

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 29 March 2006

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

DR THE HONOURABLE RAYMOND HO CHUNG-TAI, S.B.ST.J., J.P.

THE HONOURABLE LEE CHEUK-YAN

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, S.B.S., 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, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, J.P.

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, S.B.S., J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE FREDERICK FUNG KIN-KEE, J.P.

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

THE HONOURABLE DANIEL LAM WAI-KEUNG, B.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, S.B.S., J.P.

THE HONOURABLE MA LIK, G.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, S.B.S., J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE CHEUNG HOK-MING, S.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, B.B.S.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RAFAEL HUI SI-YAN, G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.
THE SECRETARY FOR JUSTICE

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 COMMERCE, INDUSTRY AND TECHNOLOGY

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

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, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

THE HONOURABLE AMBROSE LEE SIU-KWONG, I.D.S.M., J.P.
SECRETARY FOR SECURITY

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.B.S., J.P.
SECRETARY FOR HEALTH, WELFARE AND FOOD

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

CLERKS IN ATTENDANCE:

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Hospital Authority Ordinance (Amendment of Schedules 1 and 2) Order 2006	60/2006
Mental Health (Declaration of Kowloon Psychiatric Observation Unit as Mental Hospital) and Declaration of Mental Hospital (Consolidation) (Amendment of Schedule) Order 2006.....	61/2006
Trade Marks (Amendment) Rules 2006.....	62/2006
Banking (Specification of Public Sector Entities in Hong Kong) (Hong Kong Trade Development Council and Ocean Park Corporation) Notice.....	63/2006

Other Papers

- No. 77 — AIDS Trust Fund 2004-2005 Annual Accounts together with the Director of Audit's Report
- No. 78 — Report by the Trustee of the Correctional Services Children's Education Trust for the period from 1 September 2004 to 31 August 2005
- No. 79 — 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 2005
- No. 80 — 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 2005
- No. 81 — Hong Kong Tourism Board 2004/2005 Annual Report

No. 82 — Vocational Training Council
Annual Report 2004/2005

No. 83 — Employees Retraining Board
Annual Report 2004-2005

Report of the Subcommittee on Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006 and Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006

Report of the Bills Committee on Waste Disposal (Amendment) Bill 2005

WRITTEN ANSWERS TO QUESTIONS

Using Natural Gas for Power Generation

1. **MS EMILY LAU** (in Chinese): *President, it is learnt that the utilization rates of the gas-fired generating units at the Black Point Power Station of the CLP Power Hong Kong Limited (CLP) are on the low side due to the unstable supply of natural gas as a fuel and a lower-than-expected growth in the local demand for electricity. In this connection, will the executive authorities inform this Council:*

- (a) *given that the CLP is drawing up a proposal to build a liquefied natural gas (LNG) receiving and storage terminal for the Black Point Power Station, whether the authorities will, when vetting and approving the proposal, request the CLP to adopt measures to ensure a stable supply of natural gas, so as to avoid the new asset from being left idle; if so, of the relevant details; if not, the reasons for that; and*
- (b) *whether they have set up a mechanism whereby, when the supply of natural gas is stable in the future, the CLP will be restricted in the use of coal-fired units which have higher emission levels of air pollutants in generating power; if not, of the reasons for that?*

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

- (a) Since 1996, the CLP has been importing natural gas directly from the Yacheng gas field off Hainan Island via a submarine pipeline for use by its Black Point Power Station. As the reserve of the Yacheng gas field is estimated to maintain supply only until early next decade, the CLP has to secure new sources of natural gas to replace the existing supply from Yacheng. In this connection, the CLP is planning to construct a LNG receiving terminal in Hong Kong.

Generally speaking, piped natural gas from a gas field relies on only one single source of gas and there is only a finite amount of gas available. As for an LNG system, it can obtain natural gas from multiple sources around the world. LNG can be shipped from different gas sources to the destined LNG receiving terminal and supplied for use by consumers after re-gasification. Therefore, LNG supply is generally more reliable and stable than piped natural gas supply.

The CLP is carrying out an environmental impact assessment study on its proposed LNG receiving terminal. When the CLP submits to the Government its detailed proposal for constructing an LNG receiving terminal in Hong Kong, the relevant bureaux and departments will consider it having regard to all relevant factors including environment, planning, land use, energy supply, and so on. The Economic Development and Labour Bureau will also carefully examine the gas supply arrangement to ensure the stable supply of the natural gas.

- (b) The Environmental Protection Department (EPD) has not allowed the construction of any new coal-fired generating plants in Hong Kong since 1997. Furthermore, in renewing the Specified Process Licences (SPLs) of the CLP's Castle Peak Power Station in accordance with the Air Pollution Control Ordinance in August 2005, the EPD has stipulated emissions caps in the SPLs to ensure that the CLP would use natural gas for power generation as much as possible, hence minimizing the use of coal-fired generating units and reducing emissions to practicable minimum levels. When renewing the SPLs of power stations in future, the EPD will, having regard to the prevailing circumstances, tighten progressively the

emissions caps to ensure that the CLP would maximize the use of natural gas for power generation and adopt other emissions reduction measures as soon as possible for achieving the 2010 emissions reduction targets.

Statistics on Salaries Tax Payers

2. **MR BERNARD CHAN:** *President, will the Government use the following table to provide this Council with the latest data on the number of persons paying the provisional salaries tax for the 2005-06 year of assessment?*

<i>Amount of provisional salaries tax for the 2005-06 year of assessment (HK\$)</i>	<i>Number of payers of provisional salaries tax</i>	<i>Percentage of payers of provisional salaries tax in the total workforce</i>
<i>0</i>		
<i>1-1,000</i>		
<i>1,001-2,000</i>		
<i>2,001-5,000</i>		
<i>5,001-10,000</i>		
<i>10,001-15,000</i>		
<i>15,001-20,000</i>		
<i>20,001-30,000</i>		
<i>30,001-40,000</i>		
<i>40,001-50,000</i>		
<i>50,001-60,000</i>		
<i>60,001-70,000</i>		
<i>70,001-80,000</i>		
<i>80,001-90,000</i>		
<i>90,001-100,000</i>		
<i>100,001-200,000</i>		
<i>200,001-500,000</i>		
<i>500,001-1,000,000</i>		
<i>over 1,000,000</i>		

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:
President, an analysis of the persons paying the provisional salaries tax for the

2005-06 year of assessment based on the assessment statistics up to 22 March 2006 is set out below:

<i>Amount of provisional salaries tax charged for the 2005-06 year of assessment (HK\$)</i>	<i>Number of payers of provisional salaries tax</i>	<i>Percentage of payers of provisional salaries tax in the total workforce¹</i>
0	2 276 835	66.7%
1-1,000	324 896	9.5%
1,001-2,000	87 203	2.6%
2,001-5,000	150 519	4.4%
5,001-10,000	120 352	3.5%
10,001-15,000	70 921	2.1%
15,001-20,000	54 454	1.6%
20,001-30,000	74 692	2.2%
30,001-40,000	51 300	1.5%
40,001-50,000	35 854	1.0%
50,001-60,000	26 794	0.8%
60,001-70,000	20 284	0.6%
70,001-80,000	16 319	0.5%
80,001-90,000	12 511	0.4%
90,001-100,000	10 288	0.3%
100,001-200,000	51 119	1.5%
200,001-500,000	22 770	0.7%
500,001-1,000,000	3 201	0.1%
Over 1,000,000	1 188	0.0%

The above data are compiled using income earned by the taxpayers as indicated in their tax returns (received by 22 March 2006) for the 2004-05 year of assessment as reference. With an improved labour market in 2005-06, we expect that the total number of taxpayers liable to the final salaries tax in 2005-06 will exceed the total number of taxpayers currently paying 2005-06 provisional tax² as shown above.

¹ For computing the percentage, the total work force is assumed to be 3 411 500 which is the projected average workforce for the year 2005-06.

² We expect that in the 2005-06 year of assessment, around 36% of the total workforce will pay some salaries tax in the final assessment.

Joint Hong Kong and Guangdong Efforts to Promote Investment

3. **MR WONG TING-KWONG** (in Chinese): *President, it has been reported that, in his Report on the Work of the Government, delivered at the Fourth Session of the Tenth People's Congress of the province, the Governor of Guangdong Province pointed out that Guangdong would continue to make joint efforts with the Governments of Hong Kong and Macao this year to promote inward investment and present the Greater Pearl River Delta (PRD) to the world through overseas visits. The investment promotional efforts would target at large enterprises in developed countries and regions such as the United States, Japan, Europe and South Korea. Regarding the co-operation plans between the Governments of Guangdong Province and Hong Kong, will the Government inform this Council of:*

- (a) *the results of the economic and trade co-operation forum in the United States and Canada jointly held for the first time by the Governments of Guangdong and Hong Kong last year;*
- (b) *the specific arrangements for the investment promotion visits to countries and regions including the United States, Japan, Europe and South Korea this year; and*
- (c) *whether the Governments of Guangdong and Hong Kong will draw up any long-term plan to jointly promote external economic and trade co-operation; if they will, of the details of the plan; if not, the reasons for that?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): *President, in the past few years, Invest Hong Kong (InvestHK) and the authorities in the PRD Region have jointly conducted a series of overseas investment promotional activities to enable overseas companies to better understand the close economic and trade relationship between Hong Kong and the PRD, their economic prospects and the advantages of the Greater PRD as an ideal destination for foreign investment. Through these activities, InvestHK encourages overseas companies to set up regional headquarters or regional offices in Hong Kong and locate their manufacturing process in the Greater PRD (including Hong Kong) in the light of their business needs.*

InvestHK has identified a number of potential foreign investors from the promotional activities jointly organized with the Mainland provinces and cities (including the PRD), and has been following up with them proactively. As at end of 2005, a total of 23 investment projects generated from such activities had been successfully completed, and another 81 projects were being pursued.

My replies to the three parts of Mr WONG Ting-kwong's question are as follows:

- (a) The authorities of the Hong Kong Special Administrative Region (SAR) and Guangdong Province jointly organized the Hong Kong-Guangdong business seminars in San Francisco and Vancouver last year to encourage American and Canadian businessmen to invest in Hong Kong and Guangdong Province. The Chief Executive and the Financial Secretary spoke at the respective seminars in Canada and the United States, highlighting to the local investors the latest development in the Greater PRD, in particular the investment opportunities that Hong Kong and Guangdong could bring to North American companies under the Mainland/Hong Kong Closer Economic Partnership Arrangement. The two seminars each attracted over 1 000 local participants. To enhance the effectiveness of these promotional efforts, InvestHK made use of these events to organize concurrently Hong Kong Investment Environment seminars, introducing to the American and Canadian companies Hong Kong's role as a springboard to enter the mainland market. InvestHK is proactively following up cases in which the interest in investing in Hong Kong has been expressed.
- (b) InvestHK will continue to closely co-operate with Guangdong Province and other cities to conduct the following joint overseas activities this year:

<i>Month</i>	<i>Partners</i>	<i>Location</i>
March	Guangzhou City	Stockholm, Sweden
April	Dongguan City	Copenhagen, Demark
	Zhuhai City	Florence, Italy
May	Shenzhen City	Seoul, Korea
	Jiangmen City	San Diego, United States
September	Foshan City	Dusseldorf, Germany
	Guangdong Province	Paris, France

- (c) To strengthen co-operation, InvestHK and the Department of Foreign Trade and Economic Co-operation of Guangdong meet on a regular basis to discuss the direction and mode of future co-operation. Both parties are discussing in detail the co-operation plan for this year and have commenced the preparatory work for the aforementioned promotional activity to be held in Paris this year.

Chief Executive's Council of International Advisers

4. **MR MA LIK** (in Chinese): *President, since its last meeting in November 2004, the Chief Executive's Council of International Advisers (CECIA) established by the former Chief Executive has not held any further meeting. In this connection, will the Government inform this Council:*

- (a) *whether the CECIA has ceased to operate; if so, of the reasons for that; and*
- (b) *if the CECIA has not ceased to operate, its work since the last meeting, its future work plans, whether there are changes in its composition, and whether the authorities expect a change of the role it plays; if so, of the details?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): President, the CECIA was established in 1998 to advise the Chief Executive from an international perspective on strategic issues pertinent to the long-term development of Hong Kong. The CECIA is chaired by the Chief Executive and comprises 16 non-official members, all of whom are prominent international business and corporate leaders. The Chief Secretary for Administration, Financial Secretary, Secretary for Commerce, Industry and Technology, and Head of the Central Policy Unit are ex-officio members of the CECIA.

My reply to the two parts of the question is as follows:

- (a) The CECIA has not ceased to operate.

- (b) We are reviewing, *inter alia*, the functions and mode of operation of the CECIA, with a view to better utilizing the valuable experience of the international advisers and creating more room for them to render advice on strategic issues pertinent to the long-term development of Hong Kong. We shall also seek the views of the international advisers.

Assessing and Supporting Students with Dyslexia

5. **DR FERNANDO CHEUNG** (in Chinese): *President, in connection with assessing and supporting students with dyslexia, will the Government inform this Council:*

- (a) *as a school had refused to let a boy with dyslexia and poor academic results repeat, resulting in his parents' arranging him to attend another school to repeat his study, whether the authorities have devised an assessment mechanism based solely on the abilities of individual students with dyslexia to determine whether they should proceed to the next school level, so that they are not subject to the existing quota for repeaters applicable to all primary schools, which makes it impossible for them to repeat; if they have, of the details of the mechanism; if not, whether the authorities will consider doing so;*
- (b) *how it will ensure that schools will implement appropriate adaptation measures for students with dyslexia and whether parents of these students have lodged complaints with the Education and Manpower Bureau (the Bureau) about inadequate adaptation measures; and*
- (c) *as the authorities require that schools having students with specific learning difficulties should nominate at least one teacher to attend the course on "Understanding, assessing and teaching pupils with specific learning difficulties", of the number of schools in Hong Kong which meet this requirement?*

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

- (a) Whether a student should repeat class depends on his/her learning abilities and whether he/she can benefit from repeating. If a school considers that a student can benefit the most from repeating, the school head can make the decision in accordance with the above principle. At present, the maximum number of repeaters should not exceed 3% of the total enrolment of the primary school. The Bureau will continue to monitor the implementation of the repeater arrangement.
- (b) The Bureau encourages parents to work closely with schools to ensure fair and effective special examination arrangements. Wherever appropriate, the Bureau will help the teachers and parents to understand the principles of special arrangements and the needs of individual students, and suggest improvement measures. The Hong Kong Association of Specific Learning Disabilities, a parents' association, had written to the Bureau about a student not being recommended by the school for special arrangements in a public examination. Subsequently, appropriate assistance has been arranged for that student.
- (c) The Bureau encourages the teachers of mainstream schools to receive special education training. At present, there are around 750 public sector schools with at least one teacher trained in special education, which constitute about 75% of the schools concerned. In addition, the Bureau has commissioned a tertiary institute to operate a 42-hour course on specific learning difficulties in the 2005-06 and 2006-07 school years, providing a total of 240 places. Thirty-nine primary school teachers and three secondary school teachers have completed the first round of the course. In the past few years, the Bureau has also provided related training for around 720 ordinary school teachers from 328 primary and 250 secondary schools.

Housing Authority Bearing Payroll Costs of Posts of Former Housing Branch

6. **MR FRED LI** (in Chinese): *President, since 1 July 2002, the Government has gradually incorporated the Housing Branch (HB) of the Housing, Planning and Lands Bureau into the structure of the Housing Department (HD), and the Hong Kong Housing Authority (HA) has, with effect from 1 April 2003, become responsible for funding the activities undertaken by the former HB. In this connection, will the Government inform this Council:*

- (a) *of the existing permanent posts in the HD with major responsibilities that were within the purview of the former HB, and the total annual payroll costs of such posts; and*
- (b) *given that a substantial part of the HA's revenue comes from public housing tenants, whether the authorities have assessed if it is fair to require the HA to bear the payroll costs of such posts?*

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

President, my reply to the two-part question is as follows:

- (a) At present, there are 20 permanent posts in the HD with responsibilities in whole or in part previously undertaken by the former Housing Bureau. These posts are detailed at the Annex. Eleven of these posts principally deal with policy work related to public housing or the HA. The remaining nine posts are engaged in work related to the private residential property market, the Housing Society and regulation of estate agents. The annual payroll costs for the former group of posts are \$11.4 million and the latter \$7.1 million.
- (b) From 1 April 2006 onwards, the payroll costs for the abovementioned nine posts dealing with work related to the private residential property market, and so on, will be borne by the Government. For the remaining 11 posts that principally deal with work that is directly related to public housing or the HA, the payroll costs will be borne by the HA. There is no question of unfairness.

Annex

Permanent Posts of Former Housing Bureau Incorporated Into HD

1. Permanent Secretary for Housing, Planning and Lands (Housing)/Director of Housing
2. Deputy Secretary for Housing, Planning and Lands (Housing)/Deputy Director of Housing (Strategy)
3. Principal Assistant Secretary (Housing) (Private Housing) of Housing, Planning and Lands Bureau/Assistant Director of Housing (Private Housing)
4. Principal Assistant Secretary (Housing) (Policy Support) of Housing, Planning and Lands Bureau/Assistant Director of Housing (Policy Support)
5. Senior Administrative Officer (two posts)
6. Chief Executive Officer
7. Administrative Officer (two posts)
8. Executive Officer I (two posts)
9. Senior Technical Officer
10. Senior Personal Secretary
11. Personal Secretary I (two posts)
12. Personal Secretary II (three posts)
13. Clerical Officer
14. Assistant Clerical Officer

Total number of staff : 20

Hospital Authority's Policy Regarding Prescription of Drugs for Eligible Persons

7. **MR ABRAHAM SHEK** (in Chinese): *President, in April last year, the Secretary for the Civil Service advised that the Civil Service Bureau (the Bureau) had put forward proposals to refine the arrangements for reimbursement of medical expenses to eligible persons (that is, civil servants, pensioners and their eligible dependants), and consultation would be conducted with the staff side of the four central consultative councils. However, I have recently received complaints from several pensioners alleging that drugs of better efficacy were not prescribed to them when they attended the out-patient clinics of public hospitals, and thus they had to purchase these drugs from private pharmacies. In this connection, will the Government inform this Council:*

- (a) *of the results of the consultation mentioned above and whether the Bureau has unilaterally made the relevant decision;*
- (b) *whether there have been recent changes in the Hospital Authority (HA)'s policy regarding the prescription of drugs for eligible persons seeking medical consultation; if so, of the details of and reasons for such changes; and*
- (c) *whether it has assessed if the practice of not prescribing drugs of better efficacy to eligible persons is in breach of the provisions on medical benefits in the Civil Service Regulations?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): *President, under the existing policy, medical advice and treatment, X-ray examinations and medicines are available free of charge to civil servants, retired civil servants and other eligible persons (hereafter referred to as "eligible persons") only when these benefits are provided by the Government or HA medical services. Eligible persons may apply to the Government for reimbursement of expenses on drugs/equipment/services which form an essential part of the medical treatment as prescribed and certified by the HA attending doctors on medical grounds but which are not available in the HA or chargeable by the HA.*

There has been no change to the existing government policy on reimbursement of medical expenses to eligible person. In other words, the

Government has not imposed any restrictions on the prescription of drugs for eligible persons by HA doctors. HA doctors are to prescribe drugs and other treatment according to the medical necessity of an eligible person. Where the drugs/treatment, which form an essential part of the medical treatment as prescribed and certified by the HA attending doctors on medical grounds, are not available in the HA or are chargeable by the HA, eligible persons may apply to the Government for reimbursement of the relevant expenses in accordance with the existing arrangement.

The Government is consulting the staff sides of the central consultative councils, through the Standing Committee on Medical and Dental Facilities for Civil Servants, on proposals to improve the existing arrangements for reimbursement of medical expenses to eligible persons. These include providing more elaboration and guidelines to HA doctors on provision of medical certification for eligible persons to apply for reimbursement, and other measures to streamline the existing reimbursement procedures. In accordance with established procedures, we shall consult the staff sides of the central consultative councils before finalizing the arrangements.

Employment of People with Disabilities in Government Departments and Public Organizations

8. **MR LEE WING-TAT** (in Chinese): *President, will the Government inform this Council, in the form of the following table, of the employment of people with disabilities in government departments and public organizations as at the end of each of the past three years?*

	<i>Government departments</i>		<i>Public organizations</i>	
	<i>Number of full-time employees</i>	<i>Number of part-time employees</i>	<i>Number of full-time employees</i>	<i>Number of part-time employees</i>
<i>Persons with Down's Syndrome</i>				
<i>Mentally-handicapped persons</i>				
<i>Visually-impaired persons</i>				
<i>Hearing impaired persons</i>				
<i>Physically disabled persons</i>				

	<i>Government departments</i>		<i>Public organizations</i>	
	<i>Number of full-time employees</i>	<i>Number of part-time employees</i>	<i>Number of full-time employees</i>	<i>Number of part-time employees</i>
<i>Discharged mental patients</i>				
<i>The chronically ill</i>				
<i>Total number of employees with disabilities</i>				
<i>Percentage of employees with disabilities in the total number of employees</i>				

SECRETARY FOR THE CIVIL SERVICE (in Chinese): President, with regard to government employees with disabilities, the information required is set out below:

	<i>Government Departments</i>		
	<i>Number of full-time/part-time employees^{Note 1}</i>		
	<i>as at 31 December 2003</i>	<i>as at 31 December 2004</i>	<i>as at 30 June 2005^{Note 2}</i>
Mentally-handicapped persons (Persons with Down's Syndrome)	31 (0)	29 (0)	32 (0)
Visually-impaired persons	562	581	571
Hearing impaired persons	323	328	333
Physically disabled persons	1 801	1 847	1 868
Discharged mental patients	282	288	279
Persons with visceral disability ^{Note 3}	369	355	377
Others (for example, autism, speech impairment) ^{Note 3}	27	24	18
Total number of employees with disabilities	3 395	3 452	3 478
Percentage of employees with disabilities in the total number of employees	1.67%	1.76%	1.79%

- Note 1 In collecting statistics on government employees with disabilities, no differentiation is made between full-time and part-time employees. The figures therefore cover part-time employees including auxiliary service members.
- Note 2 With effect from mid-2005, we collect statistics on government employees with disabilities on an annual basis as at 31 March of each year instead of on a bi-annual basis as in the past. For 2005, the latest figures show the position as at 30 June 2005.
- Note 3 We do not keep figures on chronically-ill government employees. On the other hand, we collect figures on government employees with "visceral disabilities" and "other disabilities". In order to show the complete picture of employees with disabilities in the Government, figures on these two groups are also presented.

With regard to the employment of disabled persons in public organizations, the latest available and relatively comprehensive figures were obtained from a survey conducted by the Health, Welfare and Food Bureau (the Bureau) from November 2003 to April 2004, which showed that 36 public organizations (as listed in the Annex) employed a total of 794 disabled employees at the time. That survey did not collect breakdown figures by disability types.

Within the limited time available, the Bureau has obtained the following figures on employment of disabled persons (including full-time and part-time employees) from the Hospital Authority and Hong Kong Airport Authority:

	<i>Hospital Authority and Hong Kong Airport Authority</i>		
	<i>Number of full-time/part-time employees</i>		
	<i>as at 31 December 2003</i>	<i>as at 31 December 2004</i>	<i>as at 31 December 2005</i>
Mentally-handicapped persons (Persons with Down's Syndrome)	1 (0)	1 (0)	1 (0)
Visually-impaired persons	111	104	103
Hearing impaired persons	24	22	25
Physically disabled persons	462	610	786
Discharged mental patients	54	61	69
Persons with visceral disability	39	58	70
Others (for example, autism, speech impairment)	3	3	4
Total number of employees with disabilities	694	859	1 058

Annex

1. Hong Kong Productivity Council
2. Hong Kong Trade Development Council
3. Hong Kong Monetary Authority
4. Mandatory Provident Fund Schemes Authority
5. Consumer Council
6. Airport Authority
7. Hong Kong Tourism Board
8. Vocational Training Council
9. Employees Retraining Board
10. Hospital Authority
11. Equal Opportunities Commission
12. Office of The Ombudsman
13. Legislative Council Secretariat
14. Housing Authority
15. Urban Renewal Authority
16. Office of the Privacy Commissioner for Personal Data
17. Hong Kong Sports Development Board and the Hong Kong Sports Institute
18. Ocean Park Corporation
19. Hong Kong Arts Development Council
20. Hong Kong Academy for Performing Arts
21. Hong Kong Arts Centre
22. The Open University of Hong Kong
23. University of Hong Kong
24. The Chinese University of Hong Kong
25. City University of Hong Kong
26. The Hong Kong University of Science and Technology
27. Hong Kong Baptist University
28. The Hong Kong Institute of Education
29. Lingnan University
30. Clothing Industry Training Authority
31. Construction Industry Training Authority
32. Hong Kong Science and Technology Parks Corporation
33. Hong Kong Applied Science and Technology Research Institute Company Limited
34. Securities and Futures Commission
35. Occupational Safety and Health Council
36. Hong Kong Council for Academic Accreditation

School Improvement Programmes

9. **DR RAYMOND HO** (in Chinese): *President, it has been reported that because of inadequate enrolment this year, nine primary schools have been ordered by the Education and Manpower Bureau to stop taking in Primary One (P1) students with effect from the coming school year. Among them, eight schools have recently completed their school improvement programmes (SIPs), involving a total works cost of \$200 million. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have, before embarking on the above SIPs, considered the problem of inadequate enrolment at the schools concerned arising from a fall in population; and*
- (b) *as the schools concerned have to stop taking in new students after spending a substantial amount of public money on the SIPs, whether the authorities will include new measures in their future school provision planning, so as to prevent the recurrence of similar cases?*

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

- (a) We always maintain vigilance on the progress of SIP projects and the changing circumstances of the schools concerned and, where appropriate, seek to adjust the scope of an ongoing project or to stop it altogether. Since the publication of "Projections of Population Distribution, 2002-11" in August 2002, the Government has discontinued, during the feasibility study stage and early construction stage, some 100 SIP projects owing to impending school closure, re-provisioning, *in situ* redevelopment, or cost-effectiveness considerations (including the enrolment situation at that time and availability of space for significant improvement to school facilities). We must, however, emphasize that it is unreasonable to expect the Government to be able to foretell precisely which schools will, a few years later, cease to recruit enough students for operation of P1 classes. The reason is that P1

enrolment to a very large extent depends on parents' choices of schools. Hence, our decision on capital investment in upgrading a school's environment can only be guided by information at hand.

Furthermore, the eight schools which have benefited from SIP were operating with a complete class structure when the SIP projects were planned and implemented. In the event that the number of classes operated by a school has to be reduced because of falling enrolment, the existing students can still enjoy the improved facilities. On the contrary, it would have been unfair to the school and its students and also a waste of resources invested if the Government were to suspend the project out of speculation based solely on the reduction in the number of classes that the school will cease to operate P1 classes.

- (b) School building projects take four to five years from planning to completion. During that period, demand for public school places could fluctuate due to mobility of population across districts, demographic changes of the entire population, and other factors such as delay in completion of residential development. As long as the construction work has yet to start, we will ascertain the need or adjust the scope of individual projects based on the latest circumstances (including school-aged population projections, the situation of student intake, the availability of vacant school premises, and so on) to ensure the optimal use of resources for upgrading the infrastructure of schools. Last October, we decided to suspend 13 school building projects (including six projects with alternative arrangements) and scale down the scope of some others, clearly reflecting our prudence in the planning of school construction projects.

Fluorescer and Bacteria Contents of Paper Tissue Products

10. **MR LI KWOK-YING** (in Chinese): *President, it has been reported that fluorescer was detected in the paper napkins provided by some of the chain eateries in Taiwan last year, and the recently released findings of the quality*

supervision sample tests on paper tissues in the first quarter of 2006 in Guangdong Province have shown that 30% of the samples tested contained bacteria contents exceeding the prescribed standards. On the other hand, as recycled paper is made from the recycling of waste paper in assorted colours, bleaching treatment with fluorescent bleaches is therefore required. In this connection, will the Government inform this Council:

- (a) whether it has conducted regular sample tests on the contents of fluorescer and bacteria for various kinds of paper tissue products on the local market; if it has, of the test results and whether the scope of the sample tests covers napkins made of recycled paper, paper tissue products sold at major supermarkets, and paper tissues given away by restaurants and newspaper stands for free; if it has not, whether it will consider conducting regular sample tests annually;*
- (b) as it has been reported that European and American countries have imposed restrictions on the contents of fluorescent bleaches in paper products that may come into contact with food, and Taiwan has even stipulated that transferable fluorescent substances are forbidden in paper products such as paper napkins, sanitary napkins and diapers, whether the authorities have reviewed the lack of legislation for monitoring the use of fluorescent bleaches in Hong Kong; if so, of the details and results of the review; if not, the reasons for that; and*
- (c) whether it has studied the impact of fluorescer on human health, and the measures to enhance public awareness of such substances?*

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

- (a) In 2004 and 2005, the Customs and Excise Department (C&ED) collected samples of 20 and 25 brands of tissue paper respectively for testing by the Government Laboratory (GL), to ascertain whether they complied with the "general safety requirement" under

the Consumer Goods Safety Ordinance (CGSO). In the first quarter of this year, another 32 brands of tissue paper were sent to the GL for testing.

The samples tested in 2004 and 2005 were collected from supermarkets and household article shops, whereas the samples collected in 2006 also included tissue paper given away by newspaper vendors. The samples did not cover paper tissues and napkins provided by restaurants, but we consider it likely that restaurants source these products from local suppliers.

All the samples were tested for total bacterial counts under the National Standard of the People's Republic of China GB15979-2000 - "Hygienic Standard of Disposable Sanitary Products". All the 2004 and 2005 samples passed the tests, while the test result of the 2006 samples is not yet available. The samples have not been tested for fluorescent brighteners as there is no concrete evidence to show that these chemicals are hazardous to human health (see reply to parts (b) and (c) below).

The C&ED will continue to conduct regular checks on paper tissue products to ensure that they meet the requirements under the CGSO.

(b) and (c)

Under the CGSO, consumer products must meet the "general safety requirements". The C&ED can take enforcement action against providers of consumer goods, if the goods are proven to pose a potential hazard to consumers.

The C&ED and the Department of Health (DH) have found that there is currently no concrete proof that fluorescent brighteners are harmful to human beings — for example, a publication from the DH and the Scottish Executive in the United Kingdom (1995), an assessment by the Federal Institute for Health Protection of Consumers and Veterinary Medicine in Germany (2001), and a voluntary study programme carried out by the Household Cleaning

Products and the Chemical Industry in European Union (2004) all indicate that there is no firm evidence to show that fluorescent brighteners are hazardous to human health. Therefore, at present there is no basis for enforcement action against products containing fluorescent brighteners.

Regional Policies on Elderly Services

11. **DR JOSEPH LEE** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the number of elderly persons, that is, persons aged 65 or above, in each administrative district and its percentage in the elderly population in Hong Kong, as well as the number of singleton elderly persons in each district;*
- (b) *whether it has identified the elderly persons who are "indigent", if it has, of the population of such persons at present and a breakdown by districts; if not, the reasons for that; and*
- (c) *whether it has assessed the respective needs of the elderly in various districts for medical, health, housing and recreational and sports facilities and services, and considered formulating regional policies on services for the elderly and introducing flexible arrangements for resource deployment among districts, in order to provide cross-district services when necessary; if it has, of the details; if not, the reasons for that?*

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

- (a) According to the Census and Statistics Department, there were about 819 000 elders aged 65 or above in Hong Kong in 2004. The distribution of the elderly population by districts is as follows:

	<i>Elderly population</i>	<i>As a percentage of total elderly population</i>
Kwun Tong	88 900	10.9%
Eastern	79 700	9.7%
Wong Tai Sin	73 600	9.0%
Kwai Tsing	62 700	7.7%
Sha Tin	62 000	7.6%
Sham Shui Po	59 000	7.2%
Kowloon City	53 700	6.6%
Yuen Long	45 300	5.5%
Yau Tsim Mong	39 900	4.9%
Tuen Mun	38 400	4.7%
Southern	36 400	4.4%
Sai Kung	30 600	3.7%
Tsuen Wan	30 100	3.7%
North	29 400	3.6%
Central and Western	29 100	3.6%
Tai Po	27 800	3.4%
Wan Chai	21 500	2.6%
Islands	10 500	1.3%
Residents dwelling on the sea	300	0.04%
Total	818 800	100%

Note: The figures have been rounded up, and may not add up to the sum total and 100%.

There were about 99 600 singleton elders aged 65 or above in Hong Kong in 2004, accounting for about 12% of the total elderly population. The distribution of the singleton elderly population by districts is similar to that of the elderly population by districts. Kwun Tong, Eastern, Wong Tai Sin, Sham Shui Po and Yuen Long Districts have the highest number of singleton elders.

- (b) We do not have a definition on "indigent" elderly. However, the Comprehensive Social Security Assistance (CSSA) Scheme provides a safety net in the form of financial assistance for those (including elders) who cannot support themselves financially, to bring their income up to a prescribed level to meet their basic needs. As at February 2006, about 187 000 elders aged 60 or above were

receiving CSSA. Of the administrative districts demarcated by the District Social Welfare Offices (DSWOs) of the Social Welfare Department (SWD), Tsuen Wan and Kwai Tsing, Kwun Tong, and Wong Tai Sin and Sai Kung have the highest number of CSSA cases involving elders.

- (c) In formulating elderly policies, the Government takes into account demographic changes, the needs of the elders, the development in service delivery mode and community needs. With increased flexibility in the deployment of resources, we aim to provide services to those elderly most in need. Currently, most of the elderly services and facilities can be assessed by elders territory-wide.

The SWD has drawn up the District Welfare Planning Protocol for DSWOs to assess the welfare needs of their respective districts and conduct district planning. DSWOs consult relevant government departments, non-government organizations, District Councils and local organizations in the districts and mobilize community resources to render appropriate services and support to elders.

The Housing Authority accords priority to elders in the allocation of public housing units, and allow elders to choose public housing units in the urban areas, extended urban areas and the New Territories, with a view to meeting the housing needs of elders as far as possible.

In view of the ageing population, the Department of Health's Elderly Health Service and the Hospital Authority have strengthened elderly health education and services, with due emphasis on multi-disciplinary collaboration, outreach and a district-based approach in promoting disease prevention and healthy lifestyle for elders.

In planning and designing district recreation and sports facilities, the Leisure and Cultural Services Department has in recent years paid attention to elderly needs and featured facilities such as areas for tai-chi, pebble walking trails, and other gymnastic facilities for elders.

Future Development of Hong Kong Electricity Market

12. **MR FREDERICK FUNG** (in Chinese): *President, the existing Scheme of Control Agreements between the Government and each of the two power companies will expire in 2008, and the Stage II Consultation launched by the Government on the future development of the electricity market in Hong Kong will end shortly. It has been reported that the proposals put forward in the consultation paper have received negative responses from the two power companies, with one of them indicating that the consultation paper has strained its relationship with the Government. In this connection, will the Government inform this Council:*

- (a) *whether it will, after the end of the above Stage II Consultation, put forward more specific proposals and launch Stage III Consultation; if so, of the details of the work and the timetable concerned; if not, the reasons for that;*
- (b) *of the difficulties encountered in the authorities' negotiations with the two power companies, and whether the proposals put forward in the above consultation paper will be revised or withdrawn as a result; and*
- (c) *whether it has drawn up any contingency plan for the possible outcomes of the negotiations mentioned in (b) (including the failure to reach new scheme of control agreements due to a breakdown of the negotiations with the two power companies); if it has, of the details of the plan, and whether it includes the control, takeover or acquisition of the two power companies by the authorities in order to safeguard public interests; if it has not, the reasons for that?*

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

- (a) **In end January 2005, the Government launched the Stage I Public Consultation on the "Future Development of the Electricity Market in Hong Kong". Over 900 responses were received in the three-month consultation period. Taking into account the views received during the Stage I Consultation, we set out specific**

proposals for the regulatory arrangements for the post-2008 electricity market in the Stage II Consultation Paper. The Stage II Consultation will last until the end of this month. We will consider the views received, improve our proposals as appropriate and draw up regulatory arrangements that are in the best interest of Hong Kong. As we have already conducted extensive consultation on the specific regulatory arrangements for the post-2008 electricity market, we have no plan to conduct another round of consultation.

