary and his wife and certainly they could not be mistaken. I think even if someone who is nuts would have thought that taxes are to be increased. For the rumours of a tax increase were spreading all over the place in January and people should realize that motor vehicles first registration tax would be increased. It would be unthinkable for someone who works in a car company not to know that some moves would soon be made on taxes. But surprisingly, the Secretary denied that any tax on cars would be raised. I have an impression that when the Secretary first came to the meeting of the Panel on Constitutional Affairs, it seemed that he said that no tax would be increased. He did not recall saying that to the salesman. This is the first mystery. Even if the Secretary was not behaving as if he had lost his memory or his hearing like Mr Albert CHAN, I would think that we should find out whether any person did ask him that question when he visited the showroom, and how he or his wife replied to the car salesman's question. That is the first mystery.

The second mystery is that in the process of compiling the Budget, how did the Financial Secretary make public and declare his interest? Did he have the motivation for it, take the initiative and seize the best chance available to declare his interest? He did have a lot of chances to make this declaration. He has a working group and I would think that it would be unthinkable if no one in that group had not reminded him. In addition, Secretary Dr YEOH made the declaration during a meeting in the Executive Council. Unless the Secretary was sleeping at that time, he must have known this. Even if he had some preoccupation, that is, he was thinking of other things, the declaration made by Dr YEOH was so clear and sudden when he said that he ordered a new car that the dozen or so people in the meeting must be staring at Dr YEOH with eyes wide-open. But the Secretary is saying that he was not aware of that, for he was working hard and preoccupied with the Budget. That is the second mystery.

There are also rumours that someone wanted to amend the records of the Executive Council meeting. Although Secretary Stephen LAM ultimately stated that no one made the proposal — I recall it seems that he made this remark — I have doubts about that, because why was it reported in the papers? Why was the talk-show host Albert CHENG so convinced when he made that point that someone did tell him, even to the extent that he would offer his head as a wager to show that he was telling the truth? That is another mystery.

Since there are so many mysteries, the Secretary, as well as the people of Hong Kong, should be given some justice. Some people have said to me that they are in support of the Financial Secretary. They say that they do not believe that the Secretary would have such an unscrupulous motive. I also said last week that from a psychological point of view, the Secretary is so rich, I just cannot believe that he has any intention to cheat. I just fail to understand it. In any case, we wish to know what has really happened and why have things gone to such a bad condition. Can justice not be done to us?

If the spending of some tens of million dollars could do justice to the community and to the Financial Secretary, then I would think that the Financial Secretary would be more than happy to pay the sum and there is no need for the Government to pay it. Is that right? Can I say so? Some people say that the amount of money should be considered, but I do not think so. I do not think that the people of Hong Kong will not want to know the truth because of the money. Now it is getting very late, and many of these "royalist" Members are not in the Chamber. Actually, they are listening to the debate outside or in some other places. When they do not speak, they are actually supporting the motion moved by Dr YEUNG Sum. But please remember and do not worry, for they will certainly not support the motion because of their political stand. When they are to cast their votes by pressing the button, they will certainly say no. When they do not rise up and speak, I think they are in fact supporting Dr YEUNG Sum after all. For if not, they will leash their criticisms, is that right? And if they do so, can we still speak to our heart's content?

So I think the Government should lend its support to set up a select committee and find out the truth. That will make the people know more about the matter. That would also be doing justice to the Secretary. In any case, I reckon the Secretary would leave. I hope he can do better in other spheres. But this time he has really got a problem and he has made a mistake. There is something wrong about his integrity. This is the end of my speech. Even if Honourable Members do not support Dr YEUNG Sum because of the political considerations they have, I hope they will still review on their conscience. Thank you, Madam President.

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

(No Member responded)

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, with regards to the purchase of a vehicle by the Financial Secretary earlier this year before the adjustments to the motor vehicle first registration tax, the Legislative Council has debated the incident on various occasions. We have studied and discussed every aspect of the incident in detail at the meetings of the Panel on Constitutional Affairs on 17 March and the House Committee on 21 March, as well as yesterday's meeting of the Panel on Constitutional Affairs respectively. The Financial Secretary attended the two meetings of the Panel on Constitutional Affairs personally to explain the whole incident to Members and also replied to questions raised by Members. The Administration has provided a number of papers to the Panel on Constitutional Affairs and the House Committee, including the written report submitted to the Chief Executive by the Financial Secretary on 10 and 13 March respectively, the chronology of events, the resignation letter from the Financial Secretary to the Chief Executive, and the Chief Executive's subsequent reply to the Financial Secretary after weighing the full circumstances of the case and legal advice and coming to a conclusion. The Chief Executive's Office had issued a statement on what had been discussed by the Executive Council. Government spokesman had also made further response at the request of the press. We certainly understand public concern about this incident, and we also respect Members' right to know, that is why we have made public all the relevant documents.

The Financial Secretary further clarified his resignation and chronology of events in yesterday's meeting of the Panel on Constitutional Affairs and subsequently provided the explanation in writing to clarify and revise the information about the time and other particulars. We have made an in-depth explanation on the course of the whole incident.

Dr YEUNG Sum suggested forming a select committee to investigate the incident in three aspects. First of all, he suggested the select committee should find out whether the Financial Secretary had breached clauses 1.2(6) and 1.2(7) of the Code for Principal Officials under the Accountability System (the Code).

The letter dated 15 March from the Chief Executive to the Financial Secretary clearly stated that the purchase of the car by the Financial Secretary amounted to gross negligence, which had apparently breached sections 5.1 and 5.4 of the Code. Section 5.1 stipulates that principal officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest. Section 5.4 stipulates that



principal officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties. The act of the Financial Secretary had breached these two provisions. His behaviour was inappropriate. The Chief Executive therefore made formal criticism on the Secretary's mistake. Chapter 1 of the Code mainly sets out some basic principles, while Chapters 2 and 7 stipulate individual criteria and specific provisions. The essence of clauses 1.2(6) and 1.2(7) in Chapter 1 has already been manifested in other chapters of the Code. The Chief Executive's letter to the Financial Secretary also stated clearly the specified sections the latter had breached. It is unnecessary to conduct further investigation since this matter in this respect is crystal clear.

Dr YEUNG Sum also proposed to investigate whether any person had suggested amending those parts of the minutes of the Executive Council meeting held on 5 March 2003 relating to the declaration of interests regarding the purchase of personal vehicles by those who had attended the meeting.

The statement issued by the Chief Executive's Office on 18 March made clear that the Secretary for Health, Welfare and Food declared at the Executive Council meeting on 5 March that he had ordered a private car, at that time the car had not yet been registered. Afterwards, a government spokesman replied to inquiries of the press that apart from the Secretary for Health, Welfare and Food, Dr YEOH Eng-koing, no other Members declared at the Executive Council meeting on 5 March, as far as the new cars bought by other Members were concerned, they had already been registered, therefore the Executive Council's decision would not have any effect on them.

We can verify that at the Executive Council meeting on 11 March, no Members proposed that the minutes of the meeting on 5 March be amended. We can also verify that none of those who had attended the meeting had suggested amending those parts of the minutes of the Executive Council meeting held on 5 March relating to the declaration of the purchase of personal vehicles. We had made full explanation on the matter and nothing could be clearer than that, thus it is unnecessary to conduct further investigation.

The third issue Dr YEUNG Sum proposed to investigate was that whether the Government should provide the Legislative Council with complete and truthful information on the discussions at the Executive Council meeting(s) relating to the declaration of the purchase of personal vehicles.

On the premise that discussions of the Executive Council should be kept confidential, the Chief Executive had however made an exception of disclosing relevant information and papers. As regards the declaration made at the Executive Council meeting held on 5 March, I have explained the matter to Honourable Members today once more. All of the accountability officials, including myself, are conversant with the stipulation of section 2.11, that is, principal officials shall give accurate and truthful information to the Legislative Council and correct any error at the earliest opportunity.

The purchase of a vehicle by the Financial Secretary before the adjustments to the motor vehicle first registration tax has undergone considerable, comprehensive and thorough debate and discussion. Having considered the information of the case, the Chief Executive took appropriate action after coming to the conclusion that the Financial Secretary had made a mistake. The Financial Secretary also made public statements on various occasions that he fully accepted the formal criticism of the Chief Executive.

Madam President, the incident has heightened the vigilance of all accountability officials. We do not only have to avoid a conflict of interest, but we should also avoid putting ourselves in a position where we might arouse any suspicion of conflict of interest. All of the accountability officials would abide by the Code and keep on serving the public wholeheartedly.

With these remarks, Madam President, I oppose the motion of Dr YEUNG Sum.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, you may now reply.