- (b) We are still at the public consultation stage. The discussion with the power companies will start later this year.
- (c) In the light of the views received during the consultation period, the Government will draw up regulatory arrangements that will balance the needs of different sectors of the community. Our objectives are to achieve a material reduction in electricity tariffs; to motivate the power companies to reduce their emissions to help improve the environment; and to ensure that the public can continue to enjoy stable and reliable electricity supply through providing the power companies with a reasonable investment return. Over the years, the two power companies have made substantial investment in electricity infrastructure and provided stable electricity supply for Hong Kong. We believe the two power companies will adopt a positive attitude in the discussion with the Government and a reasonable agreement can be reached with them at the end. As set out in the Stage II Consultation Paper on the "Future Development of the Electricity Market in Hong Kong", we will also keep under review the need for new regulatory arrangements or legislation in the light of market developments.

Flight Noise

13. **MR ALBERT CHAN** (in Chinese): *President, in reply to my question at the Council meeting on 27 October 2004, the Government indicated that the Civil Aviation Department (CAD) had since October 1998 implemented various flight noise mitigating measures to minimize the impact on the communities near the flight path. For example, to avoid aircraft overflying densely populated areas in the early hours, arrangements were made for flights departing Hong Kong*

between 11 pm and 7 am to use the southbound route via the West Lamma Channel as far as possible, while flights arriving in Hong Kong between midnight and 7 am were directed to land from the waters southwest of the airport. However, according to the data provided by the Government in its reply to my question at the Council meeting on 2 March 2005, the problem of flight noise during the above hours had worsened in the past few years. I have learnt that up till now flight noise during the above hours still often causes nuisance to residents of many housing estates, making it difficult for them to fall asleep. In this connection, will the Government inform this Council:

- (a) of the figures on flight noise levels which reached 70 to 74, 75 to 79, and up to or over 80 decibels (dB) during the above hours, as recorded by various noise monitoring stations in the past year;*
- (b) of the types of aircraft the flight noise levels of which reached 80 dB or above in the past year and their operating airline companies; and*
- (c) whether the existing flight noise mitigating measures will be improved to reduce the nuisance caused to residents; if so, of the details?*

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

- (a) At present, there are 16 noise monitoring terminals in Hong Kong. The noise events recorded at these terminals in 2005 are set out at Annex 1.
- (b) The types of aircraft with noise events exceeding 80 dB and the operating airlines concerned are set out at Annex 2.
- (c) Subject to flight safety and air traffic operation not being affected, the CAD has since October 1998 implemented a series of noise mitigating measures to minimize the impact of aircraft noise on the communities near the flight paths. Such measures, apart from those mentioned in the question, include:

- (i) to reduce the aircraft noise impact on Tung Chung, Sham Tseng and Ma Wan, all aircraft taking off towards the northeast are required to follow the noise abatement departure procedures prescribed by the International Civil Aviation Organization to reach a higher altitude within a shorter distance;
- (ii) aircraft approaching from the northeast between 11 pm and 7 am have to adopt the Continuous Descent Approach when landing to reduce aircraft noise impact on areas such as Sai Kung, Tseung Kwan O and Ma On Shan; and
- (iii) with effect from July 2002, the CAD has banned all aircraft which has a higher noise level, as defined in Chapter 2 of Volume I, Part II of Annex 16 of the Convention on International Civil Aviation, from landing and taking off at the airport.

The CAD will continue to closely monitor the flight paths of aircraft landing and departing the Hong Kong International Airport and the aircraft noise impact through the Aircraft Noise and Flight Track Monitoring System. It will also continue to closely monitor international aviation technology developments and consider all possible noise mitigating measures.

Annex 1

Noise Events Recorded at the Noise Monitoring Terminals in 2005
(Aircraft Noise Events Exceeding 70 dB
Recorded During 2300 to 0700 the Next Day)

<i>Noise Monitoring Terminals</i>	<i>Noise Level (dB)</i>		
	<i>70 to < 75</i>	<i>75 to < 80</i>	<i>≥ 80</i>
1. Ma Wan Marine Control Centre, Ting Kau	707	41	2
2. Fu Tung Estate, Tung Chung	1 109	16	1
3. Sha Lo Wan, Lantau	2 677	1 093	103
4. Hong Kong Garden, Tsing Lung Tau	2 909	350	17
5. Park Island, Ma Wan	5 505	1 659	148

<i>Noise Monitoring Terminals</i>	<i>Noise Level (dB)</i>		
	<i>70 to < 75</i>	<i>75 to < 80</i>	<i>≥ 80</i>
6. Fairmont Garden, Mid-Levels	4	1	-
7. Beverly Height, North Point	13	3	-
8. Yiu Tung Estate, Shau Kei Wan	4	3	-
9. Mei Lam Estate, Tai Wai	29	5	-
10. On Yam Estate, Kwai Chung	139	6	1
11. Tai Lam Chung Tsuen Public Building	404	39	1
12. Greenview Court, Tsuen Wan	221	2	1
13. Cheung Hang Estate, Tsing Yi	382	18	3
14. Siu Ho Wan MTRC Depot, Sunny Bay	4 421	745	40
15. Mount Butler Road, Jardine's Lookout	4	3	1
16. Mount Haven, Tsing Yi	68	8	-

Annex 2

**Aircraft Types and Their Operating Airlines with Noise Events
Exceeding 80 dB Recorded
From 1 January to 31 December 2005**

<i>Airlines</i>	<i>Aircraft Type (Note)</i>
Aeroflot Russian International Airlines	DC10
AHK Air Hong Kong	A306
Air Canada	A343
	A345
Air China	A319
	B733
	B737
	B738
	B742
	B744
	B752
	B762
	B763
	B767
	B772
Air France	B742
	B744
	B772
	B773

<i>Airlines</i>	<i>Aircraft Type (Note)</i>
Air India	A310
Air Mauritius	A343
Air New Zealand	B763
Alitalia	B744
	MD11
All Nippon Airways	B744
	B763
Asiana Airlines	B744
	B772
Atlas Air	B742
	B744
Australian Airlines	B763
British Airways	B742
	B744
Cargolux Airlines International	B742
	B744
Cathay Pacific Airways	A333
	A343
	A346
	B742
	B744
	B772
	B773
Cebu Pacific Air	B752
	DC93
China Airlines	A306
	A333
	A343
	B738
	B744
China Eastern Airlines	A306
	A30B
	A319
	A320
	A321
	A343
	A346
	B733

<i>Airlines</i>	<i>Aircraft Type (Note)</i>
	B737
	MD11
	MD1F
	MD90
China Southern Airlines	A319
	A320
	A321
	B733
	B735
	B737
	B738
	B752
	E145
	MD82
	MD90
Continental Airlines	B772
CR Airways	CRJ2
	CRJ7
Deer Jet	H25B
Dragonair	A30B
	A320
	A321
	A333
	B742
	B743
	B744
El Al Israel Airlines	B742
Emirates	A332
	B744
	B772
	B773
Ethiopian Airlines	B763
EVA Air	A332
	B744
	MD11
Evergreen International Airlines	B742
Federal Express	A310
	MD11

<i>Airlines</i>	<i>Aircraft Type (Note)</i>
Garuda Indonesia	A333
	B744
Gulf Air	A343
Hong Kong Express	E170
Japan Airlines	B742
	B743
	B744
	B763
	B772
	B773
	DC10
Jetstar Asia Airways	A320
Kalitta Air	B741
	B742
Kenya Airways	B763
KLM Royal Dutch Airlines	B744
Korean Air	B743
	B744
	B772
	B773
	MD11
Lufthansa Cargo	B742
	MD11
Lufthansa German Airlines	A343
	B742
	B744
	MD11
Malaysian Airlines	A332
	B734
	B742
	B744
	B772
Mandarin Airlines	A333
Martinair	B742
Nippon Cargo Airlines	B742
Northwest Airlines	B742
	B744

<i>Airlines</i>	<i>Aircraft Type (Note)</i>
Ocean Airlines	B742
Orient Thai Airlines	B741
	B742
	B743
Pakistan International Airlines	A310
Philippine Airlines	A320
	A333
	A343
	B744
Polar Air Cargo	B742
	B744
Qantas Airways	A333
	B744
Royal Brunei Airlines	A320
Royal Nepal Airlines	B752
Saudi Arabian Airlines	MD11
Shenzhen Airlines	B737
Siem Reap Airways International	A320
Singapore Airlines	B744
	B772
	B773
Singapore Airlines Cargo	B744
SriLankan Airlines	A332
Swiss International Airlines	A343
Thai Airways International	A333
	B744
	B772
	B773
	MD11
Thai Sky Airlines	L101
Transmile Air Services	B722
	MD11
Turkish Airlines	A343
United Airlines	B744
UPS Parcel Delivery Services	B741
	B742
	B747
	B752
	B763
	MD11

<i>Airlines</i>	<i>Aircraft Type (Note)</i>
Valuair	A320
Vietnam Airlines	A320
	A321
Virgin Atlantic Airways	A346
Xiamen Airlines	B733
	B735
	B737

Note:

Aircraft		Aircraft	
Types	Details	Types	Details
A306	Airbus Industrie A300-600	B744	Boeing 747-400
A30B	Airbus Industrie A300B	B747	Boeing 747
A310	Airbus Industrie A310	B752	Boeing 757-200
A319	Airbus Industrie A319	B762	Boeing 767-200
A320	Airbus Industrie A320	B763	Boeing 767-300
A321	Airbus Industrie A321	B767	Boeing 767
A330	Airbus Industrie A330	B772	Boeing 777-200
A332	Airbus Industrie A330-200	B773	Boeing 777-300
A333	Airbus Industrie A330-300	CRJ2	Canadair Regional Jet 200
A343	Airbus Industrie A340-300	CRJ7	Canadair Regional Jet 700
A345	Airbus Industrie A340-500	DC10	McDonnell Douglas DC-10
A346	Airbus Industrie A340-600	DC93	McDonnell Douglas DC-9-30
B722	Boeing 727-200	E145	Embraer EMB-145
B733	Boeing 737-300	E170	Embraer EMB-170
B734	Boeing 737-400	H25B	British Aerospace BAe-125
B735	Boeing 737-500	L101	Lockheed L-1011-100 TriStar
B737	Boeing 737	MD11	McDonnell Douglas MD-11
B738	Boeing 737-800	MD1F	McDonnell Douglas MD-11 Freighter
B741	Boeing 747-100	MD82	McDonnell Douglas MD-82
B742	Boeing 747-200	MD90	McDonnell Douglas MD-90
B743	Boeing 747-300		

Leak of Personal Data

14. **MISS CHOY SO-YUK** (in Chinese): *President, it has been reported that, having investigated the leak of personal data of around 20 000 people who*

complained against the police, the task force of the Independent Police Complaints Council (IPCC) has attributed the cause of the incident to negligence on the part of the outsourced contractor who uploaded the information concerned to a server for the sake of convenience, thus leading to the leak of the data. In this connection, will the Government inform this Council whether it knows:

- (a) whether there are specific terms in the service contract between the IPCC and the contractor stating the penalties to be imposed on the contractor in the event of data leak; if so, of the details of the relevant terms; if not, the reasons for that;*
- (b) whether the contractor will be penalized because of the above incident; if so, of the details of the penalties; and*
- (c) how the IPCC will prevent the recurrence of similar incidents?*

SECRETARY FOR SECURITY (in Chinese): President, both the Administration and the IPCC are very concerned at the case. The Administration appreciates and supports the IPCC's prompt and decisive actions in dealing with the incident. We have been maintaining close liaison with the IPCC and will continue to provide the necessary support to the IPCC in dealing with the incident.

The IPCC has provided the following reply to Miss CHOY So-yuk's questions:

- (a) The IPCC Secretariat had entered into contracts with the contractor for the development, enhancement and maintenance of a standalone computer system for statistics and research purpose since 1998. On the basis of records available, the IPCC Secretariat advised that there were no penalty clauses in the contracts for any breach of the duty of confidence by the contractor. It also advised that there was no file record indicating any reason for not including such clauses.
- (b) The IPCC is seeking legal advice on matters connected with or incidental to the incident, and no further details can be provided at this stage.

- (c) Apart from investigating into the cause of the leakage, the IPCC has immediately taken a range of remedial measures to control the damage caused to the public, and better safeguard the personal data available to it. The specific measures taken are at Annex. The IPCC will co-operate fully with the investigation initiated by the Office of the Privacy Commissioner for Personal Data (PCO) under section 38(b) of the Personal Data (Privacy) Ordinance into the incident. The IPCC will comply fully with the PCO's recommendations in due course. In the meantime, the IPCC has also identified a list of measures on data-keeping that can be taken to comply with the data protection principles (DPPs) and it will consult the PCO in the process.

Annex

Actions which have already been taken and are being actively followed up include:

- Limited access to sensitive information to the Secretary, the IPCC or to such persons with her express permission. The computer containing the sensitive database has been put in a room with locks and a log book has been attached to the computer. Any authorized person who wishes to utilize the database would sign his/her name together with the title, date, starting and completion time on accessing the database.
- Set up a hotline (2524 3841) manned by the IPCC Secretariat to handle public enquiries.
- Uploaded the latest information regarding the incident on the IPCC website.
- Two subcommittees respectively headed by Mr Ronny F H WONG, Chairman and the Honourable Alan LEONG, Vice-chairman to meet those who have expressed genuine concern on the incident. The subcommittees will actively consider what measures can be taken to effectively address those concerns.

- Approached Google and other Internet service providers for assistance in erasing the files and cache with the information.
- Provided intelligence to the Commercial Crime Bureau of the police for cyber monitoring. Obtained advice from the Office of the Government Chief Information Officer on possible steps to continuously trace and delete the remaining traces of the data on the Internet, and to prevent further spreading of the data.
- Appealed to the public and the media to stop searching or circulating the information on the Internet.
- The PCO had advised the public that in accordance with DPP1 of the Personal Data (Privacy) Ordinance, all personal data shall only be collected for lawful purposes, in a lawful and fair manner in the circumstances of the case. In addition, DPP3 provides that personal data shall only be used for the purposes for which they were originally collected or a directly related purpose. Information contained in the IPCC database is for internal use only. Any illegal collection or use of such information will be in breach of DPP1 and/or DPP3 of the Ordinance.

Employment of Persons with Disabilities

15. **MS EMILY LAU** (in Chinese): *President, in reply to a question raised on 4 May last year, the Secretary for Health, Welfare and Food advised that the authorities had issued a letter to 369 subvented organizations in 2003 to encourage them to implement measures to promote the employment of persons with disabilities (PWDs), and 21 of them had set internal indicators in regard to the employment of PWDs. The Secretary for Health, Welfare and Food also advised that ongoing efforts would be made to encourage more organizations to carry out such work. In this connection, will the executive authorities inform this Council of:*

- (a) *the internal indicators set by the 21 organizations mentioned above, and the respective numbers of PWDs currently employed by them;*

- (b) *the current number of subvented organizations which have set the relevant internal indicators; and*
- (c) *the progress made in encouraging subvented organizations to employ PWDs and whether new measures have been drawn up in this respect?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, on the recommendation of the Subcommittee on Employment of the Rehabilitation Advisory Committee (the Subcommittee), the Health, Welfare and Food Bureau (the Bureau) wrote to 369 statutory bodies and government subvented organizations in May 2003 to encourage them to formulate recruitment policy and employment indicator for PWDs.

The Bureau conducted a tracking survey in early 2004. The survey findings revealed that 85 of these organizations had formulated policies for the recruitment of PWDs, and 21 of them had also set up employment indicators for PWDs. The employment indicators set by these organizations ranged from 0.1% to 33%, and most were in the range of 1% to 2%. The total number of PWDs employed by these 21 organizations was 926.

The Bureau submitted the findings of this tracking survey to the Subcommittee for discussion in August 2004. Since there was a general increase in the number of statutory bodies and government subvented organizations adopting the measures as compared with the findings of a similar survey conducted in 2002, the Subcommittee considered the tracking survey capable of helping to promote the employment of PWDs by these organizations, and recommended the Administration to continue to conduct similar surveys in the future.

The Bureau will conduct another tracking survey this year, with a view to encouraging statutory bodies and government subvented organizations that have not formulated recruitment policy and employment indicator for PWDs to do so. In parallel, we will also recommend those already reached their indicators to consider raising the indicators and publishing in their annual publications the number of PWDs they have employed. We will submit the findings of the survey to the Subcommittee for discussion.

Utilization of Resources by Hospital Authority

16. **DR KWOK KA-KI** (in Chinese): *President, regarding the utilization of resources by the Hospital Authority (HA), will the Government inform this Council of the following:*

- (a) *at the end of each of the financial years between 2000-01 and 2006-07:*

 - (i) *in respect of each hospital cluster, the population served, the provisions and doctors and nurses per 1 000 persons, as well as the respective numbers of beds for general, infirmary, mentally-ill and mentally-handicapped patients and the number to each type of such beds per 1 000 persons; and*
 - (ii) *in respect of each public hospital, the amount of provisions allocated, as well as the provision for and the number of beds in each clinical department; and*

- (b) *the extension projects launched in individual public hospitals between the financial years 2000-01 and 2006-07; details of the additional manpower and provisions provided for these hospitals by the HA upon the completion of the extension projects; and among the additional manpower of such hospitals, the respective numbers of such staff transferred from other hospitals in the same cluster and those who were/will be newly appointed, and the principles on which the relevant decisions were based?*

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

- (a) The population within the geographical boundary of each hospital cluster of the HA, the ratio of doctors and nurses per 1 000 population in each cluster, the number of general beds, infirmary beds, mentally ill beds and mentally handicapped beds and the ratio of general beds per 1 000 population in each cluster as at the end of the years from 2003-04 to 2005-06 are set out in Annex A. It

should be noted that the provision of infirmary beds, mentally ill beds and mentally handicapped beds is not determined on a cluster basis. Since hospitals clusters were not established until late 2002 to mid-2003, statistics on cluster basis are not available for the years prior to 2003-04.

The variances in the ratios of beds and clinical staff to population among different hospital clusters can mainly be attributed to two factors. First, the provision of certain specialized services is currently centralized in only one or a few centres for better clinical outcomes and more effective deployment of expertise. Examples of these specialized services include prenatal diagnosis, cardiothoracic surgery and organ transplant. While the resources for these specialized centres are allocated to the cluster where they are geographically located, their services cater for the entire population of Hong Kong. Secondly, patients are allowed to seek medical attention in a hospital other than those in their own residential district. There is a considerable amount of cross-cluster utilization of hospital services due to various reasons. For instance, hospitals with a longer history tend to have a larger pool of patients from another cluster, who are reluctant to switch to a hospital closer to home. Some patients may also prefer to receive treatment in a hospital close to their workplace or near the home of a next of kin for greater convenience. Hence, the actual population served by hospital clusters may be significantly different from the size of the population within their geographical boundary.

The budget allocation for each cluster for the years from 2003-04 to 2005-06 is given in Annex B. Information on the amount of funding allocation to each specialty by individual hospital clusters is not readily available. The number of beds in each major specialty by cluster is given in Annex C.

- (b) Extension projects in individual public hospitals, for which funding was approved by the Finance Committee of the Legislative Council between 2000-01 and 2005-06, are listed in the table below. The 2006-07 financial year is yet to commence.

<i>Project Title</i>	<i>Project Status</i>
Establishment of a Radiotherapy Centre and redevelopment of the Accident and Emergency Department in Princess Margaret Hospital	Completed in mid-2005
Redevelopment and expansion of Pok Oi Hospital	Target completion by mid-2006
Redevelopment of staff quarters for a new rehabilitation block in Tuen Mun Hospital	Target completion by mid-2007
Construction of a new Infectious Disease Centre in Princess Margaret Hospital	Target completion by mid-2007

Generally speaking, the HA would take into account the financial and manpower implications of completed capital projects when determining the budget allocation to and manpower requirement of individual hospital clusters each year. Assessment of the financial and manpower implications of capital projects is made on the basis of past experience and projected service demand.

For the establishment of a new Radiotherapy Centre in Princess Margaret Hospital, the HA has provided an additional funding of \$31 million to the Kowloon West Hospital Cluster in 2005-06 for the operation of the Centre from November 2005 to March 2006. The amount of additional funding to be provided to the Kowloon West Hospital Cluster would increase further in 2006-07 to reflect the full-year effect of the financial implication of running the Centre and the gradual phasing-in of its services. The exact amount is yet to be finalized at this time, pending the approval of HA's budget for 2006-07 by the HA Board. A total of 80 staff are currently working in the new Centre. There are eight doctors, 25 nurses, 19 allied health professionals and 28 support staff. Of these staff, 12 nurses and three support staff have been redeployed from within the Kowloon West Hospital Cluster. Three allied health professionals and nine support staff are new recruits. The rest have been redeployed from hospitals in other clusters. Redevelopment of the Accident and Emergency Department in Princess Margaret Hospital does not require additional funding or manpower resources.

Provision of additional funding and manpower resources for the other three capital projects listed above is still being assessed and relevant information is not available at this time.

Annex A

Bed and Manpower Statistics of Hospital Clusters

Year 2003-04

<i>Hospital Cluster</i>	<i>Population¹</i>	<i>Doctors per 1 000 population²</i>	<i>Nurses per 1 000 population²</i>	<i>General beds (ratio to 1 000 population)</i>	<i>Infirmary beds</i>	<i>Mentally ill beds</i>	<i>Mentally handicapped beds</i>
Hong Kong East	837 585	0.60	2.36	1 992 (2.38)	621	610	0
Hong Kong West	530 381	0.94 ³	4.73	3 104 (5.85)	200	92	0
Kowloon Central	490 905	1.18	5.25	3 276 (6.67)	118	313	0
Kowloon East	908 351	0.59	2.09	2 019 (2.22)	116	30	0
Kowloon West	1 836 582	0.60	2.61	5 211 (2.84)	488	1 372	300
New Territories East	1 325 727	0.60 ³	2.41	3 435 (2.59)	517	628	0
New Territories West	1 062 121	0.49	2.21	1 714 (1.61)	135	1 685	500

Note1: Information from Census and Statistics Department.

Note2: Calculated on full-time equivalent (fte) basis. Figures cover all HA staff on permanent, contract and temporary terms.

Note3: Excludes academic staff of the two teaching hospitals.

Year 2004-05

<i>Hospital Cluster</i>	<i>Population¹</i>	<i>Doctors per 1 000 population²</i>	<i>Nurses per 1 000 population²</i>	<i>General beds (ratio to 1 000 population)</i>	<i>Infirmary beds</i>	<i>Mentally ill beds</i>	<i>Mentally handicapped beds</i>
Hong Kong East	839 152	0.62	2.37	2 002 (2.39)	627	610	0

<i>Hospital Cluster</i>	<i>Population¹</i>	<i>Doctors per 1 000 population²</i>	<i>Nurses per 1 000 population²</i>	<i>General beds (ratio to 1 000 population)</i>	<i>Infirmiry beds</i>	<i>Mentally ill beds</i>	<i>Mentally handicapped beds</i>
Hong Kong West	536 044	0.91 ³	4.57	3 076 (5.74)	200	92	0
Kowloon Central	509 832	1.14	5.06	3 002 (5.89)	118	313	0
Kowloon East	954 979	0.56	1.97	2 019 (2.11)	116	30	0
Kowloon West	1 896 631	0.56	2.48	5 216 (2.75)	438	1 372	300
New Territories East	1 346 588	0.58 ³	2.35	3 429 (2.55)	517	628	0
New Territories West	1 082 003	0.51	2.18	1 767 (1.63)	135	1 669	500

Note1: Information from Census and Statistics Department.

Note2: Calculated on full-time equivalent (fte) basis. Figures cover all HA staff on permanent, contract and temporary terms.

Note3: Excludes academic staff of the two teaching hospitals.

Year 2005-06

<i>Hospital Cluster</i>	<i>Population¹</i>	<i>Doctors per 1 000 population²</i>	<i>Nurses per 1 000 population²</i>	<i>General beds (ratio to 1 000 population)</i>	<i>Infirmiry beds</i>	<i>Mentally ill beds</i>	<i>Mentally handicapped beds</i>
Hong Kong East	806 482	0.65	2.53	1 942 (2.41)	627	610	0
Hong Kong West	526 132	0.95 ³	4.59	2 965 (5.64)	200	92	0
Kowloon Central	493 699	1.18	5.23	3 002 (6.08)	118	313	0
Kowloon East	945 212	0.59	2.04	2 057 (2.18)	116	30	0
Kowloon West	1 880 448	0.58	2.51	5 146 (2.74)	438	1 372	200
New Territories East	1 307 141	0.59 ³	2.43	3 471 (2.66)	517	628	0

<i>Hospital Cluster</i>	<i>Population¹</i>	<i>Doctors per 1 000 population²</i>	<i>Nurses per 1 000 population²</i>	<i>General beds (ratio to 1 000 population)</i>	<i>Infirmiry beds</i>	<i>Mentally ill beds</i>	<i>Mentally handicapped beds</i>
New Territories West	1 079 444	0.51	2.24	1 655 (1.53)	135	1 669	500

Note1: Information from Census and Statistics Department.

Note2: Calculated on full-time equivalent (fte) basis. Figures cover all HA staff on permanent, contract and temporary terms.

Note3: Excludes academic staff of the two teaching hospitals.

Annex B

Budget Allocation to Hospital Clusters

<i>Hospital Cluster</i>	<i>2003-04 Budget Allocation (\$ billion)</i>	<i>2004-05 Budget Allocation (\$ billion)</i>	<i>2005-06 Budget Allocation (\$ billion)</i>
Hong Kong East	3.03	3.06	3.01
Hong Kong West	3.58	3.35	3.22
Kowloon Central	3.86	3.79	3.69
Kowloon East	2.76	2.72	2.65
Kowloon West	6.51	6.33	6.18
New Territories East	4.72	4.57	4.44
New Territories West	3.36	3.29	3.26
Total	27.82	27.11	26.45

Annex C

Number of hospital beds of major specialties by cluster as at 31 March 2003

<i>Specialty</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>
Clinical Oncology	55	28	114	0	0	128	67
Medicine	836	1 099	1 014	985	2 751	1 160	571

<i>Specialty</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>
Obstetrics and Gynaecology	126	153	156	155	460	210	155
Orthopaedics and Traumatology	192	359	326	254	634	524	191
Paediatrics	64	173	156	124	382	212	103
Psychiatry	610	92	313	30	1 472	628	1 783
Surgery	276	569	374	320	890	529	232

Number of hospital beds of major specialties by cluster as at 31 March 2004

<i>Specialty</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>
Clinical Oncology	50	28	114	0	0	128	53
Medicine	834	954	1 123	1 028	2 401	1 212	640
Obstetrics and Gynaecology	94	153	156	101	416	236	123
Orthopaedics and Traumatology	180	356	326	213	481	493	189
Paediatrics	63	172	156	109	368	182	84
Psychiatry	610	92	313	30	1 372	628	1 685
Surgery	258	574	340	285	778	526	227

Number of hospital beds of major specialties by cluster as at 31 December 2005

<i>Specialty</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>
Clinical Oncology	50	28	96	0	0	128	48

<i>Specialty</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>
Medicine	818	966	1 098	1 008	2 464	1 220	662
Obstetrics and Gynaecology	106	153	156	121	353	236	98
Orthopaedics and Traumatology	174	362	299	213	491	492	189
Paediatrics	53	174	129	109	365	188	84
Psychiatry	610	92	313	30	1 372	628	1 669
Surgery	250	584	281	295	724	545	168

Power Station Causing Pollution

17. **MR LAU KONG-WAH** (in Chinese): *President, it is learnt that in order to increase the generation of electricity for sale to the Mainland, the CLP Power Hong Kong Electric Company (CLP) has put into operation all the coal-fired generating units in the Castle Peak Power Station. Research findings have indicated that this power station is the main source of air pollutants for districts in New Territories West such as Tung Chung and Tuen Mun. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the implications, on the annual environmental costs and health care expenditure of Hong Kong, of air pollutants and greenhouse gases emitted from the CLP's coal-fired generating units in the territory in the course of generation of electricity for sale to Guangdong Province; if so, of the outcome of the assessment;*
- (b) *whether it has assessed the implications on the annual environmental costs and health care expenditure of Hong Kong if the electricity sold to Guangdong Province is generated in the Mainland rather than in Hong Kong as is currently the case; if so, of the outcome of the assessment; and*

- (c) *how the statistics on residents in New Territories West who suffer from respiratory illnesses compare with those in Hong Kong as a whole?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President, the CLP's export of 3.1 billion kWh of electricity to the Mainland in 2004 has resulted in the emission of some 11 800 tonnes of sulphur dioxide, 6 100 tonnes of nitrogen oxide and 290 tonnes of respirable suspended particulates, which accounted for 12%, 7% and 4% of the total emission of the respective pollutants in Hong Kong in 2004. Owing to the emission of 2.7 million tonnes of carbon dioxide, the emission of greenhouse gases represented 6% of their total emission in Hong Kong. If the CLP ceases to export electricity to the Mainland, it will reduce local emissions immediately, thus helping Hong Kong to meet the 2010 emission reduction targets and reduce air pollution.

The CLP's electricity export to the Mainland only accounts for 1% to 2% of the total generating capacity of Guangdong Province. The Guangdong Provincial Government is progressively increasing the total electricity generating capacity for consumption by Guangdong Province from 33 000 MW in 2000 to 64 000 MW in 2010. Meanwhile, they are installing flue gas desulphurization units for coal-fired and oil-fired generating units of over 125 MW, and have ceased planning for new coal-fired and oil-fired power stations in the Pearl River Delta. All this will significantly reduce emissions. Therefore, it will not have any environmental impact on Hong Kong even if the CLP's electricity supply to the Mainland is replaced by that generated by the power plants in Guangdong Province.

The environmental costs and health care expenditure attributable to air pollution are indirect and long-term. According to a study commissioned by the Environmental Protection Department and conducted by the University of Hong Kong and The Chinese University of Hong Kong in 2002, using the air quality and population data for 2000, the economic losses (including consultation and hospitalization fees and productivity loss incurred) caused by respiratory and cardiovascular diseases possibly related to air pollution may total \$1.7 billion each year. However, the existing data and information are insufficient for us to make a scientifically accurate assessment of the impact on health care

expenditure as a result of electricity export to the Mainland by individual power companies.

The respective numbers of patients (as per 1 000 population) of three related disease groups (that is, asthma/COPD, pneumonia and upper respiratory tract infection) utilizing in and day patient services in New Territories West and the whole of Hong Kong are shown in the following table:

<i>District</i>	<i>Asthma/COPD</i>	<i>Pneumonia</i>	<i>Upper Respiratory Tract Infection</i>
Yuen Long	1.7	3.0	2.6
Tuen Mun	1.6	2.7	2.7
Hong Kong as a whole	2.3	3.6	2.7

Including Housewives in MPF Scheme

18. **MR LEUNG YIU-CHUNG** (in Chinese): *President, currently, housewives are excluded from the Mandatory Provident Fund (MPF) Scheme. In this connection, will the Government inform this Council whether:*

- (a) *it knows the approaches adopted by overseas countries and regions in providing livelihood protection for housewives at old age; if so, of the details; and*
- (b) *it will include housewives in the MPF Scheme; if so, of the details; if not, the reasons for that?*

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

- (a) Most countries do not have special retirement protection schemes for housewives. However, there are some measures under the existing schemes which might benefit housewives.

Canada and Sweden adopt pension sharing which allows couples to share their pension credits. In the contributory flat-rate

defined-benefit schemes of the United Kingdom and the Netherlands, carers of family or child are not required to contribute to their pensions but the period of care during which the carer is absent from work is being credited to the total number of years of pension contribution.

Only a limited countries, such as the United States and Japan, offer spouse benefits that provide pension for the spouse of an insured worker based on the worker's contribution records.

Most earnings-related defined-benefit systems in Europe and North America have mandated survivor benefits allowing widows and widowers to receive their deceased spouse's pension.

A minimum pension has been used by Canada and Australia. The minimum pension is funded out of the general revenues. These benefits are income-tested so that they benefit only those with little retirement protection, similar to the Comprehensive Social Security Assistance Scheme in Hong Kong. Elders aged 65 or above in Hong Kong can also apply for the largely non-means tested Old Age Allowance.

- (b) According to information provided by the Financial Services and the Treasury Bureau, the MPF Scheme is an employment-related retirement protection system. Unless specifically exempted by the law, all members of the workforce have to participate in the MPF Scheme. Housewives who are not under employment may invest in savings and endowment plans available in the market to meet their future needs.

Curbing Proliferation of Mikania Micrantha

19. **MISS CHOY SO-YUK** (in Chinese): *President, in respect of my question raised on the 1st of this month concerning curbing the proliferation of Mikania micrantha, will the Government inform this Council:*

- (a) *whether it has conducted any survey on the respective areas of land covered by Mikania micrantha within the jurisdiction of the Lands*

Department (LandsD) and the Highways Department (HyD); if it has, of the survey results; if not, whether it will do so; if it will, of the details and timetable; if not, the reasons for that;

- (b) of the number of hectares of land on which Mikania micrantha was removed by using the herbicide "Sulfometuron-methyl" last year; and*
- (c) whether it has any plan to use Sulfometuron-methyl to fully replace the practice of hand-weeding for removal of Mikania micrantha in all places other than sites near water sources or active agricultural lands; if it has, of the details of the plan; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President,

- (a) The HyD has a routine maintenance programme in place since 2004, under which maintenance inspections will be conducted for land under their management at least once every 12 months. Mikania micrantha will be removed when identified during the inspections. In the past two years, the HyD has cleared about 10 hectares of land covered by Mikania micrantha. The growth of Mikania micrantha is under effective control as a result of the maintenance programme. The HyD does not consider it necessary to conduct additional surveys on the spread of Mikania micrantha for land under their management.

The LandsD will, subject to the availability of resources, step up their monitoring work on black spots of land under their management where Mikania micrantha is likely to grow. The LandsD will study the possibility of conducting a survey on the proliferation of Mikania micrantha on land under their management.

- (b) In 2005, the Agriculture, Fisheries and Conservation Department (AFCD) cleared 17 850 sq m (or about 1.8 hectares) of land covered by Mikania micrantha by applying Sulfometuron-methyl.

- (c) Sulfometuron-methyl, like other chemical control measures, has to be used with caution. It cannot be applied in certain locations, such as sites near water sources, land under cultivation or ecologically sensitive areas. Hence, the use of Sulfometuron-methyl cannot completely replace manual clearance of *Mikania micrantha*. The AFCD staff will decide on the most suitable control measure for removing *Mikania micrantha* on any particular site on a case-by-case basis and will use Sulfometuron-methyl where appropriate.