**DR YEUNG SUM** (in Cantonese): Madam President, I would like to thank the 14 Honourable colleagues who have spoken on this resolution. As a matter of fact, when the Democratic Party discussed whether or not to propose this resolution, we had actually considered for a long time whether the resolution should be postponed. It is because Hong Kong is being confronted with an economic downturn, and the United States-Iraq war and SARS are threatening the entire community and the people are scared. Against such a background, the forecast of an economic growth rate of 3% is fast becoming an impossibility, but the Government is still proposing to raise its taxes and lift its freeze on fees and charges.

The Democratic Party is in full support of the Government's efforts in fighting SARS. For me I have already shown my support a long time ago. During this week, the Democratic Party called on all the members to pitch in the community-wide fight against SARS. Tomorrow we shall issue a press release to urge the public to stand by the Government and fight this public enemy so that it will disappear soon. It will also enable the people of Hong Kong and the international community to know that Hong Kong is a prosperous city where they can place their confidence in.

However, the two issues should be considered separately. I would like to state clearly on behalf of the Democratic Party that we will lend our full support to the Government and we urge all the people to do so as well. The seven political parties will pitch in to fight against this public enemy SARS. But after repeated discussions, in the end we have still decided to propose this resolution.

I was the first Member to speak in the meeting of the Panel on Constitutional Affairs held yesterday. I asked the Financial Secretary twice whether or not he would insist on his resignation. If he would, I would have declared that I do not have to propose this resolution and we can then focus our debate on SARS. But the Financial Secretary insisted that he would stay in office and so we are compelled to propose this resolution.

Madam President, this is in fact a very important resolution. Why have I talked so much about SARS? It is because I am saying this in response to the speech made by Dr Raymond HO. He said that there was a crisis in our community and asked why did we not focus our attention on the crisis but pursue this matter. The Democratic Party wishes to pursue the matter because the situation is like we have an apple and when this apple is eaten by worms at the core, it would be a dangerous thing. We cannot neglect the danger because the apple looks beautiful outside. We cannot just cut the apple in half and let the worms come out. For that will not help the apple, not at all. We must do something about the apple if it is rotten from the core. The Democratic Party is determined to pursue the matter to the utmost.

As a senior Member of this Council, Mrs Selina CHOW also asked us why we had wanted to pursue the matter. She said that the Panel on Constitutional Affairs had given us a lot of occasions to ask questions. The Chairman of the Panel, Mr Andrew WONG also reiterated that the Panel should not pursue this matter, for the Panel did not have the authority to do so and that its term of

reference would not permit this. The Panel could only discuss the system of accountability for senior officials. However, as things developed, even Mr WONG himself failed to understand why he allowed Members to pursue the matter. The Government and the "royalist" members of the Panel also asked what we would want to ask since we had asked so many questions.

Madam President, we all know that the powers of the Panel on Constitutional Affairs are limited. That is why many of the steps that should be taken in an independent inquiry, such as summoning witnesses, requesting that information from the Government be provided and so on, cannot be so taken. The Government has the right to give as much information as it likes. I think Honourable colleagues must remember very well the inquiries into incidents like Kwun Lung Lau, the new airport, the excessive spending in the Hong Kong University of Science and Technology and so on. When the select committees were making these inquiries, the initiative did not lie in the Government but in the Members and they are representatives of public opinion. If it is said that the Panel on Constitutional Affairs can replace a select committee, then I do not think that it is a fair view. Those who hold such a view are making just a political consideration and it is not an expression of the facts.

What kinds of benefits will Hong Kong get if the matter is pursued? Madam President, I would like to say the second point which I wish to say. As an accountable official, the Financial Secretary has the duty to maintain public interest, the confidence which the people and the international community place in Hong Kong as an international financial hub, the economic activities in the territory, as well as the distribution of social resources. All these are matters of public interest and they are built upon the foundation of integrity, and in particular, the integrity of the Financial Secretary. However, after the discussions made by many Honourable colleagues of mine, irrespective of the perspective used in looking at the matter, the public will feel that there is a conflict of interest in the Financial Secretary. It can also be seen that there is a great difference between the views which the Chief Secretary for Administration and I hold. The Chief Secretary said that it was the view of the Chief Executive that the Financial Secretary had only contravened paragraphs 5.1 and 5.4 of the Code for Principal Officials under the Accountability System. Actually, only the Financial Secretary himself knows whether or not he has a conflict of interest in this matter, but the question is, the public thinks that he has. That is why the Chief Executive says that he has and the Financial Secretary admits that he has.