Poverty Alleviation Initiatives

20. **MR FREDERICK FUNG** (in Chinese): *President, regarding poverty alleviation initiatives, will the Government inform this Council:*

- (a) *as the authorities intend to announce the latest information on indicators of poverty around March/April every year, of the specific date of announcement for this year and the details of the latest information; how such indicators will guide the formulation and policy planning of anti-poverty strategies, and how the authorities will, on the basis of the relevant indicators, review the effectiveness of the poverty alleviation initiatives undertaken by various government departments;*
- (b) *given that the authorities have indicated in its paper submitted to the Commission on Poverty in November last year that a study has been commissioned to look into income mobility in Hong Kong and the results are expected to be available in the middle of this year, of the progress and preliminary findings of the study;*
- (c) *whether it will consider following the successful experience of overseas countries in poverty eradication and requesting various government departments and relevant public organizations to set time-bound targets on poverty eradication (for example, to lower unemployment and underemployment rates within one year, or to totally eradicate child poverty within three years); and*

- (d) *whether it will conduct a study on social alienation of the poor; if so, whether the scope of the study will cover the impact of adverse labeling on people in poverty; if not, the reasons for that?*

FINANCIAL SECRETARY (in Chinese): President,

- (a) Updating of the indicators of poverty has started. Since the district-based statistics required for Indicators 19 to 24 would not be available until end March, the whole set of updated indicators covering the periods Q4 2005 and the whole year is expected to be available in the latter part of April. As to the likely trend of the indicators, those employment and income-related indicators are expected to show further improvement in Q4 2005 and for the year as a whole, along with the sustained economic upturn. In the coming update, detailed analysis of the indicators will be provided together with the set of updated statistics.

The macro poverty indicators are meant to give an overview of how the poverty situation evolves over time. By giving *prima facie* suggestions of areas deserving focused study, these indicators provide useful reference in policy formulation. For instance, the size of non-engaged youths would reflect the extent to which our basic education and training programmes are effective in preparing youths for further study or work. Operationally, bureaux and departments would also draw reference to other tools in policy formulation and evaluation, including more detailed and specific indicators at district level, relevant researches and analyses, and feedbacks from consultation, and so on.

- (b) A survey on income mobility was conducted in Q4 2005 to collect information about people's present and past employment earnings, as well as their socio-economic characteristics. Data processing and validation work is in full swing. The preparatory work for detailed data analysis has also started. Preliminary findings from the study are expected to be available in the middle of this year.
- (c) We understand some Members consider that the Government should set simple targets for combating poverty, drawing reference to some

European Union examples. While drawing from the good experience overseas, such should always be analysed in context. For instance, the United Kingdom example is often cited as successful in reducing the number of children in relative low-income households by changes in the tax and benefit system (for example, introducing tax credits to working families). But such is not applicable in Hong Kong given all low-income employees are already outside the salaries tax net.

On the employment front, the Government is committed to promoting employment and helping the unemployed to work. With our efforts in promoting economic growth and employment/training opportunities, we are glad to see improvement in the employment/income related indicators as the economy continues to improve. However, employment figures are also influenced by other external factors including the macroeconomic environment. In the case of Ireland, it succeeded in reducing poverty in the 1990s as a result of a drastic fall in unemployment rate brought by exceptional economic growth. For externally-oriented and developed economies like Hong Kong where growth has steadied and where responses to the changing global market must be swift, what we need to focus is how to strengthen our efforts, in particular in providing more targeted assistance to the middle-aged, low-education and low-income group to adjust to economic restructuring and changing requirements of the labour market. The appropriateness of choosing unemployment figures as output indicators deserves careful consideration, especially if what is being contemplated are short-term targets.

- (d) Understanding poverty is one of the important tasks of the Commission on Poverty (the Commission). In the past year, the Commission has initiated a number of studies and researches for the purpose. A gist of the key studies is set out below. While the term "social exclusion" may not be mentioned in the titles of the studies, Members will note that it is the common underlying theme in our studies which invariably focus on needs of the less disadvantaged groups in our society, and in finding ways to provide them with appropriate assistance and to integrate them into the mainstream society (in particular (ii) to (v) below).

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- (i) Measurement of poverty — Besides compiling a set of multi-dimensional indicators of poverty and conducting a survey on income mobility, the Commission also agreed at its meeting in January 2006 to conduct a study on the impact of taxation and social benefits (for example, education, housing, welfare) on different household income groups. This should facilitate a better understanding on the situation of the low-income household and the effectiveness of our relevant public policies in helping them.
 - (ii) Children and youth — The Commission's Task Force on Children and Youth has identified strengthening parenting support for the disadvantaged and hard-to-reach parents as one of the important tasks. A study has been commissioned to assess the needs of these parents through in-depth interviews in order to find out the reasons why they are not actively seeking help, as well as to recommend an appropriate approach to outreach and provide assistance to them.
 - (iii) Employment — A District Study on Employment Assistance has just been completed which has examined closely the delivery of employment assistance at the district level by different agencies from the angle of the unemployed, in particular the needs of the "difficult-to-employ" who may run a higher risk of being "filtered out" from the existing employment programmes due to administrative criteria/performance targets.
 - (iv) Social Enterprises — Two studies have been commissioned in order to explore the pertinent issues relevant to the further promotion of social enterprise development in Hong Kong. These include, for example, how social enterprises facilitate work integration of the less disadvantaged groups, and help them gain self-esteem and integrate into the society.
 - (v) District-based Approach — In order to distil good practices and to guide the long-term strategies in implementing a district-based approach in alleviating and preventing poverty, the Commission's Task Force on District-based Approach

would conduct a study on district strategies which contribute to sustainable improvement of the livelihood of the disadvantaged in our community.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

COPYRIGHT (AMENDMENT) BILL 2006

CLERK (in Cantonese): Copyright (Amendment) Bill 2006.

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 Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

COPYRIGHT (AMENDMENT) BILL 2006

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I now move the Second Reading of the Copyright (Amendment) Bill 2006 (the Bill).

The major objectives of the Bill are to enhance our copyright protection system in order to facilitate Hong Kong's development in creative industries and as a knowledge-based economy, and to improve our copyright exemption regime to meet the needs of copyright works users, especially the education sector, for reasonable use of copyright works. In response to the aspirations of the business sector and general consumers, the Bill proposes to liberalize restrictions in parallel importation. The Bill also proposes some amendments to improve enforcement efficiency.

Copyright touches on many diverging interests. The stance and views of copyright owners and users of copyright works are very often diametrical in nature. We need to take into account the legitimate needs of users of copyright works, as well as the community's concerns over dissemination of knowledge and information. With this in mind, we provide exemptions and exceptions as appropriate in formulating the proposals to enhance protection for copyright owners. In formulating the proposals to improve our copyright exemption regime, we also uphold the basic principles that such proposals should not affect copyright owners' normal exploitation of their work and should not unreasonably prejudice their legitimate interests.

The Bill was drawn up after two years of extensive consultation. The package of proposals in the Bill endeavours to strike a balance between the interests of copyright owners and users of copyright works, and to reflect the latest social and technological changes. I will briefly introduce the major proposals in the Bill.

The first major legislative proposal to enhance copyright protection concerns the scope of business end-user piracy criminal offence. This proposal includes legislative amendments on "business end-user possession offence" and "business end-user distribution offence". The former originates from the legislative amendments to the Copyright Ordinance in 2000 which criminalized the possession of infringing copies of any categories of copyright works for use in business. Users of copyright works were concerned that the offence would seriously impede dissemination of information and classroom teaching. In response to these concerns, the Administration proposed, and the Legislative Council passed in 2001 the Copyright (Suspension of Amendments) Ordinance 2001 to confine the scope of the offence to only four categories of copyright works, namely computer programmes, movies, TV dramas and musical recordings.

Having considered the views received in the public consultation which ended in early 2005 and discussions with relevant stakeholder groups, we propose to maintain the existing scope of business end-user possession offence to the abovementioned four categories of works. The Bill proposes to incorporate this arrangement into the Copyright Ordinance.

To respond to the publishing industry's concerns about business end-user piracy, the Bill introduces a new "business end-user distribution offence" against

serious infringing acts involving copying for distribution or distributing infringing copies of four types of printed copyright works. The four types of printed works are newspapers, magazines, periodicals or books. Such acts may attract criminal liability if the extent of infringement exceeds certain numeric limits to be prescribed (the so-called "safe harbour") and the acts are done on a regular or frequent basis, resulting in financial loss to the copyright owners. The "safe harbour" will be prescribed by regulations to be made under the Copyright Ordinance by the Secretary for Commerce, Industry and Technology.

To avoid adverse impact on classroom teaching, the Bill provides that the proposed offence will not apply to educational establishments which are non-profit-making or subvented by the Government. We understand that book publishers are concerned that with such an exemption, educational establishments may commit serious infringement, thereby impeding the potential market of their works. I wish to emphasize that these establishments will still attract civil liability if they commit infringing acts. The Government will explain clearly to the education sector that the exemption provision will not absolve them from the concerned civil liability for copyright infringement. We will also actively facilitate the conclusion of licensing agreements between publishers and educational establishments for limited copying by the latter.

The Bill introduces another criminal liability to promote corporate accountability and responsible governance to prevent business end-user piracy. We propose that, if a company has done an act attracting "business end-user criminal liability", the directors or partners responsible for the internal management of the company will also be liable unless they prove that they have not authorized the infringing act. If there is no such director or partner, the person responsible for the internal management of the company under the immediate authority of the directors or partners would be liable.

When we consulted various organizations and the Panel on Commerce and Industry of the Legislative Council on the preliminary idea of this proposed offence, there were concerns that shifting the burden of proof to the defendant would be too onerous. I wish to emphasize that the burden of proof on the defendant is only an evidential burden and the defendant will absolve his liability if he can adduce sufficient evidence to raise an issue that he did not authorize the infringing act in question. To provide directors and partners with clearer guidelines on the type of evidence that the defendant may adduce, we have

included in the Bill certain factors that the Court may consider (such as whether the defendant has introduced policies or practices against the use of infringing copies) in determining whether the defendant has adduced sufficient evidence.

There are also views that it is very difficult for employees to refuse to engage in infringing acts upon request by their employers. In response to these concerns, we propose to introduce a new employee defence provision in respect of "business end-user criminal liability". However, the defence provision will not apply to those employees who are in a position to make or influence a decision regarding the infringing act.

We have also taken into account that some professionals (such as lawyers and auditors) may be required to possess or use infringing copies in the course of their normal business. The Bill provides for the exemption of these professionals from "business end-user criminal liability" under specified circumstances.

Another major amendment proposal to enhance copyright protection seeks to reflect the development of digital technology. As it has become increasingly common for copyright owners to store and distribute their copyright works in digital means, more and more of them use technological measures to prevent infringement, for example, by encrypting their works or using special chips to prevent unauthorized digital copying. The Bill introduces civil and criminal provisions against circumvention of these technological measures which are used to protect copyright works. However, in formulating these proposals, we need to take into account that such protection should not affect users' legitimate access to copyright works, including legitimate parallel imports, and that it should not hinder technological development. Therefore we have included appropriate exemptions in the Bill.

Commercial rental of films and comic books is now very common. To strengthen protection for copyright owners, we propose the introduction of rental rights for films and comic books, so that the copyright owners concerned may take civil action against unauthorized rental activities. It is certainly not our intention to stifle the operation and development of the film and comic book rental shops. We will encourage copyright owners to develop reasonable and user-friendly licensing schemes and adopt a one-stop shop approach as far as possible to handle rental licence applications. In addition, there is a saving

provision in the Bill so that the proposed rental rights will not apply to the existing stocks of the rental shops. The Bill also proposes to expand the jurisdiction of the Copyright Tribunal to cover licensing schemes regarding renting of copies of films and comic books to the public. This will enable rental shop operators to refer to the Copyright Tribunal any disputes over the terms of rental licensing schemes.

As regards copyright exemptions, first of all, with all the reforms and changes going on in the education sector, school teaching is no longer confined to classroom instruction. Interactive and project-based teaching, as well as other teaching methods, are also adopted. Our copyright exemption provisions for education purposes should reflect these changes to allow reasonable use of copyright works by the education sector. Likewise, public administration has become increasingly complex, and the public expect a timely response from the Government and the Legislative Council when dealing with urgent business. Hence, the exemption provisions for public administration purposes should reflect such changes.

Under the existing Copyright Ordinance, acts which are exempted from copyright restrictions ("permitted acts") are listed out item by item. This approach is rather rigid and cannot easily cater for social changes. The Bill introduces a general exemption provision for reasonable use of copyright works for the purpose of education and for public administration of urgent business (that is, the concept of "fair dealing"). The Bill also proposes to make improvements to certain existing permitted acts for education.

I understand that copyright owners are concerned about possible abuse of the proposed exemption provisions by the education sector. I wish to stress that these provisions do not allow unauthorized use of copyright works without any restriction. I also wish to reiterate that the Government will actively facilitate the conclusion of licensing agreements between educational establishments and publishers regarding reasonable use of copyright works.

In order to meet the special reading needs of persons with a print disability, the Bill provides for a new permitted act so that it is not an infringement to produce specially adapted copies of copyright works for use by persons with a print disability.

Another major amendment in the Bill is the liberalization in the use of parallel imports. Under the existing Copyright Ordinance, it is a criminal offence to deal in, or to import otherwise than for private and domestic use, any parallel imported copyright work if the work has been published anywhere in the world for 18 months or less. Moreover, using a parallel imported movie, television drama or musical recording in business is also a criminal offence. If the copyright work has been published anywhere in the world for more than 18 months, the above acts will only attract civil liability.

In formulating the proposals to liberalize parallel importation, we have to be responsive to the aspirations of the general community for the free flow and use of parallel imported copyright works, while taking into consideration the concerns of copyright owners that their interests may be affected. Having balanced the diverging views, the Bill proposes to shorten the criminal liability period for parallel imported copyright works from the existing 18 months to nine months. The Bill also proposes to remove the criminal and civil liability pertaining to the use of parallel imported copyright works in business, except for commercial dealing purposes or public playing of movies, television dramas or musical recordings by organizations other than educational establishments or libraries for educational or library uses. Commercial dealing in copyright works which have been published for more than nine months will continue to attract civil liability.

The Bill also proposes to amend certain provisions to improve enforcement efficiency in combating copyright infringement offences. The proposed amendments include: (1) to amend the existing time limit for prosecutions against copyright-related offences to three years from the date of commission of the offence, in order to allow the Customs and Excise Department more time to conduct investigation into complicated cases such as those involving overseas copyright works or organized crimes; (2) to introduce new provisions enabling copyright owners in copyright-related criminal cases to prove through affidavits sworn by their authorized representatives that they have not licensed the defendant to do the offending acts; and (3) to clarify the particulars about the author of the work required to be stated in an affidavit concerning copyright subsistence and ownership.

Madam President, I have only introduced some of the major amendments proposed in the Bill. There are still others which I am obliged to leave out

today. As the issue of copyright carries wide social implications, we have prepared a booklet using simple language and examples drawn from daily life to explain the Bill to the public. Copies of the booklet are available for collection and can be downloaded — legally — from the Internet as from today. We will also give Members copies of the booklet.

The Administration has the responsibility to introduce timely improvements to our copyright legislation, so as to enhance the protection for copyright owners and cope with the latest social and technological developments. This is the primary objective of our proposed amendments to the Copyright Ordinance. In formulating the specific legislative proposals in the Bill, we have endeavoured to strike a balance between the legitimate interests of copyright owners and those of users. The proposals are drawn up after two years' extensive consultations, including two rounds of detailed discussion with the Panel on Commerce and Industry of the Legislative Council. This notwithstanding, I am aware that certain amendments may still fail to meet in full the expectations of copyright owners and users. Comments from stakeholder groups, members of the public and the Legislative Council on the details of the Bill are welcome. We are prepared to consider making amendments to the Bill if they are justified in the interests of the community as a whole. Also, I am sure that when scrutinizing the Bill, Members may suggest amendments having regard to the different opinions reflected to them.

With these remarks, Madam President, I look forward to the passage of the Bill after Members' careful scrutiny. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Copyright (Amendment) Bill 2006 be read the Second time.

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

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Appropriation Bill 2006.

APPROPRIATION BILL 2006**Resumption of debate on Second Reading which was moved on 22 February 2006**

PRESIDENT (in Cantonese): The public officers concerned will speak, after which the Financial Secretary will reply.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, as pointed out by the Financial Secretary in the 2006-07 Budget, 2005 saw robust economic performance with an increase of 7.3% in the Gross Domestic Product (GDP). As the overall economy has continued to perform well, the GDP in 2006 is expected to register a growth of 4% to 5%.

Indeed, the performance of the property market is inseparable from the overall economic conditions. Following an economic pick-up, property prices increased significantly between mid-2003 and early 2005 and subsequently stabilized gradually. For the better part of last year, there have been adjustments in the property market due to the effects of interest rate movement. This shows that the free market mechanism has performed its role, as the property market has made self-adjustments flexibly in response to changes in the market. We expect the property market to continue to develop healthily and steadily in line with the order of the free market.

The Legislative Council and various sectors of the community have put forward many opinions on the development of the property market, land supply and the Application List System. During the motion debate last week, Members also mentioned in particular why we do not provide land for application by property developers or why we have purposely pushed up the trigger price, resulting in a shortage of land supply and surging rental. Now, I would like to speak on the supply of residential flats first.

According to some members of the industry, as the number of newly completed flats last year dropped from its high levels several years ago, a shortfall might appear in the property market in the next few years. We will hear this concern from time to time, but from objective analysis, there are basically no statistics supporting the possible emergence of a shortfall. The

number of units under construction in the private sector in 2005 was about 15 000, which is already higher than the 14 000 units in 2004. A couple of years ago, many property developers slowed down the progress of their housing development projects in the light of the overall economic conditions and supply in the market. So, we estimate that the number of units under construction in the coming year and the year after next will broadly be maintained at the present level. However, the number of units under construction is only one of the indicators reflecting the supply of new flats. In fact, with regard to the overall supply of flats, it is estimated that in the next two to three years, about 67 000 private residential flats will become available for sale in the primary market, and they include:

First, the approximately 39 000 units currently under construction;

Second, the approximately 16 000 completed but unsold units;

Third, the approximately 2 000 units that can be built on sites sold by the Government, the construction of which will soon commence; and

Fourth, the approximately 10 000 units that can be built on residential sites for which regrant premium has been paid or lease modifications have been completed.

These figures do not include the approximately 7 000 flats expected to be provided by the two railway corporations according to the timetable as agreed with the Government. This shows that the potential supply of private residential flats in the next few years is by no means small. Moreover, the development projects that the two railway corporations will implement in the longer term can provide a total of some 50 000 flats, and the 16 000-odd surplus flats under the Home Ownership Scheme will be offered for sale in phases starting from 2007.

These statistics show that the suggestion of an emerging shortfall simply cannot hold water.

Since the Government announced in January 2004 that the supply of new land would be triggered only from the Application List, there have been criticisms of the operation of the Application List System from time to time. I

think it is necessary to clearly explain again the Government's land policy in this regard, so as to put across a correct message to the market. Our policy is that land supply should be market driven, in that the market should be allowed to determine the quantity and timing of land supply.

Some members of the industry consider that the provision of land through the Application List is insufficient and that the Government should resume scheduled land sale. Firstly, I would like to draw Members' attention to an objective fact. Judging from statistics on private residential flats, the number of units completed or to be completed through land sale by the Government, including land provided through scheduled land sale and the existing Application List, only accounts for about one third of the total supply of units. Moreover, the developers have all along been very active carrying out land development through lease modifications. Lease modifications completed in 2005 and 2004 involved 63 000 and 61 000 flats respectively, representing a significant increase over the 2 300 flats in 2003. This shows that land sale by the Government is just one of the many sources of land supply.

In fact, in the new Application List there are 45 sites with a total area of about 38 hectares for selection by developers. These sites, which vary in size, are suitable for various purposes of development and located in all parts of the territory. Moreover, we will reserve land totalling about 138 hectares for private housing development in the next five years. Therefore, criticisms of a shortage of land are merely reflection of the critics having only half-baked knowledge of the actual situation.

In response to criticisms that the trigger prices are too high, the Government lowered the threshold of the trigger price in June last year. Land premium is evaluated by valuation experts in the Government in accordance with the criteria widely recognized and extensively adopted in the real estate sector as well as objective market statistics. We consider that the threshold for triggering the sale of a site on the Application List should not be adjusted from time to time only because property developers consider the trigger price being too high. This is not objective and will adversely affect the stability of the market.

Furthermore, some members of the industry consider that without land auctions by the Government and clear indicators for land premium, valuation of government land is on the high side as a result. They suggested that scheduled

land auctions be resumed by the Government to serve as an indicator to the market and reduce disputes over the result of valuation.

I wish to point out that the transaction records of land auctions are not the only indicator for reference in land valuation, and it is putting the cart before the horse to conduct land auctions in order to provide an additional indicator for land valuation. In fact, the Government will take into consideration many factors in evaluating land price and land premium, such as the market factor and the relevant economic factors, including interest rate, construction cost, and so on, and in the course of land valuation, reference will be made to the transaction price of comparable property in the market as well as transaction records of other land property, with a view to making a comprehensive and professional valuation. At this stage, we do not see a need to resume scheduled auctions of residential sites.

President, as pointed out by the International Monetary Fund (IMO) in its report published last month, the existing Application List System is market driven, and the report of the IMO also noticed the adjustment made by us earlier to the system and suggested that the Government should consider fine tuning when necessary. This is consistent with our established practice. The Government will continue to listen to the views of members of the industry on this system. We will size up the situation, further improve the system and ensure sufficient land supply to meet the needs of the market by all means.

Thank you, President.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Many Members have put forward lots of opinions on the Budget in relation to the policy areas of the Environment, Transport and Works Bureau. I will respond to the major issues raised by Members.

Some Members considered that the Government had not made strenuous efforts to promote the long-term development of environmental protection. They cited the Government's capital injection of \$35 million into the Environment and Conservation Fund as an example, and compared it to the provision of \$440 million for promoting "Discover Hong Kong" activities, thus concluding that the Government had not made strenuous efforts to promote environmental protection.

Certainly, I understand that the various environment-related issues concerning air quality and water quality in Hong Kong are closely related to tourism. In respect of the promotional and publicity work under the fund, the \$35 million is provided for the operation of the fund in the next three years. I undertake to work in concert with members from all sectors of the community as far as possible to promote the protection of the environment, with a view to putting across the message of environmental protection to each and every citizen as far as possible. In the 2006-07 financial year, about \$5.7 billion is allocated to environmental protection and conservation, representing an increase of \$416 million over the revised budget last year and a real-term rate of increase of 7.5%. Of this \$5.7 billion provision, operating expenditure accounts for about \$4.2 billion, an increase of \$284 million over the revised budget last year with the real-term rate of increase being 6.9%, and it will be used mainly for waste and sewage disposal.

As for non-operating expenditure, about \$1.5 billion is provided in 2006-07, an increase of \$131 million or a real-term rate of increase of 9.4% over last year. Despite these resources, other conditions are also required in order to take forward the policy on environmental protection. First, with the funding, we need to set priorities for promoting various projects. We all know that finding solutions to the air pollution problem is a long-term challenge. Last year, one of the measures taken by us was urban greening, because greening the urban areas will to a certain extent bring forth a purifying function and is a way to alleviate pollution. Last year, the Panel on Planning, Lands and Works had supported the Greening Master Plans proposed by us for greening works in such selected districts as Tsim Sha Tsui, Central, Mong Kok/Yau Ma Tei, and Sheung Wan/Wan Chai/Causeway Bay, but as some members of the Public Works Subcommittee of the Finance Committee subsequently raised queries and refused to support our proposals, the Government finally had no alternative but to withdraw the funding application and resubmit an application to the Committee. As a result, the entire project has been put off. I believe this is not something that the public would wish to see, and I think nobody would disagree on the urgency of improving air quality. I hope that Members can give more support to urban greening in the coming year. Secondly, apart from the Government's effort to protect the environment, industries and businesses also have unshirkable responsibilities for the pollution they created in the course of operation. They should use responsible, advanced, efficient and practicable technologies to reduce pollution by all means.

With regard to local air pollution, we all know that power generation is a major source of pollution. When signing new Scheme of Control Agreements with the two power companies, the Government, apart from ensuring a stable and reliable supply of electricity, will also include reduction of pollution as the prime requirement for licensing, requiring power companies to install effective emission reduction facilities and use clean fuel in power generation as far as possible. Besides, apart from industries and businesses, full participation and support is also required from members of all sectors of the community because sometimes, as the Government has paid for the consequences of pollution, the public may not necessarily feel for themselves the cost of pollution. For this reason, one of our major policies is to introduce the "polluter pays" principle. The objective is to make members of the public change their personal habits because of financial incentives or various other reasons and participate in environmental improvement work, and this means that they have to contribute to this cause both directly and indirectly.

With regard to the policy on the improvement of water quality, the Harbour Area Treatment Scheme Stage II was launched last year with the objective of making ongoing efforts to improve the water quality in the Victoria Harbour. To this end, a comprehensive review of the sewage charges is warranted, with the ultimate objective of achieving the "polluter pays" principle, so that members of the public will understand that each tonne of sewage produced will affect them directly. In December last year, we published the Policy Framework for the Management of Municipal Solid Waste to provide a policy direction for waste management in the next 10 years and draw up a blueprint for implementation. In the interim, a green tax or producer responsibility schemes will be introduced, which is a major measure in the reduction, recovery and recycling of waste. Requiring waste producers to shoulder waste management responsibilities can encourage them to reduce waste and recycle resources as far as possible, while ensuring the recovery of materials with economic value and hence achieving a sustainable recycled economy. We plan to table the Product Eco-responsibility Bill (the Bill) to the Legislative Council this year to provide a legal framework for the producer responsibility schemes. We have embarked on the drafting of the Bill on all fronts, and we will consult the Legislative Council Panel on Environmental Affairs on the Bill in April this year.

A number of Members also put forward many views on hybrid vehicles, hoping that the Government would consider providing concessions for the First

Registration Tax, thereby promoting the use of these more environmentally-friendly hybrid vehicles among the public. I think there is a need to explain the Government's position on this issue. Hybrid vehicles which run on a combination of fuel and electricity are a relatively new product, with 13 models available worldwide so far. In the local market, there are seven models of such petrol/electric hybrid vehicles, and for the most popular models, customers interested in buying such vehicles often have to queue up for purchase, which means that the supply falls short of the demand. As for hybrid vehicles directly imported from overseas by other suppliers, they need to solve the problems of repairs and maintenance. Given that the use of these petrol/electric hybrid vehicles will help reduce vehicular emission, we encourage manufacturers of these vehicles to supply more of these vehicles to the local market, so that these hybrid vehicles can be made available in more models in the market while ensuring cost-effectiveness at the same time. By then, the Government will actively consider using these vehicles and encouraging their use among the public in various ways.

Generally speaking, in respect of environmental protection, I hope that apart from the Government providing adequate resources for various policy areas, Members can also actively respond to proposals which are conducive to environmental protection but controversial, and I also hope that the Legislative Council will throw weight behind this area of work, so that the Government, the public and the Legislative Council can join hands to meet the various challenges relating to the environment and only in this way can improvement be made to our environment.

With regard to public works, many Members have indicated their support for infrastructure works in the debate, hoping that the Government will launch new projects to improve employment opportunities in the construction industry. The Financial Secretary has undertaken in the Budget to earmark an average of \$29 billion in each of the next five years for expenditure in this area. To achieve this objective, the Environment, Transport and Works Bureau has instructed a number of works departments to make concerted efforts to plan new projects which are conducive to the long-term development of Hong Kong or amenable to community demands, while at the same time expediting the progress of works as far as possible.

In the long run, to fully utilize the reserved resources, we are planning a number of large projects, including the development of strategic cross-boundary

links and railway under the Pan-Pearl River Delta Regional Co-operation, the implementation of green measures to satisfy the public's demand for quality living, and also flood prevention, water supply and slope works to ensure safety in the community and to meet the daily needs. These projects also include the Hong Kong-Zhuhai-Macao Bridge, which has been actively taken forward by the governments of Guangdong, Hong Kong and Macao, and the North Lantau Highway Connection, Guangzhou-Shenzhen-Hong Kong Express Rail Link, replacement and rehabilitation of water pipes, Hong Kong West drainage tunnel, Tsuen Wan drainage tunnel and Lai Chi Kok Transfer Scheme, and so on.

President, it is estimated that these works projects of the Government will create about 14 000 new jobs for the construction industry in 2006-07. However, I must point out that the prosperity or otherwise of the construction industry depends not only on public works projects, but also the momentum of development of construction projects in the private sector. The overall unemployment rate in the industry already dropped from 19% in 2003 to 11% in 2005. I hope that as the economy picks up momentum, and following the gradual recovery of the property market and progressive growth in government infrastructure projects, the problems that existed in the past few years can be further alleviated.

Thank you, President.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, in the coming year, apart from the work relating to constitutional development and electoral issues, the Constitutional Affairs Bureau will inject more resources to step up our work on mainland affairs. Now, I will further explain this area of work to Members.

Over the past eight years or so, the SAR Government and the relevant mainland ministries and commissions have set up many effective channels of communication and mechanisms for co-operation, enabling both sides to work in concert in handling issues of mutual concern. As mentioned by many Members in their speeches, co-operation, especially economic development and regional co-operation, between Hong Kong and the Mainland will play a pivotal role in our future development.

To enhance our function in co-ordinating and handling mainland affairs, the Mainland Affairs Liaison Office (MALO) will be established under the Constitutional Affairs Bureau on 1 April. The MALO is responsible for formulating overall strategies and direction for co-operation between Hong Kong and the Mainland, promoting co-operation between Hong Kong and mainland provinces/regions and overseeing the work of the SAR's offices in the Mainland.

In addition to the existing Beijing Office and Guangdong Office, we plan to set up Economic and Trade Offices (ETOs) in Shanghai and Chengdu, in order to enhance our representation in the Mainland and boost the economic and investment benefits of Hong Kong. From now on, we will have our representatives in all parts of China to promote Hong Kong affairs in the Mainland on all fronts.

Insofar as mainland affairs are concerned, regional co-operation will be a significant focus of our future work portfolio. Through the establishment of the MALO, we can promote projects of regional co-operation better, especially our co-operation with the Pan-Pearl River Delta (Pan-PRD) Region and with Guangdong, so that through our co-operation with various regions, the resources and advantages of Hong Kong can be brought into play more effectively, in the hope that Hong Kong and the Mainland can complement each other and hence realize mutual benefits to bring about a win-win situation.

Over the past year, we have sent deputations to all provinces/regions in the Pan-PRD Region and this has deepened Hong Kong's understanding of these places. In promoting co-operation with the Pan-PRD Region, our major strategy is to strengthen the flow of three main elements between Hong Kong and provinces/regions in the Pan-PRD Region, namely the flow of people, cargo flow and capital flow.

In facilitating the flow of people, we are taking measures to facilitate visitors in travelling between Hong Kong and the Mainland. Besides, among the 38 cities covered by the Individual Visit Scheme, 25 are in the Pan-PRD Region. We will proactively extend the Individual Visit Scheme to another six provincial capitals in the Pan-PRD Region, hoping that this can be implemented in a short time. Other policies of the SAR Government, such as the Quality Migrants Admission Scheme, are also conducive to strengthening the flow of

people and admission of talent. So, generally speaking, the policy on the flow of people has gradually taken shape and become effective.

In respect of enhancing cargo flow, Madam President, we will fully give play to Hong Kong's advantage as a regional logistics hub and make the utmost effort to establish the infrastructure and transport network with other provinces/regions in the Pan-PRD Region. We are currently working actively with Guangdong and the relevant departments in the Central Authorities to take forward such major projects as the Guangzhou-Shenzhen-Hong Kong Rail Link and the Hong Kong-Zhuhai-Macao Bridge.

With regard to capital flow, continued efforts will be made to attract more mainland enterprises to list and start their business in Hong Kong. As at the end of last year, of the 335 mainland companies listed in the Mainland, 89 come from the Pan-PRD Region.

Last week, about 300-odd representatives of central government ministries and commissions, mainland provinces and cities, and mainland companies took part in the Pan-Pearl River Delta Financial Services Forum held in Hong Kong. The Forum provided a platform for provincial/regional governments and representatives of business enterprises to gain a fuller understanding of the financial services industry in Hong Kong. It also facilitated exchanges between representatives of the industry from Hong Kong and those from the Pan-PRD Region, laying a good foundation for further co-operation in the future.

On the other hand, as the third phase of CEPA will take effect in 2006, we will encourage and assist the service industry in Hong Kong to fully capitalize on CEPA to strive for business opportunities in various provinces/regions in the Pan-PRD Region.

On co-operation between Guangdong and Hong Kong, much progress has been made during the past year thanks to the efforts made by both places. This includes the relaxation of the "one-truck-one-driver" rule by Guangdong Province, and good progress has been made in projects, such as the Hong Kong-Shenzhen Western Corridor, air-sea multi-modal connectivity, and so on, which aim to facilitate cross-boundary transport.

With effect from April this year, the Hong Kong Guangdong Co-operation Co-ordination Unit will be incorporated into the MALO. The MALO will

formulate policies to enhance co-operation between Hong Kong and Guangdong and monitor facilitation work in major areas, including improvement of control point operation, facilitation of major cross-boundary infrastructure, implementation of CEPA, joint promotional programmes overseas and encouraging more Guangdong enterprises to start businesses in Hong Kong.

Recently, we are very concerned about the country's "11th Five-Year Plan". Yesterday, the Constitutional Affairs Bureau invited Mr XU Lin, Deputy Director General of the Department of Development Planning, National Development and Reform Commission, from Beijing to brief some 170 civil servants on the latest National Five-Year Plan. Mr XU will also meet and exchange with various academic institutions and social organizations during his visit in Hong Kong. We believe these exchanges are mutually beneficial. The MALO will continue to step up efforts in this area in future.

ETOs will be established in Shanghai and Chengdu in the latter half of this year to further promote exchange and co-operation between Hong Kong and East China and the Southwestern region. The two ETOs, together with the Beijing Office and Guangdong Office, will cover 31 provinces and municipalities in the Mainland, and this will further improve Hong Kong's representation in the Mainland.

Given the geographical proximity and close connection between Hong Kong and the Mainland, the functions of ETOs in the Mainland will be different from those of overseas ETOs.

Firstly, the signing and implementation of CEPA has, in fact, fostered economic co-operation between Hong Kong and the Mainland. Compared with other economic co-operation framework agreements, this free trade agreement signed with the Mainland can perform better the functions of market liberalization and trade facilitation.

Under CEPA, professionals and the service industry in Hong Kong can develop their business in the Mainland and so, more business opportunities will be provided to enterprises and various professions in Hong Kong. Our ETOs in the Mainland will continue to maintain a close interest in this area of work.

Secondly, cross-boundary transport projects involving Hong Kong and the Mainland is the key to smooth operation in respect of the flow of people, capital

flow and cargo flow between Hong Kong and our hinterland, the mainland market. Our mainland offices will, apart from making the utmost effort in economic and trade facilitation, help promote collaborative projects with the relevant provinces and municipalities, so that Hong Kong can more thoroughly seize opportunities brought by the development of our country on all fronts.

Thirdly, following more frequent exchanges between the two places, Hong Kong people are more often engaged in activities and work in the Mainland and so, it will be more and more likely for Hong Kong residents in distress to seek assistance in the Mainland. The SAR Government must provide them with the necessary support. At present, assistance is provided through the Beijing Office to Hong Kong people who run into troubles in the Mainland. With effect from April, the coverage of the Guangdong Office will be extended to include five provinces/regions in the Pan-PRD Region. Its functions will also be enhanced and immigration officers will be deployed to provide assistance to Hong Kong residents in distress.

Madam President, these are the key initiatives of the Constitutional Affairs Bureau in respect of mainland affairs in the coming year. Colleagues of my Bureau and I will, as we always do, make an effort to take forward these initiatives. We hope that Members will continue to give us their support. Madam President, I so submit.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, with regard to the funding proposals in this year's Budget, Members are particularly concerned about resource allocation by the Health, Welfare and Food Bureau (the Bureau), as they have asked a total of 686 questions, representing an increase of almost 50% over last year. Despite some repetitions and copying in these questions, it is still a reflection of Members' devotion to their work and discharge of their duties as Members. I remember that in the discussion on the Budget last year, Members strongly demanded that various health care and welfare provisions should look after the disadvantaged groups. The Government took on board this good advice, as the Financial Secretary has, in this year's Budget, allocated a vast majority of the new resources to these two areas. As far as I can remember, many Members who severely criticized me last year have expressed their agreement and support this year. However, some Members have criticized the Budget for providing just \$200 million to help the poor. They said that our welfare policy is meant only

to patch things up here and there. This, I must say that I cannot agree. Today, I will further explain this point in greater detail.

The social welfare system in Hong Kong has all along been operating effectively, under which the Comprehensive Social Security Assistance (CSSA), old age allowance and disability allowance do not require contribution from the recipients. Together with the provision of housing, education and health care subsidies, we have managed to provide a comprehensive basic safety net under a low tax regime, striking a balance that cannot be struck easily. If we take an overview of places elsewhere in the world, a high tax regime is normally in place in countries where welfarism is practised or a multitude of welfare services is provided, and in those countries, many problems have emerged, such as unemployment, especially youth unemployment, domestic violence, shortage of elderly service, and so on. Their problems are often more serious than ours in Hong Kong.

We must understand that given an ageing population and under a tax regime which maintains the existing competitive edge of the Hong Kong economy, incessant demands for more social welfare provision will not only eat into the sustainability of the welfare system. Worse still, it will undermine the people's resilience against adversities, which is not conducive to the healthy development of the economy in the long run. We, therefore, should not hastily introduce drastic changes to the existing welfare policy and measures.

In fact, the provision for recurrent social welfare expenditure in 2006-07 is \$34.6 billion, representing an increase of \$2.3 billion over last year's revised estimate, and it does not include the funding for poverty alleviation work on top of the Bureau provision.

Over the past decade, government provision for social welfare has increased year after year, and an increase was still maintained even during the several years of economic doldrums. The expenditure on CSSA was \$3.4 billion only in 1994-95, and has increased to \$17.8 billion this year, with the number of recipients increasing from 140 000 to 540 000, which means that one in every 13 people in our population receives assistance under the CSSA. It is evident that the safety net of Hong Kong is expanding rapidly while performing its role to help the poor.

On the level of assistance, apart from helping recipients meet the needs of basic living (such as food, water and electricity), a series of other allowances and subsidies is also provided under CSSA to meet their various other needs, including the housing, education, and removal allowances, single-parent supplement, and subsidies for meeting special medical expenses of the elderly/people with disabilities. The items covered are detailed and comprehensive.

In the meantime, a regular adjustment mechanism is established whereby the CSSA and disability allowance levels are adjusted annually according to changes in the Social Security Assistance Index of Prices, in order to maintain the purchasing power of these payments. Following our proactive application to the Finance Committee, the CSSA and disability allowance payments were adjusted upward on 1 February this year, and similar adjustment will also be made next year. Besides, the Social Welfare Department will conduct a survey on CSSA household expenses every five years to ensure that the Social Security Assistance Index of Prices can reflect the expenditure pattern of CSSA households. The latest survey has just been completed and the result will be published later this year.

Given the comprehensive coverage of the CSSA payment and that a mechanism is in place to adjust its level on a regular basis, it is indeed unnecessary to conduct a comprehensive survey on the basic level of the CSSA payment. Organizations calling for such a survey suggested that the CSSA payment be increased and the concept of relative living standard and quality be adopted. This is inconsistent with the concept of providing CSSA as a safety net.

Here, I must stress again that the Government's care and commitment for the grassroots and disadvantaged groups have never ceased. Not only has the Government increased the expenditure on welfare. It has all along injected massive resources to provide heavily subsidized services in such areas as education, housing and health care, with a view to building up a huge safety net. We consider that the provision of direct and targeted services can meet the needs of different people more effectively. I must stress again that in addition to the existing safety net, the provision of direct and targeted services is a major principle of our existing welfare policy.

In 2006-07, we will implement a series of measures, including those relating to family, to provide more support targeting the disadvantaged groups. An additional \$30 million will be provided as recurrent expenditure for launching a Family Support Programme, and another \$20 million will be earmarked as recurrent spending for improving and gradually expanding the Comprehensive Child Development Service. In respect of helping people with disabilities, an additional \$27 million will be provided to focus on the strengthening of community-based services. As regards elderly services, the recurrent funding is increased by \$20 million to enhance home care service for the elderly. In relation to the assistance for unemployed CSSA recipients, the Government will make an additional provision of \$60 million to implement 40 Intensive Employment Assistance Projects, and an extra allowance of \$1,500 will be provided on a trial basis to help able-bodied long-term CSSA recipients to settle into their new jobs.

Moreover, the Community Investment and Inclusion Fund and the Partnership Fund for the Disadvantaged totalling \$500 million have played an active role in promoting community projects to help the disadvantaged groups. The two funds have now accumulated about \$400 million, and organizations are encouraged to make applications.

Furthermore, a provision of over \$800 million will be allocated from the Lotteries Fund this year for making the Special One-off Grant arrangements, in order to help non-government social welfare organizations solve their financial problems. In the next financial year, the Government will exempt these organizations from implementing further expenditure-cutting measures. These measures are introduced to actively respond to the aspirations of the social work sector, with a view to helping their employers to effectively adapt to the "lump sum grant" arrangement and complete the tide-over period.

Since our safety net is already very well established, in studying whether or not to introduce new services and provide funding for new services, we will consider whether the new services can complement existing or other social services and hence produce a synergy effect and better put resources to optimal use.

Take families affected by domestic violence as an example. The Government has been providing a series of preventive, supportive and counselling services to the victims and to families in need, including the

provision of shelter support for battered women, foster care and other care services for children, clinical psychological support, emergency financial assistance, compassionate housing arrangement, and counselling for batterers. These support and services are complementary to each other, taking care of the needs of service recipients in various aspects. The Government will, in accordance with the above principle, further enhance the support for victim families on the basis of the existing services with the support provided by other departments and that of professional services.

In respect of medical and health care services, the Government has undertaken that starting from next year, the Hospital Authority (HA) will be provided with an extra \$900 million in its provision in 2005-06 to meet the needs for new medication, new technology and new services. In the meantime, the HA will continue to plough in a huge amount of resources to care for the elderly and disadvantaged groups. Take the first 10 months in 2005-06 as an example. Half of the patients admitted to public hospitals were elderly aged 65 or above; 40% were CSSA recipients or low-income earners whose medical fees were waived, and over 30% of the HA's expenditure, or \$7.4 billion, was committed to CSSA recipients and low-income earners who were granted fee waivers. Moreover, the Samaritan Fund will provide \$170 million for people with special health problems and medical needs but in financial difficulties, providing subsidies for them to purchase expensive medication and medical equipment.

Madam President, I have just explained in detail the Government's commitment for health care and welfare services. Certainly, our work in the coming year will also cover other areas, such as the prevention and control of avian flu, promotion of a total smoking ban in indoor areas, conducting studies on health care financing, strengthening food safety, assisting the local fisheries and agricultural industry to adapt to the changes brought by urbanization and modernization, and formulating measures to facilitate the healthy and thriving development of the catering industry. We will plough in resources effectively to ensure that we will do a good job in these areas.

Finally, Madam President, I wish to thank Members for their interest and concern over the work of the Bureau. Each of the Members has, on average, asked more than 10 questions on the Bureau. This, together with our discussion on the work of the Bureau for almost four hours earlier, represents great enlightenment to us. I hope Members will continue to support our work and pass the Appropriation Bill today. Thank you, Madam President.

PRESIDENT (in Cantonese): I now invite the Financial Secretary to reply.

FINANCIAL SECRETARY (in Cantonese): Madam President, I would like to extend my heartfelt thanks to Honourable Members for the valuable views they have expressed on the 2006-07 Budget.

Madam President, I was a Member of this Council for seven years beginning in 1991. During that period, I heard many eloquent and challenging speeches, and even participated in a few fiery debates, but such debates were always conducted with dignity and decency. I have lately observed that the speeches of some Members have become wider and wider off the mark. I am not sure whether those Members do this for the sake of putting themselves into the limelight or because of their personality. Some speeches delivered during the Budget debate last week were lacking in substance, self-contradictory and devoid of long-term vision. This Council is a dignified place. Members' words and actions will have a far-reaching effect on the younger generation. I hope Members can serve as role models for our young people.

I am glad to note that some Members, such as Mr Jasper TSANG and Mr LAU Chin-shek, delivered excellent speeches last week. They spoke with due respect and at the same time identified the crux of the matter. Mr TSANG raised the issue of the role that the Government should play in economic development, while Mr LAU pointed out the close relationship between government expenditure and tax. I will respond to these two issues later. In addition, I would like to thank Members from different parties and independent Members for openly indicating that they will vote for the Appropriation Bill 2006.

This year's Budget has generated considerable debate in the community. Our strong economic recovery and the improvement in the Government's financial position had heightened the expectations of some. I can therefore understand their wishes for concessions in taxes and increases in welfare. Although views are divergent, I am happy to note the findings of various independent surveys indicating that the majority of respondents have endorsed my principle of fiscal prudence.

In announcing the outline of the 11th Five-Year Plan at the National People's Congress (NPC) in early March this year, Premier WEN Jiabao

referred to Hong Kong's position in the overall framework for national development. From the perspective of long-term national economic and social development planning, he stressed the importance of maintaining the prosperity and stability of Hong Kong, upholding the principles of "one country, two systems" and "Hong Kong People Ruling Hong Kong", supporting the development of our financial, logistics, tourism and information services, and maintaining Hong Kong's position as an international financial, trading and shipping centre. After speaking at the NPC, he further pointed out that Hong Kong's role in the development of the Mainland was irreplaceable. We are most grateful for the support of the Central Government. I firmly believe that Hong Kong will seize opportunities, enhance its competitiveness and complement our nation's development.

Hong Kong is an integral part of China, and, at the same time, an international city. My long-term vision is this: Hong Kong should, by our working together, contribute to our nation, capitalize on our strengths and develop into a just, caring and vibrant cosmopolitan city. Fundamental economic sustainability relies on sound strategies that will bring long-term benefits and short-term gains. I have laid down in the Budget several policies that will have a long-term effect on our future economic viability. These policies are prudent management of public finances, expanding Renminbi (RMB) business and pooling of talent. These three areas are not exhaustive, but they represent important policies which will have a large bearing on our economic future. We must look to our own viability, but the policies adopted in our overall plans should be mutually beneficial to the Mainland. We must adhere to the "Three Cs" principle, namely, Complementarity, Co-operation and Friendly Competition with the Mainland.

The financial services sector is a major strength for Hong Kong. It is enjoying robust growth, but of course we must constantly improve ourselves. Hong Kong, with its sound regulatory system, advanced financial infrastructure and world-class professionals, is well-positioned to contribute to financial intermediation on the Mainland and play a significant role in developing our nation. We must provide the Mainland with an international standard of efficient, diversified and multi-currency instruments and financial services. This will help open up more fund-raising and investment channels in the Mainland and further consolidate our position as an international financial centre, thereby achieving a win-win situation. One of the important strategies for financial development in future, therefore, is to strengthen our role as the

launchpad for mainland enterprises to invest and raise capital in international markets, complementing the Mainland's financial reform and economic development. Expanding our RMB business is critical for the further development of our financial services. If we fail to progress this, our competitive edge will in future be seriously undermined. In expanding our RMB business, we will of course have to work in tandem with the direction and pace of our nation's development.

While the Mainland is making an all-out effort to build a moderately prosperous society in all respects and developing a socialist market economy, we will continue to adhere to the principles of a market economy and remain a capitalist society. I have fundamental faith in the market economy. If this is in order and working well, the Government should keep its distance. Only when the market cannot, or fails to function should we intervene. We should facilitate the growth of markets and ensure that they operate fairly and openly. Providing the best business environment, cutting red tape, streamlining procedures, and reducing compliance costs are all our priorities.

Let me elaborate on this: We want to create the most open and fair business environment in which enterprises may flourish. There is much for the Government to do, such as promoting economic development, facilitating growth of Gross Domestic Product (GDP), improving people's livelihood, creating more employment opportunities, opening up new markets, and reducing trade barriers. The implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement and expansion of the scope of our RMB business are examples of government promotion of market development. There are also times when the market may not be ready to make a start. In those circumstances, the Government should take the lead. Examples include the construction of railways, airports, industrial estates, science parks, theme parks, and ecoparks. We will continue to uphold the principle of "Market Leads, Government Facilitates", and play the role of a market facilitator.

Hong Kong's only natural resources are our people. As I said in my Budget speech, economies which can attract the best talent will be the most successful in this globalized era. The significant improvement in the skills profile of our labour force has enabled our economy to transform itself over time. To build on the success of the Admission Scheme for Mainland Talents and Professionals, under which more than 9 000 applications have been approved, we will introduce the Quality Migrant Admission Scheme in the first

half of this year to attract talent from outside Hong Kong. The main feature of the new scheme is that applicants will not be required to secure a job beforehand. Separately, we will further enhance our tertiary education by providing an additional 1 800 hostel places to benefit both local and exchange students. These two new measures have been very well-received by the business sector and the tertiary institutions.

Investing in infrastructure not only promotes economic development and brings more job opportunities, but also makes for a more pleasant living environment and enhances our competitiveness. We now have a number of major projects under planning, for example the Kai Tak development. I sincerely hope that an early consensus can be reached on these projects so that they can commence more quickly. As I said in my Budget speech, I am prepared, if necessary, to increase our estimates of expenditure on such infrastructure. At the same time, the Government will study the feasibility of manufacturing prefabricated structures in Hong Kong to help ease the serious and persistent unemployment problem in the construction sector.

Maintaining a small government. Spending within our means. Sharing wealth where we can. Investing in the future. These are all aspects of fiscal prudence and also the pledges that I am striving to fulfil. Prudent fiscal management serves a number of purposes by keeping our taxes low and simple, providing a basic safety net and saving up for a rainy day. This is the approach that best satisfies the community's public finance aspirations.

Since the day that I became Financial Secretary, I have faced perpetually conflicting demands. During the Budget debate last week, different political parties made various demands: on the one hand, revision of the Comprehensive Social Security Assistance rates, increases in subsidies for early childhood education, and in expenditure to prevent domestic violence, on medical care and environmental protection, the introduction of a community-wide elderly retirement scheme, and provision of additional resources to help the disadvantaged groups; and restoring the salaries tax rates to their 2002-03 levels, expressing reservations about the introduction of a Goods and Services Tax (GST), and a reduction in rates on the other. And the list goes on and on. Each demand, on the face of it and on its own, may have merit. However, considering all of them together leads to a completely different conclusion. Such demands are easy to make; impossible to deliver together. We thus need to prioritize and make our choice.

As I mentioned in my Budget speech, the biggest challenge in managing public finances is to keep taxes low while, at the same time, satisfying the needs of the community. My fiscal targets are to maintain our accounts in balance and the share of public expenditure in GDP at 20% or below over the next few years. For 2006-07, this share will be around 18%. That is much lower than many developed economies. For example, the corresponding ratio for members of the Organization for Economic Co-operation and Development is, on average, 40%. That the Government can provide first-class services in medical care, education, public order, housing, and so forth for the public, even with our low tax regime, fully reflects our commitment to ensure the efficient use of resources and achieve the best value for money. Nor have we ever tried to wriggle out of these major commitments under political pressure.

Mr LEUNG Yiu-chung took Finland as an example in his speech. He said, "Even in times of economic downturn, the Finnish Government has continued to invest in manpower development. In education, it has also implemented the small-class teaching that we have often called for, and greatly expanded its tertiary education. It has implemented all these without cutting its expenditure." Although Mr LEUNG is not in this Chamber now, I wonder if he is aware that the share of public expenditure in Finland is 50% of its GDP. How can such countries manage? Because of their high tax rates. Will our community accept a high tax regime? In fact, we continued to invest in education and training during the deficit years. The newly established Civic Party has set out some very logical commitments, that our tax system should have a broad social basis and progressive rates to ensure the fair distribution of resources in the community. Let me remind Members that the resources of the Government come from the taxpayers. We have no oil, minerals or gold nor have we any other natural resources that grow on trees. Indeed, when there are calls for substantial increases in welfare, we cannot ignore the possibility of increasing taxes. Will those political parties which have proposed increases in public expenditure support a tax increase? Surely not, as you sometimes are requesting a tax cut at the same time. Is this not self-contradictory? May I quote the question asked by Mr LAU Chin-shek: "How much are we willing to contribute?"

All we should and can do is to provide a basic safety net. Numerous Members have accused us of not "caring" enough, that we only use \$100 million to help the disadvantaged groups. This is intentionally misleading. Our total welfare expenditure accounts for around \$36.2 billion, more or less the same as

the revenue from salaries tax. In the coming year, recurrent expenditure on welfare will increase by \$2.3 billion. These figures do not include government spending on education, housing or medical services for the needy.

Some people have requested the Government to assist the unemployed living in districts further afield to take up employment by providing them with short-term travel support. I have announced in my Budget that, in the coming year, we will provide, on a trial basis, such support for Yuen Long, Islands and North Districts residents. We will keep an open mind in reviewing the trial scheme, and also study the possibility of introducing other measures to promote self-reliance through work. On top of this, I have already agreed in principle with the proposal of the Commission on Poverty to launch a transport subsidy trial scheme for low-income residents of remote districts to encourage them to work. We will further consider the implementation details of the scheme and our target is to roll it out in 2006-07.

Children and young people are the hopes for our future. To prevent inter-generational poverty, we should start to help at that early stage. The Task Force on Children and Youth under the Commission on Poverty will examine this to prevent inter-generational poverty. I support this area of work and will adopt a positive attitude to any relevant proposals. The Task Force will actively consider some Members' proposals to set up a Child Development Fund, and in the coming months will re-examine existing measures to promote the sound and balanced development of the physical and psychological well-being of children and young people, particularly those from disadvantaged backgrounds.

Some have alleged that the Government is "deliberately" underestimating the surplus for 2005-06 and hence the scope for more tax concessions. In fact, taking expenditure and revenue estimates together, the government accounts involve a total of some \$480 billion in 2005-06. Deviations from the expenditure or revenue estimates must be assessed in that context. There is absolutely no question of the Government trying to cook the books. The fact is that we will continuously update the figures and announce them at the end of each month.

The latest update shows the consolidated surplus by the end of February to be \$12 billion, \$7.6 billion lower than the January figure. Our latest estimate does show that the outturn for 2005-06 will be better than the \$4.1 billion

originally forecast in the Budget. However, we will not be able to tell how much the improvement will be until the closing of the 2005-06 accounts, and we will release the provisional results on 29 April. While I am happy to note the improving situation, I should remind Members that the accumulated deficits over the past seven years have reduced the fiscal reserves by some \$190 billion in total. Some Members are of the view that with a surplus of many billions, the Government should cut taxes or increase expenditure very substantially. This is either ignorant or purposely misleading. Can we so quickly forget the difficult times that we have been through and the strenuous efforts that we have made over the past seven years, without drawing on the experience we have gained?

As an externally-oriented economy, we should not be oblivious to the challenges around us. Naturally, I have no wish to see an outbreak of bird flu. Neither do I want to see any possible economic fluctuations in the United States which may have an impact on the global economy. The risks are, however, real and we cannot pretend that they do not exist. Any government with a firm commitment to the community should be alert to all such challenges, and address them with the best long-term interests of the people at heart.

Three years ahead of schedule, we have achieved all three fiscal targets by successfully reining in expenditure and restoring fiscal balance, which have entailed great effort. Those who are familiar with public finances will know how difficult such a task can be. We should recognize this as no small achievement, although there is no room for complacency. Without the effort of the whole Government as a team and the support of our community, this would not have been possible. As our financial position has improved after years of tremendous effort, it is perhaps understandable why the demands from Members have increased.

Now I come to my proposed tax concessions. Some obviously think that these are not enough. I realize everyone has a different understanding of what is "enough" and "not enough". It would perhaps be more objective to let the figures and facts speak for themselves.

Fact one: There are over 1.2 million salaries taxpayers in Hong Kong. For nearly two thirds of them, the effective tax rate is 5% or less. That is low by any developed economy's standards. Under my proposed tax concessions, a typical middle-class family earning \$480,000 a year with one child and one

dependent parent aged 60 or above who is not living with the family, currently paying interest of around \$40,000 annually on a mortgage, will enjoy a tax saving of \$9,400 or 30%. The effective tax rate of this family earning \$480,000 a year is also less than 5%.

Fact two: As in my two previous Budgets, I have proposed to implement no new taxes. With the salaries tax concessions proposed this year, tax rates will be reduced for the first time since 1998. And they are not one-off.

I hope that all of you understand that our public finances are just recovering. The Operating Account has only now crept back into balance after many long years of deficit. This is a hard-won achievement. It would be reckless for us to introduce major tax concessions. Indeed, had I done so, I would be accused of trying to buy some popularity. Nevertheless, I would like to thank Members for their various tax concession proposals. While I cannot accept all of them for this year, I will, having regard to prevailing circumstances, continue to examine them carefully in preparing for my future Budgets. If the financial climate continues to improve, we will consider future tax concessions. We will look into the proposal to introduce tax relief for tuition fees of associate degree courses. The Democratic Alliance for the Betterment and Progress of Hong Kong has also proposed a one-off allowance for parents of newborn babies, to encourage childbirth. This is interesting and also worth considering.

We should not shy from admitting that the current structure of public finances is less than healthy. In addressing this issue, I will adopt a pragmatic approach. The need to consider a broad-based tax is clear. Existing revenue sources are limited and unstable. Like it or not, land revenue is an important source of revenue for us. It is very volatile, swinging between 3% and 28% of our revenue over the past 10 years. Most other sources are also subject to economic cycle fluctuations. It is a common belief in every civil society that to contribute an affordable amount of taxes is the responsibility of every citizen. An equitable and caring society is also based on civic duty, not personal interests. The Government cannot simply by itself restore public finances to good health. Our community as a whole must achieve this collectively.

To address people's concerns over GST, I am suggesting a nine-month public consultation period setting out our detailed proposals, including tax relief and other compensatory measures. Sixteen Members, many belonging to different political parties, expressed their reservations about GST to different

extents in their speeches last week. However, I am glad the Liberal Party agrees with us (*laughter*) that the Government should conduct a consultation on GST, despite the fact that most of their Members' constituents have reservations about the tax. This is a sensible and responsible decision. I hope Members will put aside their short-term political interests and their opposition to every tax proposal without having considered the rationale, and hold in-depth and reasoned discussions on GST during the consultation period.

Madam President, I firmly believe that my Budget has struck the right balance. With our low taxation, we need to maintain a small government and a relatively low level of expenditure. We need to be alert to the many challenges Hong Kong faces, and save up for any rainy days that lie ahead. I have responded to the community's aspirations with due regard to our fiscal position. I have taken a principled approach by sharing wealth — to the extent that we can afford this — with the people. I will continue to invest in infrastructure in order to lay a solid foundation for the sustainable development of Hong Kong. I am planning to strengthen our public finances in the long-term interests of our society. And I am heartened by the many views expressed by various sectors of the community and their support for this year's Budget. Apart from making ourselves a just, caring and vibrant Special Administrative Region, we should make an important contribution to the building and development of our nation. I firmly believe that, for as long as we remain united and continue to work together, we shall be able to make the best of the opportunities in front of us and that Hong Kong will emerge as a better and stronger international city.

Thank you, Madam President.

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

MR SIN CHUNG-KAI (in Cantonese): President.

PRESIDENT (in Cantonese): Point of order?

MR SIN CHUNG-KAI (in Cantonese): President, can the meeting be suspended for five minutes?

PRESIDENT (in Cantonese): Can you give a reason for that?

MR SIN CHUNG-KAI (in Cantonese): President, I remember we used to do that in the past, that is.....

PRESIDENT (in Cantonese): This is not an established practice. You must give me a reason for your request.

MR SIN CHUNG-KAI (in Cantonese): We would like to have some time to consider our voting preference.

PRESIDENT (in Cantonese): Alright. I now suspend the meeting for five minutes. Members please return to this Chamber after five minutes.

12.30 pm

Meeting suspended.

12.35 pm

Council then resumed.

PRESIDENT (in Cantonese): The meeting has just been suspended for five minutes to allow Members of the Democratic Party to consider their voting preference, and I believe they have finished considering this.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Appropriation Bill 2006 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

PRESIDENT (in Cantonese): Mr CHIM Pui-chung, are you not going to vote?

(Mr CHIM Pui-chung pressed the button 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 James TIEN, Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Martin LEE, Dr David LI, Mr Fred LI, Dr LUI Ming-wah, Ms Margaret NG, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Frederick FUNG, Ms Audrey EU, Mr Vincent FANG, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr MA Lik, Mr Andrew LEUNG, Mr Alan LEONG, Dr Fernando CHEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Mr Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Albert CHAN and Mr LEUNG Kwok-hung voted against the motion.

Dr KWOK Ka-ki and Mr CHIM Pui-chung abstained.

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

THE PRESIDENT announced that there were 59 Members present, 52 were in favour of the motion, four against it and two abstained. 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 2006.

Council went into Committee.

Committee Stage

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

APPROPRIATION BILL 2006

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 28, 30, 31, 33, 35, 37, 39, 42, 44 to 49, 51, 53, 55, 59, 60, 62, 63, 70, 72, 74, 76, 78, 79, 80, 82, 90, 91, 92, 94, 95, 96, 100, 106, 112, 114, 116, 118, 120, 121, 136, 138, 142 to 145, 147, 148,

149, 151, 152, 155, 156, 158, 159, 160, 162, 163, 166, 168, 170, 173, 174, 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 as stated. 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)

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.

MR JAMES TO (in Cantonese): Chairman, I move that head 122 be reduced by \$45,100,000 in respect of subhead 000, which is equivalent to the total expenditure estimate of the Complaints Against Police Office (CAPO) of the Hong Kong Police Force.

Chairman, this is the seventh year for the Democratic Party to propose the relevant amendment to the Appropriation Bill to delete this relevant item of expenditure. In fact, the rationale is simple. It is because the system for lodging complaints against police officers in Hong Kong has long been criticized. This is mainly because the CAPO of the Hong Kong Police Force is responsible for overseeing the important procedures of taking complaints, conducting investigations, making decisions and meting out punishment. This system of

conducting self-conclusive investigations on one's own peers entirely lacks credibility; it only gives an impression of police officers shielding one another. Public aspirations have all along been very clear — there is an outcry for the establishment of an independent complaints mechanism. As for this Council, a motion had already been passed in 1992 in the era of the former Legislative Council, to demand that the CAPO should be independent of the Police Force.

The argument put forward by the Government against this proposition is unconvincing. The Government says that since the CAPO belongs to the internal establishment of the Police Force, there is a possibility for its officers to be transferred to other posts within the force establishment and other police officers will also be posted to the CAPO now and then. So, this leads to the situation where, a certain police officer who has investigated another police officer today may actually be deployed in future to the police team to which the officer under investigation belongs, and becomes his supervisor or his colleague. Even with the internal monitoring of the Police Force.....

CHAIRMAN (in Cantonese): When a Member is delivering his speech, will other Members please remain quiet. I am sorry, Mr James TO. Please continue with your speech.

MR JAMES TO (in Cantonese): This point has been discussed for many years. In fact, the Government has not taken any special care with either the CAPO or the Police Force. It has never said that, in deploying or posting police officers to different units, different teams or different departments, consideration would be given to such situations as whether A has investigated B, or even whether any obvious conflicts may have existed; nor has it said that in future whether any such delicate relationship would be taken care of. As far as I understand it, there are absolutely no attempts to take care of such situations. If the answer is in the affirmative, can the Commissioner of Police, through the Secretary, give us a detailed explanation?

As far as the Independent Police Complaints Council (IPCC) is concerned, although it can review cases investigated by the CAPO, it cannot receive complaints direct from the public, nor can it conduct independent investigations on its own. In the past, there had been cases in which the IPCC and the CAPO

arrived at different findings: the former found the complaint substantiated while the latter disagreed, or the former found the punishment too light while the latter considered a verbal or written warning already sufficed, and the officers concerned could be promoted as usual. In some cases, the subjects of investigation were even promoted to a senior management level of the Police Force to take charge of the CAPO. How ridiculous is this?

In the past, the Legislative Council had successfully introduced a legislative amendment to make the IPCC a statutory organization, and at the same time, the IPCC was conferred with the co-called power of second investigation. By power of second investigation, it meant — in the context of the legislative amendment introduced at that time — the IPCC could conduct investigations of its own if it were not satisfied with, and therefore refused to accept, the findings of CAPO's investigations, and when there was no other recourse. Yet, the Government still considered this unacceptable. In other words, if you are unhappy in any way, just kick the ball back to the CAPO. If, subsequent to further investigations, you are still unhappy with the result, the whole process can be repeated again. Of course, one could resort to seeking redress from the Chief Executive and that had been done before. But even with a petition to the Chief Executive, he simply did not give any response at all.

In the end, with the Government's "head I win, tail you lose" attitude, the Bill was withdrawn. So, what has happened to the Bill? From 1997 to the present, eight to nine years have lapsed, and the issue has kept dragging on. Every year the Government would say that it would table a legislative proposal within the year to give the IPCC a statutory status, but the Government has never kept its word. During my term of office as Chairman of the Panel on Security, sometimes I would, at the beginning of a year, conduct some general discussion with the Secretary on items to be included in the legislative programme. Every year at this point, he would tell me that this item would be included for the current year, that they would do it within the year. He kept saying the same thing year after year, but in the end nothing would materialize.

In fact, some Honourable colleagues have suffered badly too. Some of them had been supporting the Government during the past few years, and they opposed my amendments. There were talks about improvements would be made to the IPCC soon, and that the turning of the IPCC into a statutory organization was imminent. Some trivial and negligible improvements were

mentioned, and then again there were talks of making the IPCC a statutory organization soon. Until last year, though I was away attending a meeting of the Human Rights Committee, I knew some Honourable colleagues had become impatient. Even those Honourable colleagues supporting the Government had become impatient. They asked the Government why the issue had been dragged on for all these times and what had been going on. The Government replied by saying that members of the IPCC had to be consulted. The consultation has been going on until now, and when will it come up with any results? It takes the Government eight to nine years just to turn the IPCC into a statutory organization, and in fact how have they been doing their work really?

Worse still, the recent incident has completely eroded the people's confidence in the IPCC, when important personal data involving as many as 20 000 persons were leaked. In our meeting with the IPCC, they maintained, either explicitly or implicitly, that it was the mistake of the contractor. They blamed the contractor for messing things up when they put the information on the Internet without any password protection. But it turned out to be otherwise. A couple of days later, there was a sudden twist to the event. The contractor came forth and told another story: That they had only asked for some simulated data, or dummy, to test the system, but the Government had given them the real data, and that they had been told in a very casual manner to collect the floppy discs. Come to think of it, while we, the general public, rely on the IPCC to monitor the CAPO, the IPCC has failed to monitor itself and flopped in its own administrative procedures, how can it monitor the CAPO at all?

Since the lack of independence of the CAPO has led to its imperfection and image problem as being unfair and not independent, so, the IPCC was brought in as a remedy. But now even the IPCC itself has messed things up and become trouble-ridden. The problem is, even though the CAPO (*sic*) people are professionals, they still have to be very smart and intelligent in such highly professional context in order to be able to identify potential areas of favouritism or whether the best efforts have been made. Now let us see what they have done in monitoring the contractor — one who has neither the reasons for foul play, nor any conflict of interest — they have simply messed things up. When it comes to monitoring potential conflicts of interest and issues of public concern, which require a clear head and an eye for details, can the people place their trust in the IPCC? Now what is the ultimate way out? The way out is that the IPCC has to be made independent. Only in this way can the problem be resolved once and for all.

If the IPCC is not independent, and if the public is not convinced of the impartiality of the investigations conducted by it, then is the amount of over \$40 million well spent? An independent department should be established similar to the ICAC and the Office of The Ombudsman; that would convince the public that these expenditures are money well spent.

At present, the IPCC is neither fish nor fowl. It has been disclosed from within the IPCC Secretariat during the past few days that its staff members are not recruited by the IPCC itself, but they are seconded from the Civil Service. They are usually Executive Officers entrusted with the work of the so-called detailed examination of the cases. In the past, the IPCC had asked the Government to make improvements in certain areas as well, but their requests were turned down. In fact, the Government has always wanted to prevent the IPCC from doing its monitoring job so well. In the past, several IPCC members had asked some questions, including one on whether it was possible for the CAPO to become independent; and that even if it could not be made fully independent, would it be possible, at the very least, for its "Head" to be made independent. The answer was in the negative. Please bear in mind that this was raised by IPCC members appointed by the Government.

Second, can the staff members be selected from outside the Executive Officer grade? Instead, we can identify people who are well versed in legal procedures, preferably people with experience in criminal investigations, such as barristers with extensive experience in handling criminal cases. In handling court cases, they have to study cautioned statements and to cross examine witnesses to determine if there was any foul play like framing the innocent. The IPCC cannot hire these professionals to conduct detailed examination. So what actually does the Government want the IPCC to do?

Therefore, I do have some sympathy for the IPCC. There are only 22 staff members (who handled more than 2 000 complaints last year), one Chairman and three Vice-chairmen. Theoretically, according to the practice of the investigation committee and the supervisory committee of the ICAC, the members, including the Vice-chairmen, should have worked together and gone through all those thousands of complaints. Honestly speaking, given that they are not full-time staff, and that they have only a small number of staff members, how can they accomplish the task? They are probably restrained in every way.

Therefore, in this respect, the Government should be held responsible to a very large extent.

In conclusion, judging from the perspective of administration and use of public money, the CAPO is inherently inadequate. In this context, it is in fact not effective at all, and it is also a waste of financial and human resources. Under the circumstances, this sum of \$40 million to \$50 million should be allocated to organizations with credibility for conducting investigations. This is the sensible way out.

During all these years, in fact I have all along been saying that the ideal solution is to turn the IPCC into an independent organization. However, even on the score of making improvements, not much progress has been made irrespective of our "pushes". Why? It is because the Government has put the legislation on hold and stopped making any improvement and reform. I wonder what is on the mind of the police or the Government. Why has this particular piece of legislation never been accorded priority? Please bear in mind that any other item could be prioritized, except this one, which is expendable. In this regard, I hope the Secretary can give me detailed answers to the queries I have raised on this issue.