I would like to ask the Chief Secretary whether or not there is a problem with the integrity of the Financial Secretary. The Financial Secretary does not admit that there is any problem with his integrity, nor does the Chief Executive and the Administration. But the Democratic Party says that his integrity is questionable. This view is shared by many Honourable colleagues who have spoken earlier. The Financial Secretary as someone who holds such a high position and is responsible for the financial affairs of the territory, a helmsman of this international financial hub, and if his integrity is open to question and doubt, that would certainly make him a laughing stock of the international community. This will rock the very foundation of our position as an international financial hub. For it is like an apple which is rotten from the core, with worms coming out from it.

If we will do nothing about it, I would think that the Democratic Party is not longer fit to be called the opposition party and we may as well join the ranks of the "royalists". For in so doing we can join the various advisory bodies, as well as the decision-making centre to formulate various policies. But that is not what we want. The very mission of our party is to uphold the principles of "one country, two systems" and "a high degree of autonomy". This has been our mission since our party was founded when Mr Martin LEE was the Chairman, up to the very present moment. This is also the party line which we have been holding fast. In other words, our mission is to maintain Hong Kong as an international financial hub and a community which is characterized by fair competition, a respect for the rights of the individual and where democracy and the rule of law prevail. And so the integrity of officers in this system of government by civil servants becomes an important cornerstone which cannot be shaken.

This system of government by civil servants has been in existence since the Hong Kong-British Government. There are a few features to this system. First, it is against the abuse of position to advance private gains. In other words, the officials should not have a clash between his duties and his own interests. Madam President, the Chief Secretary is aware of this rule and so are all other officials. There are some forbidden territories which cannot be crossed for otherwise, Hong Kong would lose its reputation in the eyes of the world. After I became the Chairman of the Democratic Party, I had many chances to meet many ambassadors from other countries stationed in Hong Kong and I asked them whether Hong Kong would be overtaken by Shanghai. They told me not to worry as they would advise their countrymen to set up headquarters in Hong

Kong. I asked them why and they answered it was because Hong Kong had the rule of law, the freedom of information and that the Chief Executive would not issue an order all of a sudden to forbid the flow of capital out of Hong Kong. They believe in these and that the government by civil servants is clean and characterized by credibility. If officials are not clean and they have no credibility, the ICAC will investigate these people. So that is why the ambassadors have confidence in this system.

In fact, it would be an easy thing for us if we do not propose this resolution. We may have forgotten the whole thing, for it happened a long time ago. A reporter asked me, "YEUNG Sum, why do you bring this up again? Many people have forgotten it already and the papers are not covering this story any more. It has been filled up by the story at Lower Ngau Tau Kok Estate, that is, the constituency of Mr Fred LI. So why bring this up?" I said I had to do it because if we gave up such an important thing so easily, the whole system would crumble.

As a matter of fact, I do not feel good at all when I was asked to propose this resolution. It is because Antony LEUNG was my classmate in the university and we lived in the same residence. But I have to put aside all these personal feelings to do what I am asked to do. I want to do it well, for it will convince the people that that the very reason which makes Hong Kong an international city is precisely because of this system. And the integrity of the officials is the cornerstone to this system. If anyone is above this system, or if the Chief Executive condones his failures and allows that person to place himself above the system, we must stop it. For if we do nothing at all, the system will fall and crumble. And Hong Kong will lose its unique position and China will never benefit from Hong Kong any more. So an inquiry is good for Hong Kong. It would be doing harm to the interests of Hong Kong if Members do not lend their support to conducting an inquiry. Even if the matter is simply tolerated, it is the same as abandoning the autonomy, integrity and cleanliness of the system.

I would like to ask, if Members wish to oppose to my resolution, should they search their souls and ask themselves what have they done for Hong Kong. Just imagine, later on when we talk with the officials, questions on integrity and whether or not the Financial Secretary has any integrity would come up in our mind and how can we keep the conversation going? Recently, the Financial Secretary was supposed to attend a forum to discuss integrity. I think he must have been advised by his public relations staff not to go there, for when he rises up to speak, he must have trouble finding the right words to speak. Are we

going to let these things happen? A full-scale inquiry might do the Financial Secretary some justice.

Once the radio talk-show host Albert CHENG asked me why I wanted to help Antony LEUNG, for an inquiry would be a helping hand to him; for if he was really innocent, then all would be well. I said it did not matter, for we believed in democracy and procedural justice. It would not matter who is involved, we should give the person a chance to submit himself to an inquiry. It would be fine if after the inquiry he is proved innocent, and if it turns out the other way, then he is not. It would be better than the present situation when public opinion has already passed a judgement on him.

I do not know how the Financial Secretary will lead the civil servants, or how he will resolve the conflicts between the Hong Kong Stock Exchange and Clearing House Ltd. and the Securities and Futures Commission, or matters about insider tradings of listed companies. For these are matters which require a high degree of integrity, and his integrity is open to question. I just cannot imagine what will happen. Therefore, my second problem is solved. My conclusion is, conducting an inquiry is beneficial to Hong Kong for it will uphold the integrity of the whole system.

Madam President, the third point I wish to make is that I am very disappointed at the way which the Chief Executive handles the matter. As the new Chairman of the Democratic Party, I often have a wish to open a dialogue with the Chief Executive, but I really do not have any hopes in him. Yesterday at the meeting of the Panel on Constitutional Affairs, the Financial Secretary told us that he tendered a verbal resignation. The Chief Executive did not even read the report, nor was he aware of what happened on 14 January, and he said that there was no need for the Financial Secretary to resign. The Financial Secretary has even written a letter of resignation. That is why at the meeting many Honourable Members kept on asking questions and that had caused Mr Albert CHAN to use certain wordings. The meeting was then adjourned for some time because the chairman wished to consider some points.

Madam President, I wish to state clearly here that the Chief Executive is really condoning misconduct and justifying shortcomings. He is defending his favourite subordinate. He is not aware that this paternalistic way of government is really like ruling at his own whim. It is a total destruction of the

system of the rule of law which we have inherited from the west. He is shattering this principle of equality before law. He has been doing this ever since the Sally AW incident and the incident we have now is an exact replica of the Sally AW incident. That is regrettable.

How can the Chief Executive be expected to head a civil service team of 170 000 people? How can the Financial Secretary be expected to lead the people of Hong Kong out of the economic doldrums? How can he make international investors find Hong Kong an attractive place to invest and how can he ever keep their confidence in Hong Kong? Everybody knows that his integrity is questionable and they will have doubts when it comes to matters like investment.

Madam President, the fourth point I wish to make is that our request to conduct an inquiry is to build up a tradition. We want the Government to know that though it is not returned by the people, we wish to build a civil society. The Government must be open in its exercise of powers and its information must be transparent. No one can place himself above the system. Thus it is a good thing if the ICAC wishes to conduct investigations and it would be much better if investigations can be made into these two events at the same time. We must build such a tradition so that whenever the integrity of an official is open to doubts, all Members of this Council, irrespective of their political inclinations, should all put down their political beliefs and pursue the matter to the utmost. That will prevent an abuse of power by the principal officials and they can never place themselves above the people.

Therefore, it is of vital importance that an objective system with procedural justice can be built. Though a government returned by the people is not yet in existence, we can do our best in this event despite all the limitations of the system. My resolution may be voted down, but I hope that Miss Margaret NG will propose her motion of no confidence so that the matter can be pursued. This will give a warning to all the principal officials and similar events must be avoided. It remains, of course, that Secretary Antony LEUNG may do the public justice if he lends his support to an inquiry or that he decides not to stay in office.

Madam President, the last point I wish to make is that as representatives of public opinion, we have the responsibility to support the system and to reflect



public opinion. This morning I hosted a radio programme together with Mrs Selina CHOW and she said the Council would hear views from the public. The Democratic Party is doing that and we have conducted an opinion poll. Most of those interviewed are not satisfied with the Financial Secretary in this car purchase incident and they have wanted him to resign. We are acting on strength of this survey and urge that an inquiry should be made into the matter.

Now I have come to the end of my speech and I would like to thank all Honourable Members. I hope those Honourable Members who have not yet decide on how they will vote will support my resolution. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr YEUNG Sum be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

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

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

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

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the motion.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kuok voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, five were in favour of the motion and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 15 were in favour of the motion and 11 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the meeting to 2.30 pm on Wednesday, 30 April 2003.

*Adjourned accordingly at twelve minutes past Eleven o'clock.*