Lastly, the recent shoot-out incident is truly baffling. The Chairman will want to ask me questions right away — she is looking at me right now — how is the shoot-out incident related to this issue? It is, in fact, related. Why? Because it is intricately related to the practice of the police conducting investigations on police officers. No matter we are talking about complaints against police officers, or cases of death inquest, if any problem should arise, it will be the police who will be conducting the investigations. Therefore, conceptually, they are cognate. However, in the Coroner's Court, section 15(3)(b) still can be invoked. What is this section about? This section stipulates that if a person dies whilst in the custody of a police officer, or during the course of a police officer's discharge of his duty, including death resulting from either legal or illegal gunfire from a police officer, or the death of a police officer during the course of the discharge of his duty, then a coroner may request the Commissioner of Police to take such measures as are necessary to ensure that the investigation is conducted independently and impartially.

However, I want to tell you that, even with section 15(3)(b) which can be invoked by the Coroner's Court, our IPCC still does not possess even such

power now. In other words, since the IPCC is only an administrative body, it has nothing at all. This point may be added to the future IPCC Bill, if the Government is still interested in tabling it to this Council. Will the IPCC be empowered to conduct investigations into these cases? This is the minimum requirement. The Government withdrew a Bill like this in the past, but I hope it can bring this back into our laws. However, is it not at least that the IPCC should be given the power to ask the CAPO or the Commissioner of Police to take any measures that are necessary?

Chairman, I would like to ask Honourable colleagues not to evade this point anymore because, given what has happened in the IPCC incident during the past few days, are you still confident that the IPCC can monitor the CAPO which is by no means independent? Under such a working environment, can it make the people have confidence in the entire system, thereby casting a vote of confidence? I hope Honourable colleagues can give us some responses on this issue.

Mr James TO moved the following motion:

"RESOLVED that head 122 be reduced by \$45,100,000 in respect of subhead 000."

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, I speak in support of Mr James TO's motion — though I shall vote against the Budget later on because it really has some immediate impact on me. The Financial Secretary, Mr Henry TANG, has just said in his speech that the Government does have priorities in how public funds are spent.

The recent spate of incidents has all shown that the police authority is not subject to any supervision. The present mechanism absolutely cannot exercise any monitoring function, or just like the Independent Police Complaints Council (IPCC), which is just a powerless department, a "toothless tiger", with no investigation power and none of its members is doing the job on a full-time basis. In this way, this has led to the situation of "police officers investigating police officers" under the Complaints Against Police Office (CAPO). I am not saying this without any justifications. Let us take the recent case of Mr TSUI Po-ko, who was suspected to have killed a policeman, as an example. He had been the

subject of five complaints lodged with the CAPO. If the CAPO had conducted its investigations fairly at that time, those complaints against Mr TSUI would have been substantiated and he might have been subject to the internal punishment of the Police Force. And I can also see that the Government has injected resources into regulatory operations against the corruption of police officers or civil servants. I am referring to the Independent Commission Against Corruption (ICAC), which has been established for over 30 years.

The central issue is, corruption is a kind of virus in society, which must be removed, very much in the same way like a cancer tumor to be removed from our bodies. However, when human rights are being suppressed by police power, under the present global trend of empowerment, this is intolerable, and its wickedness is no less than corruption. However, our Government on the one hand allocates funds as informers' fees, and on the other hand, it allocates funds to the Police Force which has not enhanced its transparency, nor has it established an independent department with investigation power and actual resources for monitoring the Police Force. Therefore, on this point, be it the Security Bureau or the Financial Secretary, if they had seen the amendment but chosen to ignore it, then they would have actually committed a serious negligence of duties.

Take my own case as an example. I had also complained against the incumbent Commissioner of Police for abusing his power to suppress the people's freedom to hold demonstrations. However, eventually, when I lodged a complaint with the CAPO, he had already been deployed to become the head of the CAPO. So the investigation could not be conducted by him. While he could not conduct the investigation, the IPCC did not have sufficient investigation power because it was a very complicated occasion. At the time of the reunification, several thousand people were taking part in the demonstration, so it is absolutely impossible to conduct any investigation. As such, we have to rely on the report compiled by the CAPO. Therefore, at this juncture, the Government, particularly Chief Executive Donald TSANG, if he really aspires to strong governance, should resolutely conduct a thorough review of the present IPCC and CAPO. In addition, some special resources should be set aside for establishing a post similar to the Commissioner of the ICAC, who should be tasked with the responsibility of addressing an issue that is of growing public concern and that has proven to become a problem. Only by doing so can he claim to be pursuing strong governance for the people.

Therefore, I have repeatedly said that, in addressing this issue, the Government should cut the Gordian knot. First, it should dismiss everyone in the IPCC, if they are unwilling to resign. Then it should appoint a "Commissioner of Supervision of Police Affairs". In fact, this fully complies with what is stipulated in Article 39 of the Basic Law, and the Government should pay due regard to the requirements of the International Covenant on Civil and Political Rights by establishing a Human Rights Commission. This Human Rights Commission should monitor all matters related to human rights. Everyone in society is actually expecting the creation of the post of the Commissioner of Human Rights or the Commissioner of Supervision of Police Affairs. Let me reiterate, when we encounter situations in which the course of judicial justice is perverted, or when corruption arises, we can contact the ICAC, which will definitely accept our complaint. But if I lodge a complaint against TSUI Po-ko for beating me up, the ICAC would definitely ask me to lodge my complaint with the CAPO. So, I can never get a fair deal in such a case.

For this reason, I would like to tell all Members, though I have decided to vote against the Budget, you may still make use of the authority vested in you to express your opinions in this Chamber on the allocation of resources to administrative departments. You prefer to allow the police to make use of an amount of resource without any monitoring, instead of, on the contrary, supporting the allocation of resources to establish the post of the Commissioner of Human Rights or the Commissioner of Supervision of Police Affairs, who will possess independent investigation power to monitor whether any police officers are guilty of negligence of duties or suppressing human rights. At this juncture, I hope Members can really show us your integrity. When discussed police power during the past few days, and when we are interviewed by the media, we have so much to teach and preach; we seem to know a lot. But when it comes to voting, we act differently. I think this is inappropriate. Thank you, Chairman.

MR ALBERT HO (in Cantonese): Madam Chairman, with regard to the arguments put forward by the two colleagues earlier on, I am basically supportive. I will only add a few brief comments.

I have just returned from a hearing conducted by the United Nations in respect of the International Covenant on Civil and Political Rights, in which I attended as an observer. During the hearing, members once again expressed

concern for an independent system for complaints against police officers. Similar to past occasions, they kept voicing their concern in a relentless manner. I believe the Concluding Observations that will be released by the United Nations Human Rights Committee will, without exception this year, contain a remark made to the Hong Kong Government once again calling for the establishment of an independent system for complaints against police officers. Since the United Nations Human Rights Committee keeps following up this issue, the Democratic Party has also kept raising this issue relentlessly year after year.

As the debate has been going on for some years now, I believe there may be some recurring arguments. However, we do have some new issues this year, which relate to the inadequacy in the administration of the Independent Police Complaints Council (IPCC), and the recent Tsim Sha Tsui shoot-out. However, I am afraid the Secretary will later on deliver a speech very much the same as the ones in the past — a speech that will repeat the past viewpoints like a pre-recorded audio clip. In fact, the arguments mentioned are exactly the same as those put forward some 30 years ago by the authorities when they argued that it was unnecessary to establish the Independent Commission Against Corruption (ICAC) because they claimed that the anti-corruption branch of the Police Force was sufficient for tackling the corruption problem. Fortunately, or unfortunately, the emergence of the case of the Superintendent Godber demonstrated that Hong Kong really needed an anti-corruption organization.

Generally speaking, there are three major deficiencies in the operation of the IPCC, which are so evident that they make us think that an independent body is badly needed. Every time the Hong Kong Government stated its case in the United Nations, it would invariably say that sufficient monitoring mechanisms are already in place at the IPCC; that the operations of the Complaints Against Police Office (CAPO) are independent and impartial under the supervision of the IPCC, irrespective of the fact that the CAPO is under the command of the Hong Kong Police Force. But I can tell Members that the deficiencies of the IPCC are evident. Whatever arguments the Secretary may put forward in defence of the IPCC, they are hardly justifiable.

Firstly, the resources are insufficient. Manned by 22 staff members, the Secretariat of the IPCC has to help process more than 2 000 cases. On top of this, there are some 10-odd persons working on a voluntary basis. My friends

who work in the IPCC told me in private that they could not help but examine the cases in a great hurry in each of the meetings. I trust that the Chairman of the IPCC will spend more time on it, but for other members, how many of them would have enough time to spend on going through the information of the cases? In this connection, the problem of insufficient resources is not restricted to the Secretariat. With just 10 to 20 people working on a voluntary basis, no matter how hard they work, they may not be able to finish reading the information of all the 2 000-odd cases, much less handling them. How much time they could spend on handling each individual case? How many of these members would have studied the information on the cases they handle? These are questions that beg answers. We have reasons to suspect that the actual resources of the IPCC, including the Secretariat and its members, have not been adequate for keeping a close watch on these cases, studying the information submitted to them, and monitoring the decisions of the CAPO and how such decisions are made.

Secondly, we believe, and we have reasons to suspect, that the information submitted may not be comprehensive enough. Since all the information is provided by the CAPO, if a person or a body has to submit information to someone who exercises supervision over him or it, the person or the body involved would definitely present the information in such a way that would convince others that their decisions are correct and impeccable. Under such circumstances, how can we believe that the information submitted is adequate and comprehensive? Therefore, very often, the inadequate information is our primary concern.

Thirdly, the insufficient power has all along been our major concern for many years. If the IPCC would like to investigate into the most controversial cases, even to date, they still do not have the power to do so. It is true that certain improvements have been made to the system, such that the IPCC may summon witnesses to an enquiry, but basically the IPCC does not have the power to conduct active, independent and comprehensive investigations into some major cases or most controversial cases.

In the past, when we had to deal with some issues involving the Hong Kong Police Force (HKPF), they were usually highly sensitive. I recall that the Bill on the IPCC had to be withdrawn due to the successful introduction of legislative amendments allowing the IPCC to listen to some relatively simple complaints against police officers. However, the Government could not even accept that, and had to withdraw the Bill. In other words, the dignity of the

"Chief" of the HKPF cannot be impinged. If somebody wishes to take away a tiny portion of the Chief's authority, the Hong Kong Government cannot or dares not accept it.

Earlier on, Mr James TO reminded me of the great efforts I had devoted to the bill on coroners. I still remember clause 15 of the bill. What we emphasized most was that, in case of death in official custody, particularly when a person dies whilst in the custody of a police officer, there is no reason that the investigation should be conducted by the police. We had a lengthy discussion, and in fact the Government could not offer any arguments in its defence. If a person dies while he is under the custody of a department, how is it possible that the investigation be conducted by the department in question? The Government said it was fine, because the officer involved in the case would not directly participate in the investigation; instead, the police would assign the case to police officers in other police districts. However, who can guarantee that the police officers from another district are fully independent? Will they go through every procedure? These are all unknown to outsiders. Therefore, at least, it makes me feel uneasy, even though I am told how trustworthy the Chief is, and that he will definitely follow every procedure to ensure independence.

As a matter of fact, our demand was very simple. Our question was: If a person dies in official custody, or more specifically, if a person dies while he is in the custody of a police officer, could the case be referred to an independent body (including the ICAC) for investigation? The Government rejected categorically. The writing of clause 15 then was hardly satisfactory, because we did not have enough votes, and we all know how votes are cast. The final accepted version is that a coroner may request the Commissioner of Police, that is, the Chief, to take such measures as are necessary to ensure that the investigation is conducted independently. Although the coroner may lodge a request, if any actions have to be taken, they must be taken through the Commissioner of Police. Madam Chairman, this is barely acceptable.

We can see that, whenever the monitoring of the police is involved, it will become an extremely sensitive issue. Very often, the Government is unwilling to accept that independent bodies unrelated to the Police Force be given power of investigation in order to monitor problems caused by the Police Force. We move the relevant amendment again this time because we want to continue the discussion on this subject matter, with a view to exposing the problems of the

existing mechanism. Only by deleting this item of expenditure can we force the Government to face the problem squarely. Of course, under the current circumstances, I am afraid we do not stand much of a chance. But only by doing so can we demonstrate the absence of such a mechanism. Therefore, we must establish another mechanism. Thank you, Madam Chairman.

DR KWOK KA-KI (in Cantonese): Madam Chairman, I speak in support of Mr James TO's amendment.

In fact, it is not necessary for this motion to be moved in the meeting for passing the Budget. But unfortunately, every time when the Government is faced with the strong request — the request that the work of investigating police officers should be undertaken by an independent body — the Government would invariably give a negative response. That explains why, since 1997, every time before the Budget is passed, the Democratic Party would always move a motion to delete the work of the Independent Police Complaints Council (IPCC) and the Complaints Against Police Office (CAPO) from the Budget.

In fact, last year, I also delivered a speech. I think, the Government faces heightened public sensitivity as the public is more concerned about the work of the police. The recent police shoot-out had aroused great public concern, thus motivating the public to have a greater desire of learning more about the operations of the police, and even issues about the integrity and work of police officers. We all believe that both the Government and the police would like to maintain a better image, so as to gain the trust of the people. However, all these are not to be built on nothing. If a complaint lodged against the Police Force and police officers can only be handled internally by the police, how can it gain the trust of the people? And how much can the IPCC do?

We all know that the IPCC has a manpower establishment of only 20-odd persons, but the number of complaints it has to handle each year is over 3 000. So obviously there is a shortage of manpower. So, many of the investigation reports are actually based on some documents compiled in some police internal investigations or by the CAPO. It is simply impossible for the IPCC to act *ultra vires* to conduct its own investigations or interview the complainants or witnesses all over again whenever it receives a case or certain cases. This is a mission impossible.

Even if it can be accomplished, the most important point is the public will not have enough confidence in the way the Government handles complaints against police officers. We take actions and make our request in this way, as a matter of fact, just for assisting the Police Force and the Government in protecting the reputation of police officers. We do not have other motives.

I would like to reiterate this point once again. I am a medical doctor. All the doctors and dentists as well as the problems related to their practice are handled by independent bodies — the Medical Council of Hong Kong and the Dental Council of Hong Kong. The same applies to lawyers and accountants who also have their respective independent bodies to handle their problems — from investigation, deliberation to decision-making, for all such work would not be handled within the administrative framework of the Government. Why? It is meant to enhance acceptability and transparency, so as to enable the people to generate greater and stronger trust in their work, and if such work can be carried out truthfully, it can make the complainants feel that their complaints are handled in a honest, fair and impartial manner.

It so happens that these opinions are exactly the points that have been missed by the Government. Over the years, whenever the public or Members put forward this request of making the work of handling complaints against police independent — such requests have been made year after year — the Government remains indifferent. I think such an approach adopted by the Government has actually done harm to the Police Force, and it is also damaging the image of the Force in the minds of the people as well as the people's trust in the Force.

Mr LEUNG Yiu-chung is in the Chamber now. I have also followed closely the incident in which Mr LEUNG Yiu-chung had assisted Miss PANG's family in requesting for a death inquiry. I have read a lot of press reports on it and I have also read about many details of the investigation work as described by Mr LEUNG Yiu-chung. It makes us feel suspicious of the way the Police handled the incident at that time. However, it also reveals to us that, under the present circumstances, since we do not have an independent mechanism, there is no way we can address the situation even if we find that there is a problem with the Police Force. Consequently, Mr LEUNG Yiu-chung chose to approach the ICAC for assistance.

Why did the Government establish the ICAC? I believe the Secretary knows better than we do. In the past, there was also an anti-corruption unit within the Police Force. What kind of work can it do? At that time, corruption was rampant. The people had very little confidence in the Police Force then. The Government was also aware of the problem, so it made the right decision to establish the ICAC. It transformed Hong Kong, in particular, the police work in Hong Kong. This has enabled Hong Kong to enjoy a very good reputation in both Asia and the world, especially in the work of combating corruption.

Since the establishment of the ICAC is intended for the manifestation of this type of independent, self-reliant, fair and impartial spirit, why in the work of investigating police officers — which even stresses more the significance of fairness and impartiality and such work has all along been regarded as fair and impartial — the Government has chosen not to mention such a spirit? The more the Government tries to avoid discussing it, the more strongly the people would feel that there might be a problem. I believe, even if this motion is negated today, colleagues from the Democratic Party will move the same motion again in each of the ensuing years in future. I believe that his motive is very explicit, that is, he wishes to see that the issue can be resolved. With regard to the suspicion held by the people on each and every investigation conducted by police officers, we also find that inappropriate. In many situations, we also think that the police officers are not like that. However, what has dragged the police officers into such trouble is not the Police Force itself, but the investigation mechanism of the police. It is the Secretary who has dragged them into such trouble. Likewise, the choice made by the Government in not establishing an independent body to handle such work is also responsible.

In short, I hope in the foreseeable future, the work of the CAPO can be handled by an independent body. I shall support Mr James TO's amendment. Thank you, Madam Chairman.

MS EMILY LAU (in Cantonese): I speak in support of Mr James TO's amendment. Like Mr Albert HO, I have just returned from a United Nations hearing conducted in New York, United States. As Mr HO has said, at the hearing, though they spent a considerable amount of time on the interpretation of the Basic Law, the constitutional reform and other issues, a certain member mentioned again that there was no independent mechanism for investigating

complaints against the police. Therefore, I have reasons to believe that when the Human Rights Committee announces its conclusion in the afternoon of Friday, it will once again call on the Government of the Hong Kong Special Administrative Region (SAR) to establish a mechanism for handling complaints against police officers, and the Committee does not think that the Independent Police Complaints Council (IPCC) can give full play to its real functions.

Earlier on, many Honourable colleagues have expressed their opinions, to which I strongly agree. Chairman, the IPCC has recently leaked the personal data of over 20 000 members of the public who had lodged complaints against police officers. This is a very shocking incident indeed. On the 17th of this month, the Legislative Council panel with relevance to the field of information held a meeting to discuss this issue, and the Chairman of the IPCC also attended it. At the meeting, he told us it should be the outsourced contractor who had made the mistake. But he also admitted that, when the project was outsourced, no contract or any terms of confidentiality had been signed. Chairman, on that day, I asked Mr WONG, Chairman of IPCC, whether it was a very serious incident. Should an independent commission of inquiry be established? That is to say, the IPCC will see the recurrence of the police's situation of having police officers investigating their peers — that is the IPCC is returning to the situation of having its own officers to investigate their fellow officers. Mr WONG said at that time that it would depend on what happened next, and that they in fact had a more detailed report. However, that report had never been submitted to us — it has not been tabled to the Legislative Council. At that time, he said that he would first submit a detailed report to the Legislative Council for our perusal. However, he also said that it should not be necessary to establish an independent commission of inquiry.

Surprisingly, the most shocking and spectacular news was broken yesterday — that contractor came forth to make a declaration. He said he had been aggrieved. Chairman, it was because no one had ever spoken to him, and even after he had taken the initiative of contacting the IPCC, no one gave him any reply. It was not until last evening, at about 7.30 pm, that I heard from the radio that the IPCC had held another meeting. And five minutes before the meeting, someone contacted him and offered him an appointment on the following day. This gentleman asked them whether it was possible to let him have a chance to speak before they openly criticized him. Chairman, if the IPCC has been adopting such an approach in treating complaints lodged against the police, then is it true that the consequences could be very disastrous?

Therefore, yesterday, I wrote a letter to the Chief Executive, asking him to pay close attention to this incident. I think this is a very serious incident. I do not know what has happened to the IPCC. I think we should set up an independent commission of inquiry. I have also forwarded a copy of this letter to the Chairman of the IPCC. I hope they can consider this. As the incident has developed to the present stage, they said they would conduct an investigation and a report would be compiled. But even if a report is released, Chairman, can they still enjoy any credibility? I find the whole incident most sarcastic. We are demanding the establishment of an independent mechanism, one that has credibility and transparency, to investigate complaints against police officers. But the authorities say that they can rely on the IPCC. In addition, after several meetings, it has been revealed that the IPCC is staffed by civil servants. So how independent is it? It simply follows all the rules of the Government in conducting its business.

As Mr HO has pointed out, given the substantial number of cases, the IPCC only has 20-odd part-time members who are heavily engaged in all kinds of public duties. With so much public duties on their shoulders, how can they conduct any investigations? So, in the face of such an incident, I feel that perhaps something good may come out of such a nasty state of affairs. Chairman, I say this because this scandal has fully exposed the fact that this mechanism which is supposed to be assisting and supervising the investigation of complaints against police officers is, I believe, full of loopholes. However, as the Chairman of the IPCC has said, he needed to offer to the public his deepest apologies because after the occurrence of the incident, now another incident concerning the contractor has occurred as well. So, they also owe the contractor a reasonable clarification.

Therefore, Chairman, I support Mr James TO's proposal and the strategy adopted by him should also be permitted. This is because the greatest powers we have are the powers to allocate funds and enact legislation. In this connection, if we can make use of this opportunity to convey this message clearly to the authorities, if we have enough supporting votes, I believe the Permanent Secretary, Mrs Carrie LAM, may even announce in the United Nations when this Bill can be tabled to the Legislative Council. At that time, she also suddenly announced that the right of reinstatement would soon be forthcoming in Hong Kong. This is because she wanted to tell the United Nations that the SAR Government had also done something, rather than having done absolutely nothing at all. The Falun Gong can start booking venues to organize activities

with effect from May; and WONG Yuk-man may go on air again — but the news was found to be inaccurate afterwards. Why can this news not be announced together? Perhaps the Secretary does not have any good news in stock for us. However, I believe that, in the face of such a messy state of affairs, the Secretary will not have much to say in defence. I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Chairman, first of all, I must say I strongly admire the relentless efforts made by Mr James TO in having raised this subject matter for so many years. Although so far nothing much has been achieved, at the very least, throughout all these years, this move has aired the bitterness of the 2 000-odd people who have lodged complaints against police officers, and at the same time, the move has also aired the grievances of those upright police officers. What kind of grievances am I referring to? These police officers think, "We are upright, we have done nothing wrong, and why should we be afraid of any investigation to be conducted by outsiders?" Unfortunately, it is the Government who is afraid of having independent bodies conduct the investigations. Now to these upright police officers, will they feel aggrieved and frustrated? Furthermore, will this affect their morale, either directly or indirectly?

Chairman, let me cite a case. While this case may not be directly relevant to the issue being discussed, I hope you will not interrupt me, because there are some underlying implications in it. I remember about a year ago, a letter was published in the press in which it was disclosed that a prison inmate had successfully cheated some money out of a fund. An investigation then followed, but surprisingly it was not the police who conducted the investigation. Who conducted the investigation? It was the ICAC. Why was it the ICAC? It is because, in a case involving a prison inmate cheating money out of an institution outside the prison, it had aroused the suspicion that there might be accomplices in the Correction Services Department (CSD), so corruption might be involved. That is why the ICAC was brought in. After the investigation, it was confirmed that no CSD staff was involved in corruption in this case. The inmate had successfully cheated the money out of the institution only because the methods used by him were extremely diverse and complicated. The ICAC pursued the matter; finally they hunted down the criminals and sent them to prison.

Chairman, why should I mention this case? Why should I talk about the ICAC instead of the Independent Police Complaints Council (IPCC)? The most important point is that I wish to respond to the issue raised by Mr Albert HO just now. According to him, there are only some 20 members in the IPCC, and these people are responsible for examining all the complaints lodged against police officers. The problem is that they can only read the files, but they cannot conduct investigations in a comprehensive manner. With the ICAC, it is a different story. They did not rely on files or any letters disclosing secrets. Instead, they conducted in-depth investigations. They investigated the CSD, the relevant institution and many prison inmates in order to arrive at a conclusion and to hunt down the criminals. Can members of the IPCC conduct investigations in a comprehensive manner as well? That is out of the question, Chairman. As a result, although some 2 000 to 3 000 complaints are lodged against police officers each year, normally less than 80% of the cases are found to be substantiated, of which only several cases lead to punishment of the police officers involved. The success rate is far too low. This explains why the people find it so hard to have any faith in the work of the IPCC in monitoring the police.

Currently, I am following up the case of the death of PANG Chor-ying. The problems involved are apparent: During the entire death inquest, we could see that many exhibits had disappeared while they were in police custody. Strange enough, all such exhibits disappeared after reaching the hands of a particular police officer. Normally, PANG's family should lodge a complaint against the police officer, but in the end they did not. Why? That is because they had lost their faith altogether. How could they have faith in the police? How could the truth be unfolded when police officers are investigated by their peers? Finally, the family worried that corruption might be involved, so they turned to the ICAC for help. Chairman, to me it is essential that investigations are conducted independently and comprehensively, but unfortunately the IPCC cannot give full play to their functions. Although there are lay members in the IPCC, they cannot accomplish much since they have not conducted any comprehensive investigations.

Let us come back to the issue of police officers investigating their peers. As a number of colleagues have mentioned just now, there are bound to be limitations and inadequacies in reports prepared by police officers on the investigation of their fellow officers. But what can we do about it? There is absolutely nothing we can do. As they only read the files, so consequently,

though there are a large number of complaints, the substantiation rate is very low. Therefore, this problem does exist. We can no longer turn a blind eye to such facts. In fact, complainants are eager to find out the truth, no matter how it turns out to be. What worries them is that the so-called investigations cannot uncover the truth. That would be meaningless. What is the point of it, apart from wasting social resources? It also cannot help the people build up their trust in the police, so what is the point of it?

Judging from these two aspects, we can say that the Government is still stubborn and resistant to any improvement; it is only trying to protect its own officers. If it is protecting something positive, that is fine. Unfortunately, it is protecting something negative, and it intends to go on doing so in the future. So, I think the Government really needs to reflect on itself and asks itself what good will this do. What is the point of doing so? What is the point of spending taxpayers' money without building up a positive image for the Government itself? If it does no good at all, I hope Secretary Ambrose LEE can consider the whole issue all over again. I am not saying that we have to give Mr James TO an applause. But the fact of the matter is, the problem does exist. Otherwise, he would not have revisited the issue year after year. Yet the Government has chosen to ignore the matter without taking a look at it at all. To me, the Government is totally disrespectful to us, to this plain fact, and to the people who aspire to changes. This is very disappointing indeed.

As such, I would like to thank Mr James TO once again for the efforts he has made. I hope he will keep raising the issue next year. Why do I say so? Some colleagues have said earlier that Secretary Ambrose LEE will not have any breakthrough in his speech to be delivered later on — of course it would be most welcome if there is a breakthrough, right? But if no breakthrough is forthcoming, I hope we can carry on with our persistence in this regard, until we see a good beginning. We shall never give up.

Chairman, I so submit.

DR LUI MING-WAH (in Cantonese): Actually I had not intended to say anything today, but having listened to the speeches delivered by many Honourable colleagues, I would now wish to make some fair remarks on the issue. First of all, I must declare that I am a Vice-chairman of the Independent Police Complaints Council (IPCC), and also a member of the Panel on Security,

of which Mr James TO is the Chairman. There are two other Vice-chairmen on the IPCC who are also Members of the Legislative Council, namely, Mr Alan LEONG and Mr Daniel LAM. Besides, there are some ex-Members of the Legislative Council serving on the IPCC. Therefore, the manpower of the IPCC is very strong.

Here, I would like to point out that, with regard to the Complaints Against Police Office (CAPO), I have not participated in its operation, nor do I have much knowledge of its internal structure. However, the CAPO provides documents for the examination and deliberation by the IPCC. Every time, the CAPO provides the IPCC with a large pile of files for perusal by its members. Therefore, although the IPCC does not hold too many meetings, the quantity of its "homework" is rather substantial.

Mr LEUNG Yiu-chung has also pointed out earlier on that the reading of the documents alone has already taken up a lot of our time, and it is something we cannot finish in a sloppy manner. Therefore, from this perspective, we think that the CAPO has already done a lot of work, and according to the documents submitted to us, we can see that they have done their work in a very detailed and reasonable manner. There are quite some cases which the IPCC have held different opinions and come to different conclusions after going through the documents, and such cases would be re-examined, that is, the work of such cases would have to be done all over again. From this point, we can see that the IPCC has done a lot of work. Of course, the IPCC suffers from an acute shortage of manpower, and I hope that, after the IPCC has become a statutory organization, it can be provided with additional resources, so that it can do better. Regarding this point, I would like to extend my thanks to Mr James TO for moving this amendment. I hope some changes can take place and the Government can allocate more funding to the IPCC, so as to enable it to do a better job.

With regard to the incident of leakage of information, we all know that it is a very serious incident. But I hope everybody can refrain from making condemnation until the final report is released because, if the accusation is directed at the wrong party, it would lead to gross unfairness. Yesterday, we held a meeting until half past eight in the evening. The Chairman said that a press release would be forthcoming, which would say that the final report would be available within next week. We can make further comments by then, can we not?

Now, I just wish to point out that, some Members have said earlier on that, they were afraid that an investigation into the IPCC conducted by IPCC itself might lead to unfairness, or the cover-up of facts. I can assure Members that the IPCC would act truthfully in finding out who is or are responsible — at least this is how we in the Alliance would do. The IPCC will act in a most impartial manner in finding out the truth of the incident. Furthermore, the investigation into the leakage of information does not involve any vested interests. It just involves some procedural or management problems. So there will not be any cover-up of the facts. So, please rest assured. You may make whatever comments you like after the report has been released.

MS AUDREY EU (in Cantonese): Chairman, first of all, I am very grateful to Mr James TO for having moved this amendment for seven years in a row. Actually we fully understand his good intentions behind this move, and I very much agree with the several viewpoints offered by a number of colleagues in their speeches. We in the Civic Party absolutely agree that we must have an independent CAPO. This issue has been discussed for many years, and the Government has also said on many occasions that it would table a Bill to this Council.

Several Members have earlier on mentioned the recent leak of personal data by the Independent Police Complaints Council (IPCC). This is indeed a very regrettable incident. Just now, Dr LUI Ming-wah told us not to worry because members of the IPCC were all highly independent and respectable persons, and there were even several highly respected Members serving on the IPCC. So he said they would act truthfully in commending the good deeds and criticizing the wrong-doings.

I believe when Honourable colleagues delivered speeches, they were not challenging the Chairman or members of IPCC, including Mr Alan LEONG of the Civic Party. Dr LUI said earlier on that the quantity of IPCC's "homework" was rather substantial — this is exactly where the problem lies. All the members engaged themselves diligently in perusing the documents. Yet, as a matter of fact, documents are never as good as having one's own investigators, like the ICAC, to probe into incidents of corruption. All the Members who agree with Mr James TO's viewpoint would feel that in fact Hong Kong really needs to have a CAPO with independent investigation power.

However, I also agree with Ms Emily LAU when she said that something good might come out of such a nasty state of affairs; this is something we cannot be sure at this moment. She said the recent IPCC incident has actually reflected that we now need to inject more resources into this aspect. In fact, not only do we need to have some professional and independent persons, we also need to have sufficient full-time staff who should possess investigation power; and they should be provided with sufficient training so as to make them adequately alert. Apart from protecting privacy, they may also investigate complaints against police officers.

In fact, in Hong Kong, we do come across many such incidents and complaints from time to time. I believe, as Legislative Council Members, we would frequently encounter this type of complaints in which police officers are sometimes questioned why, in the course of conducting investigation, certain objects are hidden or tarnished or some exhibits are lost. Very often, such occurrences could actually be some mistakes, and police officers do not deliberately cover up anything. Therefore, if we have an independent CAPO which can conduct independent investigations with credibility, I believe it is also a blessing to police officers. As Ms Emily LAU said, I do hope that something good could come out of such a nasty state of affairs. Or because of this, it may prompt the Government to table the legislation to us earlier than originally scheduled, thereby leading to the establishment of an independent CAPO similar to the ICAC.

However, as Legislative Council Members, no matter what may happen, even if our inclinations, concepts, ideas or viewpoints are close to opposing the mechanism, the critical issue is, when we have to cast our votes on the Budget, we have to ask the question which Mr James TO asked right at the very beginning: Is that amount of over \$40 million worth spending? In fact, as long as we do not have that independent "complaints against police office" or "investigation of police office" in place, we still have to spend that amount of over \$40 million because we do have many complaints lodged by the people in a year; and we do need to have the IPCC or the CAPO to conduct investigations. Therefore, we in the Civic Party shall follow the same practice adopted by us before the establishment of our Party, that is, while morally we very much support Mr James TO's amendment, we do not wish to cast any vote in this Chamber. Even if we abstain, it will still affect the number of votes supporting Mr James TO's amendment. Therefore, under such circumstances, we shall

not cast our votes in this Chamber, and in doing so, we are showing our moral support. This is in line with the approach adopted by us in the past.

MR MARTIN LEE (in Cantonese): Madam Chairman, many years ago when Mr John GRIFFITHS QC was the Attorney General of Hong Kong, I had argued with him for many times as to why it was so hard to complain against police officers. I questioned why one-to-one cases could not be substantiated. He said one-to-one cases could not be substantiated because, if a citizen complained against a police officer, and the police officer denied the allegation, then it would be the case of one person versus another person, and a case like this could not be substantiated. I asked why. He replied that it would be very hard to prove it beyond reasonable doubt, because insofar as one-to-one cases were concerned, there were always reasonable doubts. However, I said it might not be so because a police officer could arrest four people, and his statement could incriminate all the four of them. This being the case, why would it be different when it comes to one-to-one cases? I have talked to Mr James TO about this. He said the situation remains the same even by now, so it is rather troublesome.

We are not saying that the IPCC members are not impartial or not doing their best. In fact, as far as I know, the offices of its Chairman and Vice-chairmen have all been assumed by renowned senior counsels. But the question is, have they become something like ornaments to the system unawares? This is because the system has not allowed them to give full play to their functions. After all, how can one determine whether a complaint is substantiated simply by reading a file? What is more, it has to be beyond reasonable doubt. Furthermore, as we are all aware, the Government relies heavily on self-conclusive investigations conducted by police officers on their peers. Frankly speaking, if I were a police officer, and I am aware that another police officer is checking on me, I would ask him to help me out, since we are members of the same family. Right? He has to help me out; it is a case of police officers investigating their peers, is it not? Otherwise, in future, if I become the one checking on him, what will I do in return? After all, even if the investigation is conducted impartially, it is just a report in a file.

I know that the Independent Police Complaints Council (IPCC) now has the power to summon witnesses, but as far as I know, this power is rarely exercised. With my experience as a barrister for so many years, I can say that

even for cases of minor offence such as careless driving, if no site inspection is made, we can hardly have any confidence in winning the case. When a police officer or another driver accuses a client of careless driving, the defence counsel should conduct a site inspection on behalf of the client. Likewise, if cross examinations are not conducted, how can a judgement be made? Just like the situation at the CAPO, if the witnesses are not cross examined, and if the persons responsible for conducting the cross examination are not lawyers or barristers with extensive experience in handling criminal cases, it may not be so easy to identify loopholes in the case.

During all these years, with so many complaints lodged against police officers Frankly speaking, some of the suspects charged with murder or rape might have made statements in which they have made a confession. If they want to reverse the statements, very often they would claim that they have been beaten up by police officers. Let us assume that a certain offender is in fact guilty, and that he has actually given a true account of the crime committed in the statement he made earlier on. But if, after consulting his lawyer, he decides not to plead guilty, how can he explain his confession in his statement? The offender would resort to denial. Such exceptional situations may happen when police officers are wrongly accused on purpose — the suspects accuse police officers of beating them up though nothing like that has ever happened. In normal circumstances, who has the leisure of lodging complaints against police officers? For example, if I were driving on my way to dinner, whereupon I was stopped by a police officer who swore at me and gave me a penalty ticket, I would be mad, and I would lodge a complaint against him. But in normal circumstances, why should I bother to complain against a police officer at all? If I have really been speeding, it would be my fault, why should I complain against him at all?

Therefore, we have to understand that normally a person is not really interested in lodging complaints against police officers. After all, what good does it do to oneself? However, when a complaint is lodged, will the hearing be unbiased? From my personal experience, this will hardly be the case. Given that there are piles and piles of documents, even if one goes through all of them, one may not have the confidence in determining whether a complaint is substantiated. Even with my many years of experience in handling court cases, I still have to solicit the assistance of a junior (another barrister), lest I may overlook anything. If one is asked to sit right there to go through all the piles of

documents, how can he finish reading them all? Even if one does nothing but just concentrates on reading the documents, even if he can finish reading dozens of them each and every night, it still will not work. Therefore, it is the system and the operation that hinder the IPCC from fulfilling its duties.

At present, both the police and the Government emphasize co-operation between the police and the people, but the premise for such co-operation is mutual trust. If the majority of the complaints lodged against police officers should end up as unsubstantiated — only 8% of such cases are substantiated — how can it make the people have confidence in the police? Frankly speaking, if I am a good policeman, if I have done nothing wrong, when somebody wrongly accuses me of having done something wrong, I would prefer to have an independent body to conduct an investigation, instead of having it done by a body like the existing CAPO, which cannot conduct investigations independently. If I should be subject to the present self-conclusive investigations conducted by peer officers, even if the complaint against me should become unsubstantiated and I can walk out free, will it be something that makes me feel honourable? If I have done nothing wrong at all, I would prefer to have my case investigated by an independent CAPO, which will then declare my case as unsubstantiated. Only in this way will I feel honourable.

Lastly, I would like to say that every year when Mr James TO tables this amendment, many Members do not even bother to listen to his case. Let us take a look at how many Members are present in this Chamber right now? Some political parties do not even speak on the topic; even if they speak, all they do is, after listening to the speech of the Secretary, to say something casually to oppose Mr James TO's amendment. May I ask how many similar incidents have to happen at the CAPO or the IPCC, and how serious will these incidents have to become, before we can realize that Mr James TO is telling us the right opinions? They have to answer these questions. Is it true that this case is not serious enough? Or how many problems have to happen again? How serious will the problems have to become before they would agree that the CAPO should become independent?

Madam Chairman, I hope Members can bear this in mind. In fact, if we want our society to be less unstable and more peaceful, we have to face the problem squarely. This is because police officers come into contact with a large number of people every day. If most of the complaints lodged against police officers are useless, since one-to-one cases cannot be substantiated, then

the people will lose confidence in the system and the Government. Should that happens, how can we make the Government or the administration of this Government improve after all?

Thank you, Madam Chairman.

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

MR SIN CHUNG-KAI (in Cantonese): Chairman, although I am also a member of the Democratic Party, I cannot help asking Mr James TO this question: Why do we seek to reduce the appropriations for CAPO every year? This is quite a hassle indeed. In fact, the discussions on the Budget should have been concluded fairly quickly. If we cast our votes at 12.30 pm, the meeting can be adjourned by 2.30 pm.

Having said that, I would like to ask another question: Why should this have taken as long as seven years? Right now the Government is changing its course and the CAPO might be able to become independent. This being the case, can the Government do away the amendment tabled by Mr James TO once and for all by making the CAPO independent? I believe this will address the issue once and for all, and Mr James TO will not raise this issue again in this Council.

Chairman, several colleagues have mentioned the IPCC incident. The Independent Police Complaints Council (IPCC) is responsible for monitoring the IPCC (*sic*), and we have a Vice-chairman and a member of the IPCC attending our meeting today. Right now we have two completely different versions of the story, including the one I read from the newspapers with the view of Mr Alan LEONG who proposes to remove the company in question from the list. Naturally, my initial response was that we should first investigate into the incident before making any decision. Now the company in question stated openly that they had actually asked for some dummy data only. However, as a practitioner of the information technology industry who has been working in this field for many years, I may as well judge it from another perspective: That if dummy data were needed, the company did not need to ask for the provision of such data from the IPCC; they could simply make up their own dummy data in the first place. If 20 000 dummy records were needed, they could as well

proceed with simulated investigation by making up 20 000 dummy names, such as, LEONG Kah-kit, KAH Kit-leong, or KIT Leong-kah. On the other hand, if the IPCC had provided the data to the company in question, once the latter opened the files, they would have detected inaccuracies or errors in them. Should that happen, they ought to have confirmed with the IPCC on what kinds of data had been provided.

Therefore, the incident has already given rise to two totally different versions. The IPCC is actually related to the CAPO. As a matter of fact, some highly respected members of the legal or other professions have been appointed to the IPCC to take up the task of monitoring the CAPO. In this incident, these members of the IPCC are the most innocent victims. Although the incident is not particularly special, at the very least, it is an unsolicited hassle on which they have to spend a lot of time. If the CAPO were an independent body with its own investigation teams to conduct independent investigations into complaints lodged against police officers, and if they had an organizational structure of their own, under which there were strict procedures to follow, the recent leakage of classified information might have been pre-empted. If we look at the incident from the perspective of a conspiracy (and I stress it is from the perspective of a conspiracy), then the ultimate aim of, and the motive to this "leakage" is to deal a blow to the IPCC — pardon me, it should be the CAPO. If it turns out that subsequent to lodging a complaint, your name will appear on a website after a certain period of time, will anyone dare to lodge any complaint again? Of course, I believe the whole incident was unintentional, yet objectively it will lead to such an effect. This will exactly achieve the effect of making the people think: Do not make so many complaints.

Chairman, the Government always says that the Hong Kong Police Force is the cream of its kind in the world. However, if we really have the *crème de la crème*, then such a police force will need to have a top-notch check-and-balance system in the world. The need for such a check-and-balance system calls for an independent CAPO, which would command public credibility. Today, when Mr James TO calls for the deletion of the expenditure in this regard, actually he is hoping that the Government can make the CAPO independent as soon as possible. It is hoped that the Government may seize this opportunity of handling this IPCC incident to make the CAPO independent as soon as possible, so that the matter can be settled once and for all. In this way, Mr James TO of the Democratic Party will no longer find it necessary to propose mechanically the deletion of expenditure in this regard each and every year. In

fact, we are most unwilling to do this. We hope the Government can expeditiously make the CAPO independent.

With these remarks, I support Mr James TO's amendment.

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

MR HOWARD YOUNG (in Cantonese): Madam Chairman, just as Mr James TO has said, he has tabled similar amendments for seven years in a row. Judging from the wordings he used, on the surface, he is seeking to reduce the resources allocated to the Complaints Against Police Office (CAPO) from the Budget.

The Liberal Party shares the view of the majority of the public and agrees that an impartial and efficient complaints system should be in place. Therefore, on the surface, the investment for a better public body calls for increased resources, instead of reduced resources. Yet objectively, this amendment has the effect of slashing the resources. I believe Mr James TO does not really intend to reduce the resources. Instead, I believe he wants to make the system work better. Since he does not have any alternatives, he has been forced into taking this method. It appears to be slightly punitive, that is, if the Government does not improve the system according to his proposal, then he will punish the Government. To me, this should be his original intention, instead of really intending to slash these resources substantially after all.

Furthermore, some Members also mentioned the corruption problem in Hong Kong. They questioned why we can have an Independent Commission Against Corruption (ICAC), whereas complaints lodged against police officers cannot be investigated independently. This is what I think: When the ICAC was first established, corruption was truly rampant in Hong Kong in both the private and public sectors. Corruption had almost become a way of life in Hong Kong at that time. The problem was so serious that if the Government did not implement some sweeping operations, corruption would have spread unchecked. This explains why the ICAC was set up, whose work has been fairly successful.

Of course, we are not saying that no one complains against police officers now. Actually, thousands of such complaints are lodged every year. Yet, in comparison to the situation when the ICAC was first established, and in comparison to the threat posed to society by the rampant corruption at that time, I think there is a difference. In those days, when the people were dissatisfied with any corruption case, they would lodge a complaint. If those complaints were substantiated, I believe that would constitute serious criminal offences, even by today's standards. Insofar as cases investigated by the ICAC are concerned, it should be rare for substantiated cases to be classified as non-criminal cases.

With regard to complaints lodged against police officers, of course I am not privy to the details. I believe many such cases are unsubstantiated probably because, as some Members have suggested just now, somebody might have intentionally "framed up" the police officers. Some cases which are substantiated are probably due to the attitudes of the officers concerned, or they may be complained for the use of verbal abuses. Even so, these are not serious crimes. The police officers in question may only be subject to disciplinary actions. Therefore, the two are different in nature and degree of seriousness. In my observation, when the ICAC was first established, the public had very little confidence in the Government or the Government's ability in handling corruption cases. But objectively, the public has pretty great confidence in the police nowadays. Furthermore, in my opinion, by world standards or at least by the standards of Asian cities, the Hong Kong Police Force is of a very high quality and is generally supported and respected by the public. Naturally, it does not mean that there are no complaints from the people. But this is the fact; otherwise, we would not have been rated, repeatedly, as one of the cities with the best law and order situation in Asia.

Of course, I understand that the question of impartiality will be asked when self-conclusive investigations are conducted by one's peers. This is a philosophical issue worth exploring. Personally I did not take up any office in the system for handling complaints against police officers, but I was once a member of the complaints committee of the ICAC. When complaints are lodged against the ICAC, the complaints will be investigated by ICAC officers as well, and the ICAC will not spin out another ICAC just to handle the complaints lodged against it. Therefore, my question is: Under the circumstances, do we think that the police have to spin out another police force in order to take on the police officers specifically? I agree that there are complaints lodged against

police officers, but the situation is not that serious. After all, will that be the most effective practice? After all, apart from impartiality, we have to consider effectiveness too, where effectiveness means the effective use of public money.

Therefore, the Liberal Party and I welcome the direction of turning the Independent Police Complaints Council (IPCC) into a statutory body as suggested by the Government, which may improve the public credibility and trustworthiness of the IPCC.

Many Members have earlier on mentioned the recent leak of data at the IPCC. I think the incident does not bear any direct relevance to the appropriation issue under discussion. But I also think that this incident does show that in order to establish and uphold an effective and impartial complaint system, we must have more resources, instead of having less.

With these remarks, Madam Chairman, I do not support Mr James TO's amendment.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR SECURITY (in Cantonese): Chairman, the authorities oppose strongly to the amendment proposed by Mr James TO to abolish the appropriation for the Complaints Against Police Office (CAPO).

For the past few years, whenever the Legislative Council examined on the Appropriation Bill, Mr James TO would move a similar amendment. This amendment would not result in any improvement to the existing system of lodging complaints against the police, and on the contrary, would only bar people from making complaints.

At present, the CAPO under the Police Force is tasked with investigating into complaints against police officers. The CAPO is different from other

front-line and operation units in that it is under a different division in the Police Force and supervised by a different commander. This is to ensure that the investigations it conducts will be independent, thorough and impartial. After the investigations are completed, the CAPO will submit a detailed report on each one of the investigations it has undertaken to the Independent Police Complaints Council (IPCC) for examination. The IPCC is authorized to demand from the CAPO details and papers concerning the complaint cases. The IPCC can meet the witnesses, and members and observers of the IPCC can observe in person the investigations being conducted by the CAPO. Should the IPCC have any queries or if it is not satisfied with investigations conducted by the CAPO, it can require the CAPO to submit a further explanation or to launch a new investigation into the complaint or even refer the case together with the IPCC's recommendations to the Chief Executive.

In order to improve this system, the authorities have in the past few years launched a number of improvement initiatives, including the opening up of certain regular meetings of the IPCC to members of the public who may come to attend these meetings. A Serious Complaints Committee has been set up under the IPCC. Each month the CAPO is required to submit progress reports on specified serious complaint cases to the Committee. The Committee may put forward its views and raise questions with respect to the reports. It can also make appointments to meet the witnesses as and when necessary.

In addition, the Observers Scheme has been further expanded with effect from September 1999. Observers may observe in person the investigations conducted by the CAPO by making arrangements in advance or by making a blitz check. This may include meeting the witnesses, complainants or the persons complained against, as well as inspecting the collection of evidence on the site of the case. At present, there are altogether 91 observers, including those who are serving members of the IPCC. This has greatly enhanced the monitoring capacity of the IPCC and the number of observation visits made has risen from 26 in 1996 to 327 in 2005.

In 2005, the CPAO acted on the advice of the IPCC and amended the findings of 64 cases investigated. The IPCC would often raise queries and make suggestions when re-examining the cases. Generally, the CAPO would accept those suggestions or offer satisfactory explanations to the queries. The CAPO will follow up the suggestions and queries made and it is extremely rare for both sides not to reach a consensus. In most cases, there is not even one

case in an entire year. From this it can be seen that the IPCC has been able to exert great influence and undertake effective monitoring within the complaints system.

Chairman, the existing system of complaints against police can fully utilize the expertise of police officers and their profound knowledge of policing matters in the investigation of complaint cases. An independent and effective monitoring and checks and balance mechanism is in place to ensure that complainants will be given a fair and thorough investigation into their complaints. In our opinion, it is an effective arrangement as it is now practised to have the CAPO in charge of investigations and the IPCC in charge of monitoring and re-examination of the cases.

Earlier on a few Honourable Members in their speeches put forward two points of view. The first is that the existing practice is like having people making investigations into other people from their own ranks. They said that even though the CAPO was independent from other units in the Police Force, it belonged to the Police Force and this was also a case of policemen investigating into other policemen and they asked if that was fair. Please do not forget that policing is highly professional in nature, like the practice of doctors and lawyers. If anyone lodges a complaint with the Medical Council against a doctor, then would an investigation only be fair if there is no doctor in the investigation committee? Or when a lawyer is complained, would the investigation committee in the Law Society only be fair when there is no lawyer in it? I think the most important thing is for the investigation committee to conduct an objective and impartial investigation and it would be most convincing if it can do so.

Another point is that it would not be effective when there is no independent investigation mechanism. In other words, this sum of \$40 million would be wasted. This I do not agree. We can just look at the facts. All through these 10 to 20 years, since we have this mechanism, the service quality of the police is constantly on the rise and irrespective of handling cases, interviewing witnesses and courtesy, police officers have shown a quality that is constantly improving. It is evident to all the people of Hong Kong can see. Of course, this is due to the training we give to police officers which encompasses all aspects and on the other hand, this also shows that there is something positive about making

complaints against police officers. The CAPO has done a lot in raising the service quality of the police officers.

For many years the IPCC has made enormous contribution to the examination of investigations conducted by the CAPO. The achievement is owed to the Chairman and members of the IPCC who have worked hard in building up an independent monitoring system with integrity. The recent case of the leakage of personal details of complainants is something which we do not wish to see. The IPCC is presently taking resolute follow-up action. I would like to express my gratitude to the Chairman and members of the IPCC for their efforts and commitment made in the event. The authorities will continue to offer all kinds of support as required while respecting the autonomy of the IPCC.

In the long run, in order that the existing system can be further improved, we are presently drafting legislation to convert the IPCC into a statutory body. The legislation will clearly define the duties, functions and powers of the IPCC and will in turn reinforce the independence and transparency of the IPCC and hence boost public confidence in the complaints against police system. We are consulting the IPCC on the Bill. After that, we will consult the Legislative Council Panel on Security and introduce the Bill to the Legislative Council at the soonest.

If this amendment from Mr TO is passed, the CAPO will be forced to terminate its operation and it will no longer receive and handle complaints from citizens against police. This is certainly not in public interest. So I implore Honourable Members to support us and vote against Mr James TO's amendment.

MR JAMES TO (in Cantonese): Chairman, just now the Secretary said in the end that a Bill to convert the CAPO into a statutory body would be submitted. Does the Secretary have any sense of shame? He should have no sense of shame because he has only become a director of bureau for some two years. However, as a representative of the Government, he should feel ashamed. For over the past eight years, he and his predecessor have been saying the same thing year after year, that consultation is being conducted. How can consultations be so long? He has only been in office for some two years and so I would not blame him. But he should bear history in his mind, that there were six years

before his assumption of the present post. Why was there no consultation at that time? Shall we blame Mr TUNG or Regina IP?

The Secretary said that if this sum of some \$40 million was deleted, the people would be barred from lodging complaints. It is actually the Government which has denied the people a channel of redress. It does not let the people have an independent and fair complaints system, one that the people can place their trust in. And so this sum of some \$40 million will be wasted. Many people go to the offices of the major political parties, including mine, to lodge complaints. I am not aware of the situation in other offices, but speaking on the many cases that I have personally handled, the people did not want to lodge a complaint in the first place because they feared that policemen would come to each other's defence. I entreated them to lodge a complaint, to the extent that I begged them to do so. Why? This is because our former Director of Bureau had said to the effect that there were a lot fewer complaints received for the year and so the police had been doing a good job. I am afraid the present Director of Bureau will say the same thing. So even if I knew that some of those people did have some genuine grievances or had suffered from the abuse of powers and might in the end not given any fair treatment, I would still implore them to obtain at least a record and see the perfunctory treatment these people would give them. At least they could get a copy or see how these people would cancel their complaint and play tricks on them. In this way, the people can at least see with their own eyes. After the story is reported in the media, the people would gather some experience and in the end this would transform into a momentum for change.

A most simple case is the following one. I think I should mention these two cases again because some Honourable colleagues have not heard about them. A few years ago, an off-duty Customs officer was eating in a bistro cafe in Hung Hom when all of a sudden a squad of PTU was beating up a suspect outside the cafe. The off-duty Customs officer was surprised and thought there was no cause for this. So he went out and had an exchange of sharp words with the policemen. Then he went back to the cafe for his meal. Then the whole PTU squad came into the cafe and pulled him out and beat him up. People from the staff union of the Customs service told me that they wanted an independent complaints mechanism in the place of the CAPO.

The second case is about a dentist who went to a karaoke lounge. When he was singing in a room there, the police came to the place to carry out a licence check. It may be that the policeman who asked him to produce his identity card for inspection was somewhat rude and of course, as a dentist he was used to meeting gentle people, so he asked the policeman if he could be more gentle. This was the only remark he made. And in consequence the whole team of policemen dragged him to a back alley or the back staircase and beat him up. He lost some teeth. And he was a dentist himself. He asked his former alumni at the Ricci Hall of the University of Hong Kong who is now a police superintendent how he should handle this matter. The police superintendent said to him that he could let him handle it and he could find these policemen and offer him an apology, for after all that was just a misunderstanding. The dentist said, "What? Just an apology?" The superintendent said, "Never mind. If you don't like it, you can go to the CAPO. See how they will make a fool of you! You would not get anything in the end." The police superintendent is an alumni of his from Ricci Hall and he has told him the truth from his heart.

What then is the problem? The problem is that the people cannot see any fairness, but why are the police so worried? This is exactly what the Secretary has said, that only policemen would understand the work of policemen and if some people who know nothing about police matters are appointed, these laymen will misunderstand the police and so the complaints might easily be substantiated. It would be terrible if this happens. Then I would like to ask: Are our colleagues on the IPCC or other members of the IPCC not versed in police matters? The Secretary would say that it is precisely because they may not be versed in such matters that even the power to adjudicate should not be given to them. In the end, cases would have to be referred to the Commissioner of Police for decision and to determine the penalty to be imposed. It would be useless even if the complaint is substantiated. The Secretary would say that he would argue with him and if he says yes, he would say no. Never mind, then let both parties come to a draw and he would not punish him in any case. Nothing can be done really.

There is yet another argument. To be honest, it was advanced at that time when the Independent Commission Against Corruption (ICAC) was formed. The ICAC is a unit outside the police. Sometimes the police will need to carry out covert operations by having someone to act as an undercover agent or informer, and so on. Laymen who do not understand what they are doing will say that they are taking bribes, or they have compromised and it would be

terrible if people think of them that way. Now no one dares say that the ICAC is not versed in police matters. If we are to set up an independent investigation body, we can find some people who are well versed in police matters. These people can be retired or even former police officers who have left the Police Force. These people have nothing to do with the Police Force anymore. They would not be transferred to some postings in which they may be the subordinates or colleagues of those people who are being complained. I do not think even the Secretary can reply to this question of mine. That is, is there any mechanism in place that will ensure that no such things will ever happen? The answer is no.

Besides, some police officers may be worried and this may be justified. They will say, "It is too bad. If they will take active steps to investigate, then it would be too bad for us." The people will say, "My goodness! If you have such worries, we would be much more worried." The problem of faith and impartiality cannot be settled. This point has been mentioned by many Honourable colleagues earlier. Actually, it is very unfair to some innocent policemen. Now I am hearing more and more front-line policemen whom I have direct contact with say this, "Oh, if only there is an independent CAPO, then we can at least gain the trust of other people and they will know that we are really innocent." Another thing is that they reminded me of a most inspiring point. They said, "If there is really an independent CAPO, if the policemen are really found to have been wrongly accused and framed, then we would think that this is some intolerable thing and the policemen concerned should make a counter complaint. But as the existing CAPO is not independent, we do have some hesitations." This is what some front-line policemen have said to me. The policemen who have said this think that if they are wronged by someone, they should accuse the person in return because this is a very outrageous act.

Also, precisely because it is not independent, some technicalities in law can never be resolved. What are they? When a complaint is lodged against a policeman, the complainant will give a statement. As the CAPO is a unit in the Police Force, after the statement is given, if the complainant is involved in a case or if the policeman and the complainant are accusing each other in the same case, the statement in question will be given to the police for scrutiny. The opinion from the Department of Justice is that this would be unfair to the complainant and the CAPO may persuade him or let him have a chance to decide not to give his statement to the police. If the statement is not given to the police, the CAPO will have to hold the case and no follow-up action can be taken. But if the

CAPO is independent of the police, case investigations can proceed. Why? If the police charge the person for possession of drugs and if he says that the police are framing him, then an investigation into both allegations can proceed at the same time. In the end, of course it would be the Secretary for Justice who will act on the basis of evidence from both parties and decide whether or not prosecution will be pressed ahead. The Secretary for Justice will of course examine the case, but he will not say that since the CAPO is not part of the police, so from the perspectives of law and criminal proceedings, this would not be to the advantage of the complainant. It can be seen that the problem cannot be solved, so what should we do?

This is the same in every case and if a policeman wants to sue you and you want to sue the policeman, there will be problems with respect to the taking of evidence and exhibits and at times even a first deposition cannot be taken. Then how can evidence be taken and how can some exhibits be preserved as some of them may be lost? This situation is advantageous to the complainant and not to the person complained against. What can be done if even a deposition cannot be recorded?

Some Honourable colleagues have said that the IPCC has been working very hard and it is very serious about its work. I have no doubts about the industry of our colleagues and this is because many of our colleagues, including the former Director of Bureau whom I know personally as well as the two former Vice-chairmen, said to me that it was really very tough work and it would be almost impossible to examine every case. I have no idea what other colleagues would think as they have a chance to speak for a second time. Does the Vice-chairman — I would not say the other members — dare tell me how he deals with the cases? Will each one of them look at one third of the cases if there are three of them, and each one will look at half of the cases if there are two of them? Or if he looks at all the cases by himself? Just how does he do it? Could he tell us about it?

The problem is, however, that now the Government has plenty of resources. Mr Howard YOUNG has said that things could not be done well if there are insufficient resources and if it is given enough resources, then things can be done well. Of course, there are possibilities that some sort of mending and patchwork may need to be done, but at the end of the day, when it comes to actual work, it will be the police which will conduct the investigations.

Why did I cite section 15(3)(b) of the Coroners Ordinance a while ago? This is a very important provision, for it is about the death of a person, in other words, even if there is any abuse of power, a dead person can never lodge a complaint, not even when there is the CAPO and the IPCC. So there is a need for a Coroner's Court. The coroner may ask the Commissioner of Police — this provision is a product of compromise — to undertake special measures to ensure that everything will be fair and independent. Of course, at that time the explanation given by the Government — the Director and Deputy Director of Administration should be Mr Paul TANG and Mr Stephen FISHER respectively, was that if that was the case, then he could ask some investigation body from abroad or the ICAC to conduct the investigations, or a Judge could conduct the investigation himself. But nothing could be done about it because someone had died and that was a very serious matter. So after some fuss, at last this provision was added in 1996. But what about the case of a person seriously injured? A person may not die after being beaten up severely and he may be half-dead in the sense that he becomes a disabled person. He may still be able to talk, then should we, that is, for example, the IPCC, have the right to ask the Commissioner of Police to take any special action with respect to the case? Now we do not have such a practice and after he has conducted the investigation, a report will be given to you and if you disagree, all you can do is to argue with him whether or not the case is substantiated or if there are any faults. In the end, the problem remains unsolved.

Just now many Honourable colleagues have mentioned a recent incident concerning the IPCC. The Secretary has made remarks like making a lot of contribution, a great deal of achievements and taking bold steps to follow up, and so on. I just want to raise one point and that is, no matter who is at fault, it is true that the IPCC as an entity has leaked the personal information of 20 000 people. Will it send 20 000 letters to inform the people concerned? At least, this is basic courtesy. What is meant by taking bold steps to follow up? When they came to this Council, they only talked about half of everything. Fortunately, their Chairman and others are fairly discreet, for the Chairman is a senior counsel. When one of our Honourable colleagues asked him whether or not he would ask for compensation from the party concerned or pursue liabilities in that matter, or if there were any other versions or things like that, he said that he would only know after some detailed investigations were conducted. But please remember, the few pages of introductory remarks might have been written

by his secretary and there the name of the programmer concerned was hinted or even stated. It was as if he had said, "It is he. He is the guy. It is his fault."

Our colleagues asked that an independent investigation be carried out. Today a colleague said to this effect, "No. The IPCC has not yet finished the investigation and should we not first give it some time to finish it? Moreover, there are no conflicts of interest in us and nothing is being covered up." But I thought, if that is so, then why all of a sudden a meeting would be held and it would go beyond eight o'clock? Did people know nothing in advance? Please remember, the incident took place 10 days ago and so we have reasons to believe — or at least we are worried — that in a bid to protect its reputation, the IPCC would think the best way out is to make the person a scapegoat. If he takes all the blame, there may still be more to come. But if he does not take this blame and the result is the IPCC cannot shift the blame onto him, things would be much more difficult for the IPCC. Now it looks as they could not come to any agreement and the person was forced to come forth and talk in public. No one can believe that during the 10-day investigation, no attempt was made to talk with the contractor. After his talk in public all of a sudden, it is said that an appointment would be made with him to discuss the matter. This is how the IPCC handles things and no wonder our Honourable colleagues have demanded that an independent investigation be conducted.

By the same logic, the shoot-out case we have been talking about these few days — actually, at first I thought it was a 50-50 case, for the two sides of a coin should be looked into, but the way in which the Government is handling things makes it very difficult for people not to demand that an independent inquiry be undertaken. For if not, there is no chance the problem can be solved. I hope the Government will understand that this is a tactic to compel the Government to face up to the issue squarely and set up an independent CAPO.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

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

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:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Ms LI Fung-ying abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew

CHENG, Mr Albert CHAN, Mr LEE Wing-tat, Mr LEUNG Kwok-hung and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selena CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr LI Kwok-ying, Mr MA Lik and Mr CHEUNG Hok-ming 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, 25 were present, four were in favour of the amendment, 20 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 13 were in favour of the amendment and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MR JAMES TO (in Cantonese): Chairman, I move that head 122 be reduced by \$80 million in respect of subhead 103. The amount to be reduced is equivalent to the expenditure estimate of the Hong Kong Police Force in rewards and special services payments.

Chairman, the informer fees as listed in the Chinese Script is not an accurate description, for the subhead is "Rewards and Special Services". Why should I have to specifically clarify this point from the outset? It can be said that I want to make things simple. But in fact, the so-called rewards and special services include many kinds of expenses. Of course, I have no idea of the most detailed breakdown and I do not know how each dollar is spent under this subhead. Moreover, informer fees only account for a portion of the total expenditure. Other items of expenditure include expenses related to interception of communications and covert surveillance as seen in the letter written by the Secretary today to solicit support from Members.

Maybe I would first talk about the history of this sum of funding. Actually, subhead 103 used to be the expenditure of the Special Branch during the days of the British Hong Kong Administration. At that time, the expenditure was larger in amount. However, at present the amount of expenditure does not include some overt expenses. The present amount of \$80 million does not include items of expenditure like the staff cost of as much as close to \$100 million at the Security Wing of the Crime and Security Department which has a few hundred staff, the staff cost of about \$100 million of the Criminal Intelligence Bureau which also has a few hundred staff, and the staff cost of \$40 million of the Support Wing which is responsible for technical matters concerning wire tapping. The amount also does not include the sum of more than \$100 million spent by the Criminal Intelligence Bureau, the Narcotics Bureau, and the Organized Crime and Triad Bureau on updating their computer systems and on encrypted communications.

Why do I have to speak in such great details on what are not included? Actually, I would like to tell Members that \$80 million is a very large sum of funding and in my understanding, this sum of \$80 million cannot only be expenditure on informer fees. And if this is the case, many informers would chase the Commissioner for fees. However, as a matter of fact, expenses on this item are not very large. The question is: Where is this sum of \$80 million spent? As I said earlier, in the past the expenditure of the Special Branch was used on such dirty work as political surveillance and after the reunification, there are policemen who may not be willing to take up such kind of work.

I urge the Government to be more open and tell us some of the subheads. I am not trying to delve into where every cent has been spent, for this is something I should not do. But there are some indicators which this Council can use to help it in monitoring, for example, the expenditure by subheads. Could the Government tell us how much is spent on anti-terrorism? How much is spent on crime investigation and security? Or from another perspective, can we be informed of how much is spent on manpower and equipment with reference to some subheads? Such kinds of information are very important, for we can see the payments made to certain people — these may not necessarily be informer fees and they can include undercover operations and some other quite complicated expenses. Why should monitoring these large subheads affect police operations as the Secretary has said? I would like the Secretary to offer a detailed explanation on this.

If such kinds of information cannot be made public, can meetings be held in camera? I have given him many chances, but every time the reply I get is no. Can Members listen to information concerning some sensitive expenditure for monitoring purposes in other assemblies or special committees in camera and in rooms fitted with anti-wire tapping devices and after signing a confidentiality order and swearing an oath of secrecy? The reply I get is still no. As a matter of fact, many committees in foreign countries are doing this.

I have actually explored many methods and possibilities to avoid going to what some other Honourable colleagues have described such an extreme as to delete this subhead. But how is the issue of accountability going to be resolved? I find that over these years, as I have just said, there has not been much progress. Does it mean that there has never been any progress at all? I can just say that the case with the Government is like squeezing toothpaste, some sort of progress is slowly squeezed little by little. However, the extent is never so large as to make me withdraw this amendment. I have thought of giving a fair account of the progress made, but then I realize this should be done by the Secretary when he speaks. The Secretary has stated the amount of rewards and the number of payments made. But such information is the result of our pressing the Secretary for so many years. Then the Secretary has said that expenses on the interception of communications will be disclosed. We should know, however, that this sum of expenditure is disclosed because the interception of communications has been ruled by the Court as unconstitutional and does not carry any legality. That is why a law is being drafted.

(THE CHAIRMAN'S DEPUTY, MS MIRIAM LAU, took the Chair)

We are therefore very disappointed. Actually, the Government, especially the Director of Bureau in 2002 had made a pledge at that time — the Director of Bureau then was not the serving Director of Bureau — that when communications were intercepted, consideration would be made to give an account of the breakdown under this item, provided that the normal operation and efficiency of the Government would not be compromised. But nothing has been heard about this matter to date and all we know is that the matter has been put off year after year. As the chairman of the relevant Legislative Council Panel, I know very well that part of this item is necessary expenditure for crime

detection to uphold public safety. The problem is that I cannot convince myself that all the sum of \$80 million should be spent and that no money has been spent improperly on some activities which people are worried about and those activities which prompt the attempt to enact legislation on Article 23 of the Basic Law? The people have no idea as to whether or not money is spent in the name of public security indefinitely under the wire tapping law, such as engaging in political surveillance or surveillance of trade unions or certain active political figures which is not necessary and has little or no relationship with public security. Of greater importance is that if the Government is to curb certain freedoms of the people, it may just increase its own powers or use this sum of money to engage in certain kinds of work. Also, we must comply with the stipulations of the Basic Law and the International Covenant on Civil and Political Rights. In view of this, I think that at the present stage, I am not convinced that the Government has complied with all these stipulations.

When compared to other democracies, it can be seen that even for some intelligence organs which are tasked with national security or anti-terrorism work, what they have disclosed with respect to the grand plan and the subheads are actually more than what our Government has disclosed. On top of this, they are backed up by a democratic system and their ministers, prime ministers or heads of state may have to step down should something happen. But for us, does our accountability system play any active role? Do we have a sound and democratic system to monitor what is going on?

For all these reasons, I cannot convince myself that this item of expenditure is one which will meet public interest. I do not think this Council should give its approval to funding this item when this Council is to give full play to its role as specified in the Basic Law, that the legislature should monitor the work of the Government and vet budget proposals.

Hence I am left with no option but to propose that this sum of funding should be deleted as a means to compel the Government to devise a better way to give an account to this Council and hold itself accountable to the same. I therefore propose this amendment.

Mr James TO moved the following motion:

"RESOLVED that head 122 be reduced by \$80,000,000 in respect of subhead 103."

MR LEUNG KWOK-HUNG (in Cantonese): I am grateful to Mr James TO for explaining his amendment in such great detail, for many secondary school students are listening to this debate. If we refer to it as informer fees only, people may think that Mr TO is not being reasonable. Based on the detective stories and crime movies, we must think that informers are very important, right? It is surprising to know that this is not the truth.

I once asked Secretary Ambrose LEE on work done by the Special Branch during the times of the British Hong Kong Administration. I asked him who are doing such kind of work now and whether such work is no longer done or not. For any accountable government, it will certainly say, "No, we are not doing the kinds of work done by the Special Branch anymore." Or it may say, "Yes, it is being done by some other people." If the reply is like this, it will certainly be like a Pandora box. When it is opened, people will ask, "Who is paying the money?" Does TUNG Chee-hwa pay this out of his own pockets or does Donald TSANG pay out of his own pockets? Of course, it cannot be either one of them. It must come from the public coffers. Right? If it is funded by public money, we can firmly believe beyond any doubt that the wire tapping activities conducted under an executive order issued by Donald TSANG in abusing his powers are using this sum of money. For if not, it can never be explained in any logical manner.

Civil servants will get a salary, that is for sure. As for the expenses incurred when civil servants perform their duties, they will be paid by the Government — it must be done this way, irrespective of the countless ways and names these expenses are paid. In other words, there is no doubt that the kind of unscrupulous activities carried out by the Special Branch under the auspices of the British Hong Kong Government will be carried out under a new name and they are in total compliance with the principle of the rule of law in Hong Kong. It even goes to such an outrageous extreme that the Chief Executive will issue a new executive order to tell society that this is alright.

It follows that as Members of this Council, we should monitor the Government and the Government should hold itself accountable to us. Article 64 of the Basic Law states: "The Government of the Hong Kong Special Administrative Region must abide by the law." Does Mr TSANG abide by the law? This Mr TSANG is not John TSANG but Donald TSANG. He does not abide by the law. The Court has ruled that his act is unconstitutional. As to the part on "and be accountable to the Legislative Council of the Region", if it is

like what Mr James TO has said, that one has to implore the Government even for details of one item, how can it be said to be accountable? We have no idea how the money is spent and we do not know whether the things said are true or false. The situation is like some secondary school students who ask their parents for some money. The parents ask them what the money is for and they say it is for learning, but actually the money is spent on singing in a karaoke lounge. So what can be done? The parents do not know that the money is used in going to a karaoke lounge. They only know that the purpose is on learning as the students have described. True, it is spent on learning, but what is learned is singing. This is inventing all sorts of pretexts. This is bureaucratism. It is Parkinson's disease of the fourth kind.

The provision also says that the Government "shall implement the laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure." We should open our eyes up today and watch this spectacle. Dear secondary school students, here in this place today, some Honourable Members are telling the Government that if people invent all sorts of pretexts and have done things that are unconstitutional or even in breach of the law and then ask the Legislative Council to grant approval to their funding requests, no approval should be granted. We must never refrain from doing a good thing though it may appear to be trivial. Many people would say, never try to gain a little only to lose a lot. A minor mistake may be made, but no funding will be granted whatsoever. I do not think that this is the case. I think that the system we have in monitoring the Government is too lax and it even smacks of a colonial flavour.

Please do not forget that the person who sat here used to be the governor and all the Members were not returned by election. The case is like the Hong Kong Club next doors, one has to wait for a vacancy to arise before one can join. Things are different now. The assembly now is returned by election. You may stand a chance of running in an election and some of you here may be elected. So there should be more stringent monitoring of the Government. The Government accuses Members of trying to gain little only to lose a lot and that some people are "fouled" for making a trivial mistake. This is irresponsible. May I ask the Government, if the mistake made is something that could have been rectified but was not rectified and some people are "fouled" in

this way, would this not let down the people of Hong Kong? This is like a father who is addicted to drugs and hooked onto some bad habits and he is asked to quit one or two such bad habits like alcoholism or smoking. Although people ask him to kick off just one bad habit, he says that he cannot kick off even one.

Mr James TO has made it very clear what we seek to do and that is, the Government should account for it. The Government must explain whether or not it has breached the law. If it can give such an explanation, it may have its arms and legs cut, but not its innards. This is like there is only a problem with the arms or there is a tumour. This is like engaging in illegal interception of communications, wire tapping or doing something that will undermine the rights of the people endowed by the two human rights covenants as found in Article 39 of the Basic Law. Then I will cut these. The case is the same as not telling the patient his problem, whether he has got a problem in the lungs or in the arm, and the patient is sent off to be shot. The reason given is that it is feared that the person has avian flu. But no one is allowed to make an examination. Should this be done? This is someone who refuses to make things clear.

Ladies and gentlemen, the problems being discussed today are actually telling examples showing what kind of governance we have. All that the Government has done is telling Members in a vague manner that they must never ask too much and it will not tell them even when asked. Either everything is overturned and everyone gets hurt, or people have to back down and compromise. The Government accuses Members of being immature, but the same thing is happening in it. If the Government is to convince people, it must do the same thing as the Judges and other authorities, that it must let everyone see the justice it upholds. Why can a clear explanation not be given when some people ask about some items? This is something I have never seen before. When BUSH makes a State of the Union Address or when RUMSFELD talks about how much money is used to purchase fighter planes and cruise missiles to bomb Iraq, do they not fear that anything confidential will be leaked and their enemies will buy anti-missiles to fight back? Is the situation in Hong Kong as grave as theirs? In such a country which has gone insane with anti-terrorism, people can check for the details. Why can we not do the same thing? Why should Members of this Council have to listen to words as if spoken by a senile grandpa? The grandpa may say, "Don't ask too much." It is like a grandpa asking his grandson to get a bottle of soda down the street corner. He is thirsty. If the

grandson does not get the soda for him, he is impious. Will such a paternalistic system help Hong Kong?

I am a victim out-and-out. During the days of the British Hong Kong Administration, I was put under close surveillance. Ever since the SAR has been founded, I have been put under the surveillance of the SAR Government. For this reason, I am perfectly qualified to speak here. I think this Government is so irresponsible and it scorns the privacy and dignity of the people, therefore, no money should ever be paid to it. Such a government should be penalized. It should be penalized if it goes on trampling on human rights. Now this appropriation should be negated and in future when a request is made to this Council again for funding, the Government will have to tell Members where the money will be spent and where it will not.

Members, we must not behave like our predecessors a few generations ago who said, "All right, do not go overboard and ruin the whole party, just pretend that you do not see for there must be a reason for the Government to take this move." Do you not see that the American Government was once toppled? It was all over with NIXON when he failed to produce the tapes he had recorded and he had to step down. If this Government of ours can be trusted, then there would be no need to have us Members. So we must take on a distrustful stand in face of the Government at all times. This is only being fair to it. The Government must prove beyond reasonable doubt that it is at the service of the people of Hong Kong when it discharges its sacred duties. For the people of Hong Kong as well as for all the people of the world, what matters most is that people's dignity, privacy and basic rights are not encroached upon by some UFO and alien regime.

From the very beginning Mr Ambrose LEE, the Secretary for Security, has been giving a reply like this. His predecessor has left to study abroad and it was not a graceful exit. It is game over for that person because of Article 23 of the Basic Law. But when he stepped into his predecessor's shoes, he did not change his attitude at all. I recall it and that is James TO again, right? The former director of bureau said she did not reply because James TO was rude. My goodness, the one we have now is only a bit more courteous than her. The other person would say, "You are rude and so I do not want to reply." And that was it. In other words, if she is not taught a lesson, she would become perverse and she would say other persons are rude. She would say, "You are all

scoundrels and you have elected a scoundrel Member who dares to say that the officials are being not responsible."

Let me say it once more and let me ask Secretary Ambrose LEE once again, "Why can details of the subhead not be given? Do your subordinates do anything like what was done by the former Special Branch?" Young people nowadays may not know what the Special Branch had done. It kept a close watch on subjects whom the colonial government did not trust. Previously, there were people from this Council who were put under close watch by the Special Branch. That was due to a report written by a pressure group and people who had joined that observer group were put under surveillance. At that time, when the pressure group held its meetings, the Government would send someone to bug the meeting and also an undercover agent to write a report on what SZETO Wah had done and what CHEUNG Man-kwong had done. Are such things being done now? Can you tell me? Do you dare to swear here and say to the next generation of Hong Kong that you have not done this? Do you dare? If you do not, of course I will have reason to suspect you. If you say you have not done this, I will shut up. But if you say you have done it, I will definitely ask questions like Mr James TO did, such as: Where does the money come from? Where has it been spent? Under which subhead? Have you ever said that \$1,000 was spent as informer fee but the money was actually used to buy equipment to eavesdrop LEUNG Kwok-hung or Margaret NG? Do you dare to answer? If you do not, you are refusing to be accountable to this Council.

It is true to say that in all things, both the persons concerned and God know. I once heard a story about two persons talking inside a secret chamber. A person said there was no cause for fear and it would be fine if the two of them settle the matter among themselves. As this is a secret chamber, this is like what happens in a cabinet. If the other person says no, then there would only be God who knows it apart from these two persons. Please do not think that I am promoting superstitions. There may not be God but God lives in us. He is our mind and our conscience. We would not do it because we know it is not a righteous thing.

The Legislative Council is provoked by the Government and any words spoken here which are not to the liking of the Government would at once brand the speaker a member of the opposition. When the authorities try to flex their muscles casually today, Members are fleeing like hell. There is no opposition

in this Council nowadays and only four votes have been cast against the motion earlier. But I can tell you, even if Members are forced to concede under this logic, one can still see a lot in some small matters. Anything which a government acts must never be against its conscience. In this small question of funding, the Government has been procrastinating for eight to 10 years and it ought to feel ashamed when people are forced to resort to this method to expose its injustice.

Let me ask Secretary Ambrose LEE once more: Have you ever done any work previously done by the Special Branch of the British Hong Kong Administration? Has any information been collected? Has any wire-tapping been done? Has any wire-tapping been done on me? Have any of my colleagues been tapped? Does the money come from government funding? Which subhead does it come from? Do you know how the Commissioner of Police spends his money? What are informer fees? Have any informers been paid to track me? Have any informers been paid to join my office and gather information about me?

Sorry, Deputy Chairman. I hope you could remind Secretary Ambrose LEE to answer these questions in public so that the guests who come today could see how responsible these officials really are.

Thank you, Deputy Chairman.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): Secretary for Security, would you like to speak?

SECRETARY FOR SECURITY (in Cantonese): Deputy Chairman, the authorities oppose strongly the amendment moved by Mr James TO to delete the expenditure estimate of \$80 million in its entirety under subhead 103 of the Hong Kong Police Force, that is, "Rewards and Special Services".

The expenditure item of "Rewards and Special Services" concerns covert operations of the police such as anti-terrorist, serious crimes and anti-narcotics operations as well as other security matters. The expenditure is of vital importance to police efforts in upholding public security and maintaining law and order in Hong Kong. These operations are not related to — I stress again — any political purposes.

We agree fully that the use of public money by the executive authorities must be accountable to the Legislative Council, but on the other hand, owing to the nature of these expenses, disclosing the details concerned would give an opportunity to criminals, especially those from crime syndicates that are getting more and more sophisticated and which possess abundant resources to detect operation tactics of the police by analyzing the distribution and trends of the related expenses. Consequently, these criminals may evade legal sanction and even endanger the personal safety of the officers concerned. This is totally not in line with public interest.

As I have mentioned many times, to ensure that public money is used properly, the subhead of "Rewards and Special Services" under the Police Force is regulated by a stringent monitoring mechanism. With respect to internal monitoring, the Police Force has formulated detailed approval and monitoring procedures for this subhead for strict compliance by police officers concerned. Such an internal monitoring mechanism includes the requirement that every item of expenditure be approved by a senior police officer and all details and accounts are subject to regular and spot checks. For the year 2005-06, there were a total of 154 spot checks undertaken by senior police officers with respect to this subhead and no irregularities were found.

Apart from this, the subhead "Rewards and Special Services" are also subject to regular and spot checks by the Audit Division of the Police Force as well as independent audits made by senior officers of the Audit Commission pursuant to the Audit Ordinance. These will ensure that officers in charge of this subhead will strictly comply with all fiscal and accounting rules and regulations of the Government.

In order to enhance transparency in the expenditure concerned and provided that the enforcement abilities of the Police Force are not affected, the authorities will state clearly the actual expenditure for each subhead in each financial year as well as the estimates for the following financial year. Apart

from that, during the past few years, the Government also provided information to the Legislative Council with respect to the actual numbers of persons granted rewards and the actual amount in total, as well as the number of persons granted special services payments.

Looking ahead, the Interception of Communications and Surveillance Bill on the interception of communications and covert surveillance by enforcement authorities was introduced to the Legislative Council on 8 March. The Bill is presently being examined by the Bills Committee. As recommended by the Administration, an independent commissioner shall monitor the interception of communications and covert surveillance operations carried out by the law-enforcement authorities. The commissioner shall compile an annual report on all items of statistical information for scrutiny by this Council. Therefore, if the Bill is passed, the public will be in a position to know more about the statistical information regarding covert operations carried out by the police and other enforcement authorities. I hope the recommendations concerned will be able to address the concern expressed by Members about covert operations.

(THE CHAIRMAN resumed the Chair)

Two Members pointed out earlier that they had great doubts about the purposes of the expenditure under this subhead and a Member even said with a slight tone of censure that there were suspicions that some of the money might be used for illegal purposes. I can assure Honourable Members that our enforcement units, that is, the police, will only use each and every cent in a legal manner, for the protection of public security and anti-crime operations. I think the public at large can see that throughout these eight years after the reunification, the liberties of the people of Hong Kong and their rights have not been infringed upon in the slightest sense. So the remark made by some Members that our covert operations are directed against the personal rights and liberties of citizens is inconsistent with the facts.

All in all, the police have made great achievements in combating serious crimes and keeping peace and order in Hong Kong. If the amendment of Mr TO is passed, it would deal a great blow to police work and hence it would affect and undermine law and order as well as security in Hong Kong instantly and in a most serious manner. I am convinced that this is certainly not what Members

and the public would want to see. I therefore call upon Members to oppose this amendment moved by Mr James TO.

MR JAMES TO (in Cantonese): What the Secretary has just said is like this: look, the liberties of the people have not been infringed upon.

The recent case of Mr LEUNG Kwok-hung shows that Mr LEUNG Kwok-hung or other people were put under surveillance and wire-tapped. They are victims. Why? It is because the Court has ruled that such acts are unlawful. Section 33 of the Telecommunications Ordinance is unconstitutional. So some Honourable colleagues were engaged in illegal wire-tapping when they approved of government funding requests for this. At least one of the consequences is that the Court believes that Mr LEUNG Kwok-hung or other political activists might be possible victims of such activities. In other words, personal liberties have been infringed upon as a result of the Government abusing its powers. This is the result of the court ruling.

Over these past few years, Honourable colleagues were baffled and they said to me, "James, why do you bring this issue up every year?" I do not bring this issue up only after 1997, I did so before it. Why? It is because as I have said a long time ago, section 33 of the Telecommunications Ordinance is unconstitutional. Put it in general terms, wire-tapping done casually in the name of public interest is a violation of the Bill of Rights and the International Covenant on Human Rights.

But now the Secretary is telling us that there is no political purpose and it is not done for any political purpose. It is not related to politics. But if we look at the definition, it is related to crimes. Would there be a chance that politics is involved? There is certainly a chance. It is a crime if a procession or a public meeting has not been granted an approval and no application is made for a Notice of No Objection. Mr LEUNG Kwok-hung has been prosecuted for this. That is to say, wire-tapping is permitted because there has been a contravention of the law. Is this not politics? I think the people can judge for themselves.

In addition, the new law proposes such wording as the security of Hong Kong, or public security. That is to say, anything about security and is not a

crime. If it is about crimes, then the word crime should have been used, right? Two heads are involved. This means, if we pass the law, some money, that is, the sum of \$80 million, will be spent on wire-tapping for the security of Hong Kong. What kind of acts are these? They are not even about crimes. Should the Government not give us an explanation? We are examining a Bill and we hope that the Government can give us a detailed explanation. But it says it is not possible to give any definition. There are some definitions in the laws of some foreign countries, but our Government says that such definitions are too narrow in scope and there may be omissions. So the definition should be wider in scope. Right? These are no good. It would be better if the words "public security" are written into it. Previously, it was "public interest". Now it is public security and crime. Would this help us in striking the right balance?

As we read the letter written by the Secretary to Honourable colleagues, we should ask ourselves, what are the purposes of this \$80 million? As the Secretary has explained, this would be used as rewards, informer fees, purchasing some equipment and their maintenance. I do not know what these rewards, informer fees, purchases of equipment and their maintenance are.

Rewards, can they only be used on crimes? There can be open rewards and secret rewards and persons who provide information may get rewards and informer fees. These may be given to some long-term undercover agents. Can undercover agents tell whether or not Mr LEUNG Kwok-hung has committed a crime or whether or not he has organized a public meeting without applying for a Notice of No Objection? This can be done, right? Because it is about security. I do not know — I think we had better not target at Mr LEUNG Kwok-hung, for not just Mr LEUNG but other people are also in the same situation — if there are people who think this way. It may be some organizations which are concerned about public housing and these groups are in the public estates, or some labour organizations, or some welfare organizations (as there are concern groups for various social policies), if they think this way. Recently, it is not acceptable for minibuses or taxis to be left on the roadside as they will affect public security. Then shall we arrange to deploy some informers in those minibus or taxi associations which collect monthly membership fees from their members to see whether or not they want to organize such activities?

Sorry, the former Government had really stated in some briefing that blocking traffic or causing traffic jams is a matter of public security. Now if this is the case, it would be very likely that there will be undercover agents and informers in these trade unions. What will such kinds of operations be called? A crackdown on drugs or busting armed gangs? As a matter of fact, in other countries, even in some democracies, such activities were organized and afterwards, the prime ministers or ministers concerned had to step down. The chiefs of the CIA or FBI had to resign after it was discovered that such activities had been carried out despite the denial they gave in the testimonies before the Congress. Criminal charges were even laid against these people. Thus this kind of politically-related informers or rewards — as I describe them — is nothing surprising at all as evident in history.

Fees for purchasing and maintaining equipment. I always say to the Government that information can be provided under two subheads with respect to this item, that is, manpower and equipment. The answer given in the past was that such information could not be disclosed because if information on manpower and equipment was discovered, the criminals could know after making long-term observations, speculations and analyses the capacity of the authorities. Fortunately, the current Director of Bureau has not mentioned this point, whereas the former Director of Bureau talked about this many times. Why? This is because they cannot contradict themselves. The former Director of Bureau told us that if the number of wire-tapping cases for every year was disclosed, the Government's capacity in wire-tapping would be known. For example, if there are 300 cases each year, that would mean that there cannot be a 301st case, for otherwise, the criminals will know its capacity. These criminals will know that the authorities cannot do both things at the same time, that is, when a raid on drugs is carried out, nothing can be done on anti-terrorism. So the criminals can do whatever they like. This was the kind of reply given previously, that even if information on individual items is given, the number of wire-tapping cases must not be disclosed. Now it is said that this can be disclosed. Since this can be done, it can no longer be argued that disclosing information on such activities would undermine public security.

Well, now I wish to ask about manpower and equipment. Would the Secretary please explain that to me clearly? I hope this can be put on record, if that can be done. Sorry, I cannot help it. I hope the Secretary can give me a reply in writing, okay? A public statement will also do. It should say why information on the numbers of staff and equipment would be made of use by

criminals. At least, after the Secretary has given a reply, he can contradict himself or use it as a joke. This is because he once said that disclosing the number of warrants to authorize wire-tapping would affect law and order. But now he is not saying this anymore.

After all, our concern is where this sum of \$80 million is used. I am not saying that there must be something clandestine or unscrupulous going on like those done by the former Special Branch, but if there is no sound monitoring mechanism and if the most basic information regarding these two subheads are withheld, I really do not know how I can convince myself that I should believe this sum of \$80 million is all spent on legitimate purposes, unless we all want to believe what the Secretary says. This is like a Director of Bureau who once said to the students and me, "Trust in the Secretary, you will not be cheated." It is the same thing. What is trust if it is not based on anything? It is faith. Both the Secretary and I are Christians. But our faith is based on other things, these may be metaphysical or practical experience and personal insights, and so on.

However, this should not apply to the handling of public affairs. How can it be said that there is no basis for something and that things are what they are? The Secretary has just said that this is not so and reference should be made to the second page. It is about independent audits conducted by the Director of Audit. And so there is a basis. Members should know that in an independent audit, the focus is on whether the sum in question has been used on certain specified items and such items are determined by the Secretary. There may be differences between legislative provisions and the definitions as laid down by the Secretary, such as in what is meant by security and crime. It is quite difficult to give a definition of crime because there may be mention of crime in other provisions. It is considered a crime to hold a public meeting without applying for a Notice of No Objection. So this is about politics and crime. It is more so the case with security. The Secretary may define it, and before an audit is conducted. Then it can be considered as security matters when the sum is spent on procuring the service of political informers, keeping a watch on minibus associations, taxi associations, and container truck driver associations to see if they will do anything to cause traffic to come to a standstill. All this is security. What the Audit Commission can do when an audit is undertaken is to say that all such operations met such a definition. For if not, how can any audit be undertaken? It can be seen therefore that audits *per se* can never find out whether or not the part we are concerned about is spent in any proper manner or otherwise.

The bugging issue has been challenged by the Court this year and since such an item of expenditure is related to bugging, so we have made some slight changes and there is more public accountability. I hope the Secretary will — though it may be like squeezing toothpaste out of a tube — say that the matter will be kept under review. He has not said such things this year. He was still saying in his lobbying letter two years ago that he would have to see how more information could be disclosed on the condition that crime prevention would not be prejudiced. Unfortunately, he has not mentioned a word on this in his lobbying letter this year. I do not know if this implies work in this regard has stopped or if he is saying that there would be nothing else since bugging information has been disclosed. What more can Members expect? So even this remark is removed in that letter. If the Secretary wants to give a reply, he can make his response public. There are so many reporters outside. I hope the Secretary could issue a statement saying that things are not like this and that the authorities would continue to look into this matter. In that case, at least we can find some comfort albeit small.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

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

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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr LEUNG Kwok-hung voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying, Mr MA Lik and Mr CHEUNG Hok-ming 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, six were in favour of the amendment and 21

against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 16 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 122 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

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 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.

(Members raised their hands)

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 Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

APPROPRIATION BILL 2006

FINANCIAL SECRETARY (in Cantonese): President, the

Appropriation Bill 2006

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 2006 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)

Mr LEUNG Kwok-hung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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 James TIEN, Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Dr LUI Ming-wah, Ms Margaret NG, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Frederick FUNG, Ms Audrey EU, Mr Vincent FANG, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr MA Lik, Mr Andrew LEUNG, Mr Alan LEONG, Dr Fernando CHEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Mr Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Albert CHAN and Mr LEUNG Kwok-hung voted against the motion.

Dr KWOK Ka-ki abstained.

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

THE PRESIDENT announced that there were 56 Members present, 50 were in favour of the motion, four against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Appropriation Bill 2006.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Waste Disposal (Amendment) Bill 2005.

WASTE DISPOSAL (AMENDMENT) BILL 2005**Resumption of debate on Second Reading which was moved on 18 May 2005**

PRESIDENT (in Cantonese): Ms Audrey EU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report on the Bill.

MS AUDREY EU (in Cantonese): President, after our discussion on the Budget, we now come to the issue of waste disposal.

In my capacity as Chairman of the Bills Committee on Waste Disposal (Amendment) Bill 2005 (the Bills Committee), I would like to speak on the major issues deliberated by the Bills Committee.

One of the main objectives of the Waste Disposal (Amendment) Bill 2005 (the Bill) is to extend the application of the Waste Disposal Ordinance (WDO) to clinical waste. Clinical waste refers mainly to waste arising from practice or research for dental, medical, nursing, veterinary, pathological, laboratory testing or pharmaceutical purposes, including used or contaminated sharps (such as syringes, needles), laboratory waste, human and animal tissues or organs, infectious materials from patients, and surgical dressings. Clinical waste is potentially infectious and biohazardous, and if not properly handled will pose serious health risks. Therefore, the Bill seeks mainly to enable regulatory control to be introduced over the collection, transportation and disposal of clinical waste. At present, the Government has no special requirement for the collection and disposal of clinical waste. Most clinical waste is disposed of at landfills without treatment. To safeguard public health and safety, the Administration has proposed to implement the Clinical Waste Control Scheme (the Control Scheme).

The Control Scheme comprises the following key elements:

- (i) establishing a statutory licensing framework for all clinical waste collectors and operators of disposal facilities;
- (ii) requiring clinical waste producers to properly manage their clinical waste and consigning the clinical waste to licensed clinical waste collectors for disposal;

- (iii) promulgating Codes of Practice to provide guidance for major clinical waste producers (such as hospitals), waste collectors and small waste producers (such as clinics and medical laboratories) on segregation, packaging, labelling, collection, storage, transportation and disposal of clinical waste;
- (iv) setting up a trip-ticket system to track clinical waste from source to disposal facility; and
- (v) designating the Chemical Waste Treatment Centre (CWTC) at Tsing Yi as the facility to treat clinical waste and levying a disposal charge on clinical waste producers for use of the facility.

President, in view of the repeated passage of motions by the Kwai Tsing District Council (K&TDC) expressing strong opposition to the proposal to treat clinical waste at the CWTC at Tsing Yi, the Bills Committee has discussed in detail the issue of site selection and requested the Administration to provide information to explain how the operation of the CWTC and dioxin emissions are monitored.

The Administration explains that the CWTC is fully equipped to prevent formation of dioxins during incineration and to minimize dioxin emissions. According to an Environmental Impact Assessment (EIA) endorsed in 1999, the incineration of clinical waste at the CWTC is environmentally sound, and the CWTC can meet stringent emission standards.

The Administration has been monitoring the dioxin level in the ambient air at the Cheung Ching Estate of Tsing Yi and comparing the results with the dioxin levels obtained at two air monitoring stations, one in Tsuen Wan District and another in Central and Western District. The monitoring results show that the dioxin level in the ambient air of Tsing Yi is comparable to those of Tsuen Wan as well as Central and Western Districts.

Members of the Bills Committee have also expressed concern about the cumulative impact of dioxin emissions on humans, especially nursing mothers, and whether dioxins will increase the risk of developing cancer. Members of the Bills Committee have been informed that, according to the findings of a study, the levels of dioxins in breast milk in Hong Kong were lower than those observed in most of the participating European countries. The Administration has also

provided the percentage of cancer registered deaths out of the total number of registered deaths in Kwai Tsing District, compared against the whole of the territory for the 10 years between 1994 and 2003. The relevant figures indicate that the cancer rates for Kwai Tsing residents were similar to those of the residents in all other districts in Hong Kong.

The Bills Committee is greatly concerned about the stance of the K&TDC, and the issue has been discussed repeatedly. Members of the Bills Committee consider that the Administration should allay the concerns of residents in Kwai Tsing District and set up a body with wide representation to monitor the future operation of the CWTC.

The Administration has undertaken to set up a committee under the K&TDC to monitor the modification works and operation of the CWTC when it starts to receive and treat clinical waste. The Administration has also proposed that it will submit monitoring reports to the committee on a monthly basis, and to appoint an independent assessor to provide expert advice to the K&TDC on the monitoring results during the commissioning and initial operational phase of the CWTC when it commences to receive and treat clinical waste.

Members of the Bills Committee have also requested the Administration to consider providing community facilities for the betterment of the environment of Kwai Tsing District, as a means to gain their acceptance of the treatment of clinical waste at the CWTC. Members have also requested the Secretary for the Environment, Transport and Works to give a specific response to their request in her speech today.

Members of the Bills Committee have also discussed the categorization of "clinical waste". There are six groups of clinical waste in Schedule 8 to the Bill, namely used or contaminated sharps, laboratory waste, human and animal tissues, infectious materials, dressings and other wastes.

The Bills Committee has accepted the Administration's explanation that as the dead animals (such as seahorse or earthworm), animal tissues, organs and body parts arising from veterinary or Chinese medicine practices are neither obnoxious nor infectious, hence will not be controlled.

The Bills Committee has also sought clarification whether wastes produced by health and beauty centres should be classified as "clinical waste" under the

Bill. The Administration has explained that health professionals, namely registered doctors, registered or enrolled nurses, registered or listed Chinese medicine practitioners, who provide medical treatment at these centres and produced wastes such as sharps and acupuncture needles will fall under the definition of "clinical waste". Such treatment may include injection of certain medicines such as botulinum toxin, or "Botox", as it is commonly called, or applying acupuncture in slimming programmes. Other types of medical treatment such as extraction of body fat may, though rarely, be provided at the centres, and the waste, such as body tissues, will also fall under the definition of "clinical waste".

The Bills Committee has also discussed such issues as the responsibilities of waste producers, collectors and disposal facility operators under the Control Scheme, the trip ticket system, charges on disposal of clinical waste, and so on. These issues will be prescribed in the regulation to be tabled to this Council or in the Codes of Practice to be promulgated by the Administration later.

The second purpose of the Bill is to strengthen control on the disposal of imported non-hazardous waste. The Administration has proposed to make it an offence for a person to dispose of imported non-hazardous waste without prior authorization from the Director of Environmental Protection, which will only be granted if the applicant can prove that the import of the waste concerned does not require a permit and he has exhausted all possible recycling outlets and all means to return his waste to the place of origin. The applicant will be required to pay the disposal cost involved which is currently set at \$125 per tonne.

Members of the Bills Committee consider that the extremely low rate of disposal cost can hardly achieve the desired deterrent effect and worry that local landfills will be used for disposal of imported waste. Despite our strong appeal to raise the disposal cost, the Administration stated that the cost of disposal at \$125 per tonne would be maintained. However, an administrative fee of around \$9,500 would be imposed.

President, the third main purpose of the Bill is to implement the Basel Ban. The Basel Convention, adopted in 1989, aims to define global means to control the movement of hazardous waste, minimize their production and ensure that these wastes are disposed of in an environmentally sound manner. In 1995, the Parties to the Basel Convention agreed to ban the export of hazardous waste from Annex VII countries (countries of the Organization for Economic Co-operation

and Development, European Community and Liechtenstein) to other states, and the agreement is known as the Basel Ban. The Hong Kong Special Administrative Region (SAR) implemented the Basel Convention through amendments to the WDO in 1995. The Administration has now proposed to give effect to the Basel Ban through the Bill.

Greenpeace maintains that the SAR has failed to comply with the Basel Convention as the Bill has not adopted the definitions and lists of wastes in the Basel Convention.

The Bills Committee has repeatedly discussed this point and requested the Department of Justice (DoJ) to provide legal advice on whether the relevant provisions in the WDO are in full compliance with the Basel Convention, and specifically, whether certain definitions in the WDO are in conformity with the definitions set out in the Convention. The International Law Division of the DoJ has advised members that the present operation of the relevant provisions in the WDO is consistent with the requirements of the Basel Convention.

President, the Bills Committee supports the resumption of the Second Reading debate on the Bill.

Next, President, I would like to express the views of several Members of the Civic Party on the Bill.

First of all, President, the problems caused by clinical waste to public safety has always been a matter of the utmost concern to us. In my speech earlier, I mentioned that clinical waste would affect public safety as such waste might contain infectious materials. After years of discussion, this Bill is now eventually submitted to this Council by the Government. We have conducted very detailed consultations. Except for those from Greenpeace and the K&TDC, all responses are supportive of the Government's current proposal.

Second, in response to our question as to whether there are ways to dispose of clinical waste other than incineration, the Government explained that the incineration method had passed the EIA and many other tests. Although other means of disposal had been studied, the conclusion drawn was that high-temperature incineration was the best guarantee for all pathogens to be destroyed. The Administration has examined other treatment methods (such as

autoclaving, microwaving, chemical disinfection, gasification, pyrolysis, plasma and irradiation). However, these methods have been found either not proven or unreliable. Having referred to international experience, the Government considers it inadvisable to adopt these treatment methods. Furthermore, only the CWTC, upon modification, is suitable for the disposal of clinical waste.

We have carefully considered the data provided by the Government on dioxin emissions and the data collected by the monitoring station in Kwai Tsing District. We note that the data have passed various EIAs and the data will be publicized on the Internet on a quarterly basis. Furthermore, it has come to our attention that the Government has been liaising closely with the K&TDC and will set up a committee under the K&TDC. Independent experts will be commissioned to submit to the District Council waste disposal data when available.

We are particularly concerned that the Government must undertake to implement programmes for the betterment of the district. In other words, if certain unpopular facilities are to be placed in a certain district, facilities for the betterment of the district should be provided in the same district simultaneously. Actually, the Government has undertaken to endeavour to do so. The relevant information has also been submitted to the Bills Committee by the Environmental Protection Department lately. President, I do not intend to elaborate on this, as I hope the Secretary will expound on these *seriatim* later in her response for our record.

In general, the Government will spend approximately \$330 million on the provision of several facilities, including such construction works as retrofitting noise barriers at Kwai Tsing Bridge, resurfacing with low noise material, construction of public open space, games halls, and so on, and improvement works such as provision of parks and beautification or greening programmes. I hope the Secretary can later explain to Members in detail and make a formal commitment that more and better works required by the public will be carried out in the district.

Lastly, I would like to say a few words about Greenpeace because we are indeed extremely grateful to them. They have purposefully visited overseas countries and requested certain foreign experts to advise us in detail on the third part, that is, the part relating to the Basel Ban, and explain to the Bills Committee

why the Bill submitted by the Government is inconsistent with the Basel Ban in many ways. The Bills Committee was thus confronted with a dilemma. According to the Government, the definitions and mechanism adopted currently have proved effective and all Hong Kong people and the practitioners in the trades are already well familiar with them. If the whole set of definitions and method of operation were changed all of a sudden, a new round of consultation would be required. Should that happen, the long-awaited Bill will have to be further delayed.

Hence, for the abovestated reasons and the advice offered by the International Law Division of the DoJ, we have accepted with great reluctance the Government's present proposal. Despite the inconsistency between the terms and wordings used in the WDO and those used in international conventions or the Basel Ban, we cannot but accept the Government's proposal based on its explanation and the fact that many terms and wordings involved are jargons. Under such circumstances, we agree to and support the Bill.

Thank you, President.

PRESIDENT (in Cantonese): Mr LEE Wing-tat.

(A man stood up and clamoured in the public gallery)

PRESIDENT (in Cantonese): Shouting is not allowed in the public gallery.

(Security guards approached the man and tried to stop him from yelling, but he continued to stand up and clamour)

PRESIDENT (in Cantonese): Security guards, please take him away.

(The man did not pay attention and continued to stand up and clamour. Two other men and a woman displayed a piece of white cloth with slogans on it and thrown out two strips of cloth written with slogans and let them hang on the railing)

PRESIDENT (in Cantonese): Please put your display away.

(The several persons did not pay attention and continued to stand up and yell loudly and displayed their slogans separately)

PRESIDENT (in Cantonese): Honourable Members, the meeting is now suspended.

3.39 pm

Meeting suspended.

3.45 pm

Council then resumed.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you may speak now.

MR LEE WING-TAT (in Cantonese): President, the government proposal of handling clinical waste by incineration dates back to several years ago. However, the proposal met with strong opposition from green groups and local residents not only because dioxins released by the incinerators are toxic, carcinogenic substances, but also because, more importantly, the Government had simply not actively considered different treatment methods, including certain non-incineration technologies commonly adopted by many overseas countries when the proposal was raised. This Council therefore requested the Government to re-evaluate various treatment methods, including incineration as well as non-incineration methods. It is disappointing that the only tactic employed by the Government so far is to promote incineration as the only treatment method without giving serious consideration to other feasible solutions.

The Government has kept emphasizing that other handling methods cannot treat certain harmful substances. It is understood that these harmful substances only constitute a small proportion, yet it is generally accepted that carcinogenic

dioxin will be released in the course of disposing clinical waste by incineration. Although incineration is merely a clinical waste treatment method, dioxin released in the incineration process can seriously affect the functions of human organs, disturb hormones, and even lead to immunity system disorder and congenital anomaly. Other substances released, including particulates, sulphur oxides, nitrogen oxides; such heavy metals as lead, cadmium and mercury; toxic fly ash and slag will also cause a profound impact on the health of residents, the environment and ecology.

Actually, President, hospitals in many countries around the world have already shut down their internal incinerators. A number of countries, such as Canada and Argentina, have already legislated against the disposal of clinical waste by incineration. Many hospitals and clinics in the United States have already switched to non-incineration technologies for the disposal of clinical waste. Not only do such non-incineration technologies as autoclaving, microwaving and chemical disinfection meet the requirements of disposal of clinical waste, they are also suitable for installation in hospitals or clinics for source disposal. This could eliminate the risk involved in the transportation and storage of clinical waste. Moreover, the cost thus incurred will be lower than the cost of applying incineration technologies. On the other hand, according to a study conducted by Greenpeace, chlorine found in the incinerators for treating clinical waste, which is a dioxin-producing element, is originated from PVC. In this connection, some hospitals in such countries as Austria, Germany and Denmark have switched to disinfectable and recyclable clinical products to reduce the total amount of waste. The Government is obliged to conduct thorough studies and adopt the measures mentioned above to allay the fears of the affected residents. However, the Government has not seriously considered these methods.

President, the Government has kept telling us that these methods are not common and rather expensive. Moreover, a lot of administrative work will be involved. However, when we consider that the present waste disposal method adopted in Hong Kong is already lagging behind those employed in many advanced countries, is it time we reviewed this matter? Being a member of the Bills Committee, I have attended almost all of its meetings. It is stated clearly in the Bill examined by the Bills Committee that incineration and incinerators must be adopted, and there are no other options available for the Bills Committee's discussion.

I feel sorry that at this stage when dioxin produced during the burning process is considered a general hazard by almost all places elsewhere in the world, we are still using this method. President, I cannot help wondering — during the period from its initial operation (it should be around 1991 if I remember it correctly) to several years ago, the Chemical Waste Treatment Centre (CWTC) at Tsing Yi had not been able to operate in full capacity. During its initial operation period, in particular, the CWTC even requested other factories to send it used oil or used fuels for incineration. If I remember it correctly, the CWTC has even failed to attain 60% or 70% of its capacity. This is undoubtedly a great loss in economic efficiency. We simply cannot help wondering that the Government has been so interested in making use of the CWTC for waste disposal because it wants to save money by all possible means. Of course, money is one of our concerns. However, can we disregard the safety and health of Hong Kong residents for the sake of possibly saving tens of millions of dollars?

President, the Stockholm Convention, endorsed by the United Nations in May 2001, clearly points out that the burning of clinical waste is a major problem contributing to the release of dioxin, and this problem must be resolved by other long-term solutions. We are greatly disappointed that not only has the Government treated this problem indifferently, which has been recognized by the World Health Organization (WHO), it has also failed to explain to us in detail why non-incineration technologies are not feasible.

President, the concern of the local residents over the burning of clinical waste at the Tsing Yi CWTC is certainly not totally unfounded. As far as I can remember, it has twice been revealed by newspapers in the past several years that chemical waste burned at the CWTC twice exceeded the limit. According to my memory, the incidents took place in 1998 or 1999 when a debate was conducted between the then Assistant Director of Environmental Protection and me as a Member of this Council in a meeting held by the Panel on Environmental Affairs on this matter. The reasons for holding the debate were as follows: first, reflecting the Government's failure to exercise stringent supervision; and second, the CWTC was not punished for twice exceeding the limits and received a warning letter only. As we all know, speeding drivers will at least be fined several hundred dollars or received three or five demerit points as penalty. Regarding the abovementioned two incidents of such a serious nature, only a warning letter was issued to put the matter to an end. Furthermore, the relevant authorities had not taken any initiative to reveal the incidents and we did not have

any knowledge of the incidents until they were exposed by the newspapers. The residents' concern about the possibility of dioxin emission exceeding the limits and the impact of the exceedingly high levels of dioxin on their health is therefore entirely understandable. In addition, due to the significant increase in the population of Tsing Yi to nearly 250 000 in recent years, the number of people affected by the CWTC will also increase because of the close proximity of the CWTC to residential areas. Hence, even if the Government insists that incineration is the only possible solution to the problem of clinical waste, it should still actively consider building a new incineration facility on a more sparsely populated site which is farther away from residential areas as a long-term solution to the clinical waste problem instead of converting the Tsing Yi CWTC simply for the sake of convenience and saving costs. It should be borne in mind that the Tsing Yi CWTC has been put into operation for 13 years. It was originally designed not for disposal of clinical waste. Will it be entirely suitable for burning clinical waste after conversion? Is there any guarantee that no harm will be caused to nearby residents? These are indeed doubtful.

On the other hand, even if all the technical issues have been clearly defined and the emissions of harmful substances meet the international standards, as stated by the Government, the Government should still endeavour to provide community facilities in the affected district in the light of the proposal of treating such special wastes as clinical waste in the Tsing Yi CWTC with a view to improving the environment of the community as some sorts of compensation to the affected residents. President, the concept of "betterment", having been debated in this Council for years, is nothing new, so why should it be debated again? There would always be a significant reason whenever an initiative harmful to the residents of a certain district is launched. The Government would say that people living in the district have to sacrifice for the sake of public interest, which is vital. When a certain organization presents diverse views to the Government, the former will be advised by the latter to make sacrifices in the long-term interest of Hong Kong.

Is the concept of "betterment" well-founded? The answer is yes. There are bound to be objections from people, whether they are of the upper, middle or grass-roots level, if the Government proposes to build a refuse collection point in a rear lane near where they live, set up a chemical waste treatment plant within half a kilometre from their neighbourhood, or build a major refuse collection point in Stanley, Repulse Bay or the Mid-Levels. Therefore, objections are bound to be raised by the poor, the middle class, and even the rich. Should

something be done to compensate for the undesirable initiatives? In a meeting held by the Bills Committee, Deputy Secretary Raymond FAN was brave enough to say that this proposal would be considered. President, I am very sorry that the Government was merely paying lip-service. In its reply letter to us, the Government stated that, as pointed out by Ms Audrey EU earlier, seven projects would be carried out in Tsing Yi. Secretary, I am really sorry to point out that the seven projects are previous proposals. Some of them were already known to me years ago, some are Category B projects, and some will even be upgraded to Category A shortly. Insofar as this issue is concerned, the Secretary should not provide us with wrong information. He should say so if there are no such initiatives, instead of mentioning the seven pending projects — the \$100-million noise barriers mentioned by Ms Audrey EU earlier had already been raised in this Council for discussion many years ago. Though this project was planned, it was somehow delayed. I know that the Secretary is responsible for transport matters as well. All old highways will be retrofitted with noise barriers. The installation of such facilities is just a matter of time. So, can such facilities be considered to be facilities for the betterment of the environment? Sorry, the answer is in the negative.

With the largest number of incinerators in the world, Japan has a total of 1 700 treatment facilities of this kind, most of which being located in the vicinity of residential areas. What are their arrangements? In some cases, heated pool facilities were built near the incinerators — these items are non-standard and should therefore be considered as facilities for the betterment of the environment. Standard items should not be considered as such. The authorities concerned may also consider supplying electricity thus generated to the residents of the affected districts as a payback.

President, I think that the Government is merely making the same mistake this time. It has failed to apply the world's most advanced technologies to the disposal of chemical waste. Neither has it borne the wishes of the residents of the district in mind. Therefore, President, the Democratic Party opposes the Bill. Thank you, President.

MISS CHOY SO-YUK (in Cantonese): President, suspicions of a dismemberment case were aroused following the discovery of human parts at the Tseung Kwan O landfill in early 2003. It was later confirmed after investigation that the incident had actually been caused by discrepancies in stock

taking by the Faculty of Medicine of the University of Hong Kong. Consequently, some specimens of human parts were left behind on the original site during the removal of the Faculty of Medicine and subsequently transported to the landfill by the contractor responsible for demolishing the building. The problem exposed by the incident, though not directly relevant to the Waste Disposal (Amendment) Bill 2005 (the Bill), reflects the seriousness of the consequences brought by the lack of a sound monitoring system.

Actually, there has been no requirement for the collection and disposal of clinical waste in Hong Kong. Like other wastes, most highly infectious clinical wastes like medical syringes, human and animal tissues, organs or even bodies are discarded at landfills without any treatment. This situation is extremely unsatisfactory. In particular, infectious diseases have now emerged as the most serious health hazard to the international community. It is a matter of great urgency to enhance regulation of clinical waste.

To ensure public health and safety, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the passage of the Bill to regulate the collection, transportation and disposal of clinical waste, including imposing licensing control on all clinical waste collectors and operators of disposal facilities and, through the "polluter pays" principle, levying a disposal charge on clinical waste producers. While there is nothing wrong with disposing clinical waste by high-temperature incineration instead of at landfills, a town centre is definitely an extremely poor site for an incinerator. The DAB therefore hopes that the Government can expeditiously identify another site for the disposal of clinical waste.

Meanwhile, the DAB is concerned about the provisions of the Bill concerning the implementation of the Basel Convention (the Convention). The Convention aims to define global means to control the movement of hazardous waste, minimize their production and ensure that these wastes are disposed of in an environmentally sound manner. There are at present 167 Parties to the Convention. In other words, the letter of the Convention is tantamount to a global consensus. As such, even though we accept the Government's explanation and agree that, due to technical problems, the content of the Convention cannot be extended verbatim to local legislation, the DAB would still like to urge the Government to tackle the matter seriously and avoid the emergence of legal loopholes as a result.

A year ago, a green group discovered in an open electronic waste treatment centre in Fanling that the lead content of the soil samples there was higher than normal. The suspected cause was leakage from the electronic waste, such as old computer display panels, televisions and circuit boards, accumulated there. The green group also criticized that Hong Kong treated the import and export of electronic waste more loosely than the Mainland did. This would easily give rise to loopholes to be exploited to turn Hong Kong into a transshipment point for international electronic waste whereby toxic "foreign refuse" can be imported into the Mainland, given the frequent exchanges across the boundary.

It must be emphasized again that the DAB agrees that materials for recycling purposes should be subject to less stringent import and export control to facilitate free transfer of waste, thereby promoting waste recycling. However, we must be very cautious at the same time, preventing Hong Kong from becoming a transshipment point for electronic waste.

For instance, the Convention provides clearly that only "directly reusable" electrical appliances or electronic assemblies are not subject to control. This term is evidently more stringent than the terms, such as "reprocessing", "recycling", "recovery" or "reuse", used in the Bill.

In this connection, the DAB supports the Government taking the initiative to propose a Committee stage amendment to include contaminated waste electronic and electrical assemblies and scrap into the Bill in response to public concerns about the movement of hazardous electronic waste across the boundary in recent years.

Despite the enhanced regulation of electronic waste, the DAB still maintains the view that Hong Kong should, in the long run, expeditiously implement the producer responsibility scheme requiring electronic product manufacturers to be responsible for their own products and set up a recovery system to truly and radically resolve the electronic waste problem. Furthermore, with the rapid changes in technologies and the changing lifestyles of people, the word "refuse" has been constantly redefined. Things regarded as refuse in the past may now probably be treasures. In this connection, the DAB calls on the Government to, should the Bill be passed today, constantly review and update the content of the new legislation.

Next, I would like to look at the Convention from another angle. Green industries have been generally recognized as sunrise industries long since. It is estimated that the total value of investment in related green industries in Guangdong Province is \$50 billion. By 2010, the value of investment in environmental protection in the Pearl River Delta alone is expected to reach \$440 billion. Predictably, green industries will have enormous room for development and huge markets. However, green industries are not taken seriously and developed locally. Without the soil required for nurturing growth, it is simply impossible for Hong Kong enterprises to find a footing in the Mainland's green industries, not to mention occupying a place. As a result, we can only watch other countries take the enormous green market on the Mainland from our hands.

Let me cite refuse recovery and recycling as an example. A lot of separated refuse has actually been imported into the Mainland from abroad. Hong Kong has also been shipping waste to the Mainland through different channels. Despite the lack of recycling industries in Hong Kong, close partnership can still be forged between the two places. Some low-investment or labour-intensive industries, such as recycling of glass, plastic and paper, have been developing quite well in the Pearl River Delta. However, because of the constraint of the Convention, there is simply no way for us to recycle such wastes here in Hong Kong. Actually, the two places can discuss ways to adapt to the circumstances flexibly within the constraint of the Convention. So long as there are ways to prevent abuse of this policy, the free movement of separation waste which is subject to strict monitoring and inspection between the two places should be possible. Should that be the case, Hong Kong will be able to develop certain high-tech recycling industries, such as recycling of tyres and foam rubber. This is what Hong Kong is capable of doing.

President, I so submit.

DR KWOK KA-KI (in Cantonese): Madam President, as stated in the document, the control of clinical waste, implemented since 1997, began with major clinical waste producers, that is, the hospitals or government clinics we are referring to. Now, the control is extended to include minor waste producers such as private medical practitioners, dentists, veterinary surgeons and certain laboratories.

The medical profession basically endorses and supports the Bill. However, we hope the Government can pay attention to several problems arising from the Bill as many waste producers are collecting clinical waste on their own for disposal by their own means, as the relevant legislation has yet been enacted. After the enactment of the legislation, however, all minor clinical waste producers, particularly small, private clinics, will have to collect and dispose of such waste in accordance with the legislation.

Many medical practitioners and dentists have repeatedly expressed concern about the possibility of waste collectors raising their charges. Although the Government has assured us that the charges will not be raised indiscriminately because of competition in the market, I hope monitoring can be enhanced to ensure that these collectors will not raise their charges. If the charges become too high, the consultation fees paid by the public will be affected. This is what we certainly do not want to see.

Besides, many medical bodies are also concerned about the penalty set out in the legislation. Under the general law on the disposal of clinical waste at present, any health care professional who fails to comply with waste disposal requirements may be fined \$100,000. There is also a possibility of him being fined \$200,000 should he fail to properly dispose of the waste in compliance with the requirements. Many medical bodies have indeed expressed the same concern over the penalty issue. I am disappointed that the request made by them during their examination of the Bill for the Government to consider lowering the penalty is not accepted.

I am also concerned about the disputes arising from the proposal of disposing clinical waste in the Chemical Waste Treatment Centre (CWTC) at Tsing Yi. The data provided by the Government, including those on dioxin emissions, are up to standard. Neither are there any signs of them exceeding the limits. In my opinion, however, this does not mean that the problem has been resolved. As previously pointed out by the experts commissioned by the Environmental Protection Department (EPD) to attend our meetings, including William TOWNEND, Hong Kong should tackle and explore the issue. It may be necessary to consider more advanced and safer methods for the disposal of clinical waste. The Government has undertaken that it will review and note developments in this respect. I hope the Government will not leave the matter unattended after making the commitment. In the foreseeable future, the

Government must continue to explore new technologies and consider adopting these technologies shortly.

Although the Government has repeatedly reassured the Kwai Tsing District Council and the residents in the vicinity that there is no cause for concern, the worry of the residents living adjacent to the incinerator is perfectly understandable.

Another point I wish to raise concerns a proposal raised by Members during our discussion that, as a waste treatment centre will be operated in Tsing Yi or Kwai Tsing District, the Government should come up with some compensatory measures to enhance the environment of the district or provide facilities, such as a park, for the betterment of the environment. Despite the Government's promise that the proposal will be considered, I have not seen any genuine response from the Bureau so far. Arrangements should indeed be made to compensate the residents for the risk exposure. As Members are aware, producers of clinical waste or other waste causing bodily harm, including producers of dioxin, and so on, can be found throughout the territory. However, only the residents of Kwai Tsing District or Tsing Yi have to bear all the risks. Their concern is understandable. I hope the Government can implement the measures considered at the discussion stage and make substantial arrangements for implementation of better environmental improvement works and programmes in the community.

Furthermore, I am concerned about the problems confronting clinics located in more remote areas. At present, comprehensive collection programmes are still not in place in many remote areas, particularly the outlying islands. Although according to some government documents or information, individual waste collectors might be willing to collect clinical waste from the Government, including clinics operated under the Hospital Authority, we still hope the Government can pay close attention in monitoring whether or not these collectors are providing proper services. We once expressed the view that should there be inadequate collectors providing such services, the Government should consider making use of the existing public clinics, including the clinics and hospitals on outlying islands, as waste collection points. Members may be aware of or notice the point that individual medical practitioners are not allowed to carry clinical waste when they travel on public transport. Health care personnel working on outlying islands have to travel by ferries. Yet, we cannot expect them to hire a pleasure boat or a boat to ship 5 kg of clinical waste. If

waste collectors raise charges indiscriminately or refuse to provide waste collection service, the Government will be obliged to provide this essential service. In doing so, the risk posed to the community can be minimized, and the legislation thus be enforced.

Lastly, I would like to say a few words on the Government's response to the issues raised in the meetings of the Bills Committee regarding the definition of "waste" in the Basel Convention and the waste lists. Despite the Government's disapproval of the suggestion made by certain organizations, such as Greenpeace, that the list contained in the Basel Convention should be written into the legislation, the Government has indicated that if the list is included in the legislation, the passage of the Bill will be seriously delayed. We have also noted the Government's acceptance of inserting this footnote into the loose-leaf publication of Hong Kong laws. Nevertheless, I still hold the view that the legislation should be further improved at the next stage, including making improvements by legislative means by setting out the obligations and the lists required to be dealt with in the Basel Convention.

Anyhow, the medical profession understands and agrees that clinical waste poses certain risks to the public, and the risks are now considered unacceptable, given Hong Kong's prevailing conditions. However, most members of the medical profession are willing to comply with the legislation. Yet, the compliance with and enforcement of the legislation shall rely heavily on the mutual communication between the medical profession and the EPD. I note that the Government has stated that the medical profession will be consulted on its future work or Codes of Practice. I hope that when the Government formulates the detailed Codes of Practice or review this part of work in the near future, it can fully co-operate with all medical organizations to enable full representation of their views.

During the course of deliberations by the Bills Committee, a question was raised concerning whether waste producers or individual medical practitioners should retain or keep the disposal records of clinical waste for the past one year. I personally consider it inappropriate to include this in the existing legislation. The Government mentioned that it had once contemplated including this in the Codes of Practice. However, I would like to advise the Government to be extremely careful with respect to this point. Insofar as clinical waste producers or clinics are concerned, their paramount task is to consign their clinical waste to waste contractors or collectors. To accomplish this task is already sufficient.

I hope the Government will not require them to keep the lists or receipts by a rigid provision in law. Insofar as this point is concerned, I agree that the current practice be maintained.

I support the entire Bill and its passage. I so submit. Thank you, Madam President.

MR WONG KWOK-HING (in Cantonese): Madam President, for the purpose of launching the Clinical Waste Control Scheme (the Control Scheme), the Bills Committee has held a number of meetings to discuss the details of implementation since July last year. I am a member of the Bills Committee.

As wastes arising from health care services and laboratory tests and researches might carry deadly bacteria and viruses, their disposal process must be monitored closely. Hence, the commencement of the Control Scheme is urgently needed. To this end, the newly amended Bill ensures the responsibilities required to be assumed by waste collectors while clearly providing for the application procedures for various related licences. This will provide clear safety criteria for the clinical waste disposal procedure and waste collection professionals while further ensuring public safety. Actually, a proposal I raised during the course of discussion regarding the collection of clinical waste on outlying islands has been accepted by the department concerned.

However, the Government has insisted on converting the Chemical Waste Treatment Centre (CWTC) at Tsing Yi into a centre for treating clinical waste by high-temperature incineration. This decision has in effect rendered the entire Bill imperfect.

Madam President, for the sake of saving money, the Government has refused to build a new incinerator and instead decided to convert the Tsing Yi CWTC. Whether from the angle of site selection or safety, the Government is obviously disregarding the safety of Tsing Yi residents. This is because the CWTC, designed in the '80s, has been in operation since 1993. Even if it is capable of meeting the existing specifications, will it be able to cope in the next 10 or even 20 years? A clinical waste treatment centre should be regarded as long-term hardware of a modern city. For the Government, money saving is

more important than public safety. Hence, I have great reservations about the Government's decision.

Although there were no major casualties arising from the two accidents previously occurred in the Tsing Yi CWTC, residents in the vicinity will naturally be concerned about and oppose the conversion of the CWTC into a highly dangerous clinical waste treatment centre. As incinerators in general are located far away from residential areas, it is only reasonable for a clinical waste treatment centre to be situated even farther away from residential areas. Hence, before the commencement of this Council meeting today, a group of Tsing Yi residents and representatives petitioned this Council and handed us a petition letter to reflect their worries.

According to the relevant document, despite repeated discussions between the authorities concerned and the Kwai Tsing District Council (K&TDC), the proposal is still strongly opposed by the Community Affairs Committee of the K&TDC. Although it is pointed out in the document that discussions will continue to be held with the K&TDC in April, the Government has still not come up with new options or solutions. Under such circumstances, the Government must respect the views and voices of opposition of the K&TDC. Why has the Government handled the matter so badly and failed to reach a consensus, despite the strong opposition from the residents? In my opinion, the Government should draw reference from how community acceptance was gained before high-temperature incinerators were set up in Osaka, Japan and Macao. Several years ago, I visited the incinerator set up in Osaka, Japan as well as the relevant facilities in Macao. Before the installation of the facilities, a lot of discussions were held with the residents concerned and consensus in the community was also sought. At the same time, many compensatory facilities were provided for the residents living in the vicinity to make the voices of opposition in the community, or the views of acceptance, more positive.

I feel very sorry that the arrangements made by the Government in Tsing Yi have failed to appease the voices of opposition in the community. Actually, from another angle, the Environmental Protection Department (EPD) has poorly handled the request made by the community for compensatory facilities and, consequently, attracted even stronger voices of opposition. For instance, the Government has disregarded the request made by residents of the Cheung Ching Estate for the provision of noise barriers on Ching Hong Road to resolve the noise pollution problem, and the matter has dragged on for seven or eight years.

Even if I offer assistance to the residents, the Government will still continue to make excuses.

On the other hand, nothing much has been done by the Government to tackle the air pollution problem. In this connection, the Government must improve its attitude and think harder before it can gain the Tsing Yi residents' acceptance.

Madam President, I actually support another important purpose of the Bill, that is, introducing amendments to enforce the Basel Ban. In view of the rapid development of computer industries in recent years, a large quantity of toxic electronic refuse has been shipped from North America for disposal in China. While the Basel Action Network started opposing such conduct in 2002, China has begun rejecting toxic waste trade since the early '90s. However, without complementary action taken by Hong Kong, unlawful business will continue to take every opportunity to conduct toxic waste trade. Therefore, although the Basic Law empowers the Government of the Hong Kong Special Administration Region to maintain and develop relations and conclude agreements, the Government is still obliged to examine if agreements applicable to China can be extended to Hong Kong. Given the fundamental differences between Hong Kong's Waste Disposal Ordinance and the Basel Convention, it is reasonable to introduce amendments for the enforcement of the Basel Convention to thwart illicit trade in toxic electronic waste.

However, I feel extremely sorry that the Government has now bundled up the two issues together for examination. For the safety and misgivings of some 240 000 Tsing Yi residents, I must therefore vote against the Bill.

Thank you, Madam President.

MS EMILY LAU (in Cantonese): After a long delay of 10 years, a bill on landfill charges and construction waste was eventually passed by this Council last year. According to my memory, the Clinical Waste Control Scheme (the Control Scheme) has also experienced a long delay of nearly 10 years. It is therefore wrong to say that it began in 1997. Certainly, a consultation paper was published in October 1997, the year the Government of the Special Administrative Region was established. The deliberation of this matter dates back to the colonial era. I still recall the fierce opposition from many medical

practitioners and various sectors. When a proposal is opposed by many, both the then and incumbent governments would act in the same way by assuming that the talks have fallen through and the proposal is impracticable. Though medical practitioners would not besiege landfills like drivers did, this matter has been delayed again and again, for presumably 10 years.

From many angles, I personally welcome the resumption of the Second Reading of the Bill. Should Secretary Dr Sarah LIAO be held fully responsible? Of course, she could not evade the responsibility for the entire decade. It has been a long time since 1997. Up to this stage, there is still opposition from many. I believe the Secretary will not describe this as unexpected. However, can the matter be handled in a better manner? I believe it is possible. Yet, does it mean that follow-up work will no longer be required after today? The answer is no.

We have been taking note of the opposition of the Tsing Yi residents. We were also told that the Secretary had invited an expert, named Mr TOWNEND, who was commissioned by the Government to publish a report in December 2000. According to the report, high-temperature incineration is merely a medium-term initiative. In the long run, the authorities must keep abreast of the latest developments for the purpose of grasping other new technologies. The Administration at that time agreed following the report's recommendations. The Secretary should therefore give us an explanation later, for even the expert commissioned by the Government said something like that.

President, I appreciate the residents' concern about the Chemical Waste Treatment Centre (CWTC) at Tsing Yi. The CWTC has existed in Tsing Yi for a considerable period of time. Can the Bills Committee examine the relevant data and ascertain, for instance, whether the district has a higher proportion of cancer patients, compared against the whole of the territory for the past 10 years? According to the relevant data provided at that time, President, the ratios were similar. However, I feel that even these facts cannot put the minds of the residents at ease as they are terrified by the thought of occasional leakage of dioxin from the plant. Given that the authorities have undertaken to collaborate with the Kwai Tsing District Council (K&TDC) in setting up a surveillance team, I think funding should also be provided to commission an independent consultant to provide information on a regular basis (or even on a monthly basis during the initial operation period) on emissions and matters in other areas when the plant commences operation to assist the K&TDC in analysing whether there

are any irregularities. Things could not have been worse if irregularities really occur during this period.

Hence, the officials should not assume that the matter will be settled completely after the passage of the Bill today. Judging from another angle, their task might probably just begin because they must first ensure that the operation of the CWTC runs smoothly. Given such a strong reaction of the residents, this Council might probably need to set up a select committee to conduct inquiries should things really go wrong in future. This is what Members might not want to see. Furthermore, some officials might have been promoted and transferred to other posts. Anyhow, the authorities must be held accountable and must, therefore, follow up this point.

Can the Government put the minds of the residents at ease after following up the matter? I dare not say so because some residents are indeed very emotional. President, I believe you will really feel particularly frightened if you live in the vicinity. The Secretary must understand this despite our support for her, as I gather from the relevant data that there is no evidence demonstrating that the incidence rate of cancer in Tsing Yi is higher than other places in the territory. Of course, there will be big trouble if the incidence rate is evidently higher. Should that be the case, the CWTC will have to be demolished immediately. In the long run, as stated by the expert commissioned by the authorities, other options have to be considered as well. Insofar as this point is concerned, the Government, whether of this term or the next, has to consider that there are bound to be public concerns if an incinerator is placed very close to residential areas, regardless of what waste is to be burned there. If the Secretary still wishes to dispose of solid waste by incineration in future, the authorities must be prepared to face more challenges and confrontations. Hence, serious consideration must be given in this respect.

While we talk about social harmony, how could a harmonious atmosphere be maintained if local residents feel so worried? President, a separate issue is therefore involved here. Many colleagues have also pointed out what it means by providing facilities for the betterment of the district. Actually, such betterment is essential at any time. It was earlier pointed out by a colleague that other countries are doing the same thing too. Nevertheless, such facilities are considered extra in Hong Kong. Why should a particular district be offered something extra? It is because we feel sorry for installing certain undesirable facilities in the district and making its residents unhappy. However, we will

compensate them with some extra benefits. These extra benefits are not provided in other districts. Furthermore, these extra benefits should be offered well before the passage of the Bill. As undesirable facilities will be installed in the district, extra measures should be offered at the outset in terms of overall design to enable the residents in the district to look at the entire matter in a balanced manner. Furthermore, I maintain that undesirable facilities should not be concentrated in one single district. The district I am referring to is quite exceptional. I have been talking about it for years. I am actually referring to Tuen Mun. I feel that we have done the Tuen Mun District a great disservice, because many undesirable facilities have been set up there. Therefore, if it is said that facilities for the betterment of the district will be provided, countless tasks will have to be carried out in the district. However, I do not see that the authorities have come up with any policy of offering some sort of benefits to the residents of the district where undesirable facilities will be provided.

The Secretary is now telling us that these facilities will be provided. Earlier in the debate, many colleagues tried to expose the truth as we could tell from the timing when the Administration decided to provide those facilities. We can see that not a single facility was contemplated at the time the decision was made. Perhaps it can be said that some facilities were specially offered because of the Government's decision to ship clinical waste to Tsing Yi for incineration. However, the Administration might not necessarily have given any thought to those facilities at that time. It might merely be thinking of some greening work, and so it was decided that \$1 million would be spent on plantation in the fringe areas. However, President, how can such work be considered as extra facilities?

I really believe it is still not too late. There is still a chance to consider implementing some extra measures — I emphasize that these measures must be extra. They are not taken from someone else. The word "tilting" should never be mentioned because the word is really terrible. By "tilting", it is meant that something belonging to someone else disappears because it has gone somewhere else. Regarding the extra facilities, it is really essential to conduct open and frank discussions with the District Council to, first, guarantee that no leakage will occur and the health of the residents will not be affected and, second, ensure that more facilities will be provided to enable the district, especially the residents living nearest the CWTC (of course, compensation should be offered only to those living within miles, not miles away), to benefit

from the facilities. Moreover, it should be made clearly that the facilities are a sincere offer to mark the formal commencement of the so-called compensation policy. As these matters cannot be decided by the Secretary alone, the Administration must be involved in decision-making should hundreds of millions of dollars are to be allocated.

President, this explains why in a meeting held by the House Committee several weeks ago, I asked the Chairman of the House Committee to raise this matter with the Chief Secretary for Administration in their regular meeting held every Monday afternoon. When the Chairman returned, she reported to us that the Chief Secretary had indicated that the proposal was feasible and promised to implement it. Such being the case, the Administration should assume the sole responsibility of submitting the proposal to this Council for discussion. However, will the residents be willing to accept just because the Administration is willing to assume the entire responsibility? I am not sure.

It is very often impossible for all of us to find nothing undesirable near us. However, some districts are particularly unlucky. President, when will undesirable facilities be found in such districts as the Peak? For instance, voices of dissatisfaction from some residents in the Southern District or Stanley might still be heard occasionally. However, some districts have often been chosen to be the sites for undesirable facilities.

We in the Legislative Council must be impartial. Therefore, except for the projects listed in this checklist, that is, the facilities the residents have been begging the Government to follow up for years, the Secretary is absolutely duty-bound to tell the truth that these facilities are specially offered to the Tsing Yi residents. She must apologize to the residents and tell them that some resources will be offered to let them know that their disturbance is appreciated by the authorities.

I certainly hope that compensation will be offered. Moreover, President, the Administration has to accept before the implementation of this policy that the residents have been forced to accept the undesirable facilities. If the Secretary does not accept this and consider that there is nothing wrong, compensation will certainly not be essential. The Secretary must accept that the arrangements made are poor, and the residents' strong reaction and concerns about their health are justified. Hence, the authorities must acknowledge the need for better

efforts to ensure that the health of the residents will not be affected. On the other hand, compensation can be offered separately.

I believe the Secretary should act in this way and hope that she is capable of doing so. As Chairman of the Bills Committee, Ms Audrey EU has performed an excellent job in holding a total of 13 meetings. If the Secretary does not act accordingly, our efforts will be wasted. Even if the Bill is passed, will the residents sit down and accept it if they are not satisfied?

Hence, I hope the Secretary can give the residents a clear message in her response later. I also hope she will not make us think that we have wrongly supported her. I so submit.

MR TAM YIU-CHUNG (in Cantonese): President, one of the major amendments of this Bill is about regulating the collection, transportation and disposal of clinical waste. Currently Hong Kong produces tens of tonnes of clinical waste every day, most of which are dumped at the landfills without treatment. As clinical waste includes used and contaminated scalpels, syringes, needles used in acupuncture, human and animal tissues, infectious materials, as well as cotton and dressings for surgeries, it may be infectious and harmful to the human body, therefore it is necessary that its handling be regulated.

The Government has designated the Chemical Waste Treatment Centre (CWTC) at Tsing Yi to be tasked with the incineration of clinical waste. As dioxin will be produced during the process of incinerating clinical waste and as the CWTC is situated very near residential areas, the people are very worried that their health will be affected. The Kwai Tsing District Council has since 1997 moved a motion on numerous occasions to oppose collecting all the clinical waste in Hong Kong to Tsing Yi for incineration.

The CWTC was designed and planned at the latter part of the 1980s. According to land use planning of the Government at that time, Tsing Yi was not zoned for residential use. But starting from the 1990s, with the boom in property developments in Hong Kong as well as growing housing needs of the people, the Government then produced a large number of flats on Tsing Yi and population grew sharply. Now the population on Tsing Yi Island has reached 250 000. Treating chemical waste in densely populated areas is in itself a big mistake.

Heavy industries, oil depots and shipyards which used to be located in Tsing Yi have moved out as a result of the industrial transformation and urban development. Consequently, the treatment volume of the CWTC has dwindled and consideration should be made to scale down the CWTC or even relocate it from Tsing Yi. This will give Tsing Yi residents a pollution-free environment. On the contrary, the Government now wants to use the CWTC to incinerate clinical waste and more dioxin is produced than previously. Such a move is not just being blind to the blunder but it is also making more blunders. Regardless of how the CWTC will keep dioxin emissions at safe levels, Tsing Yi will certainly have a further source of air pollution and air quality will worsen. Dioxin will increase the risk of cancer and massive inhalation would cause skin problems, damages to the liver and endocrinal disorders. It follows that burning clinical waste in Tsing Yi will pose a persistent health hazard to the people there.

In response to the concern of the residents, the Government says that community facilities would be provided to better the environment of Kwai Chung and Tsing Yi. I think this is not a justification for burning clinical waste in Tsing Yi. The reason is that such community facilities are what the residents there have all along been fighting for and they are not added by the Government. And providing such community facilities is a responsibility of the Government.

As Members of this Council from New Territories West, both Mr CHEUNG Hok-ming and I strongly demand that the Government should move the CWTC out of Tsing Yi and in order to protect the health of the residents there, it must never incinerate clinical waste near their homes. Though the Bill is well-intentioned, as the matching facilities are not in line with public interest, the two of us will not support the Amendment Bill and we will abstain from voting. Thank you, President.

MRS SELINA CHOW (in Cantonese): President, when we were making our way into the Legislative Council Building earlier today, we saw many Tsing Yi District Council members. Regardless of their political affiliations, they all seem to have very strong views about the question under discussion today, that is, whether or not clinical waste should be incinerated at the Chemical Waste Treatment Centre (CWTC) in Tsing Yi. They are totally against such an idea.

The Government tells us that it has held negotiations with them and has already allayed most of their worries or agreed to provide some facilities as

compensation, so as to make them accept the new policy of incinerating clinical waste at the CWTC. However, it seems that all these are just the "claims" of the Government, and as indicated by their responses, the Government has actually been unsuccessful.

I have listened to the speeches of Members, especially that of Ms Audrey EU, Chairman of the Bills Committee. I have no doubt that Members have made immense efforts and studied many statistics. And, I also have no doubt that they have taken account of where the whole problem lies. That is why it is considered that there is a need for such an arrangement. But we do not live there after all. I believe that if one is a Tsing Yi resident, particularly if one lives near the CWTC, one will certainly know that they have always looked at the location of the CWTC with reservations and skepticism. And, the incident this time around has only added to their long-standing worries. If people have to live there in constant fear every day, how can we possibly allay their anxieties even when compensation or other community facilities are provided? No matter how many scientific data are quoted or how many facilities are provided, I do not think that they can be convinced at all easily.

I have heard that as early as the 1990s, the Government already started to conduct studies on what technologies, or advanced technologies, should be adopted for an incinerator located in the urban areas. However, even now, it has still failed to include in its planning any technologies of advanced countries or places that can completely prevent the emission of dioxin. The Government has so far failed to offer any guarantee in this regard. I find this very regrettable. Tsing Yi residents now face this vexing problem once again, and this time around, the problem poses an even greater threat to them. As a Member representing the New Territories West Constituency, I cannot accept or support the Government's approach. Members of the Bills Committee or other Members think that from the overall perspective, there should be no continued support for the handling of clinical waste at landfills. I very much respect their view, but I must still ask, "Why must we still face such a situation today?" I think we must consider very deeply what kind of responsibility the Government should bear.

Besides, I also agree to the remarks of Ms Emily LAU just now. She said that the Government should let residents know clearly that it would do its best and do something concrete rather than just looking up some old files to see what it had done in Tsing Yi, as if this could already make up for everything. It

should not do something like this. At the very time when the Government made this decision, it should consider what concrete actions it should take to allay the anxieties of Tsing Yi residents. But it is not too late now; it can still do something. Therefore, I hope that the Government can make more concrete efforts. The residents of Tsing Yi will continue to have worries, but I still hope that besides setting up a working group, the Government can also give them as much assistance as possible in other ways, so as to reduce their worries.

However, I cannot support the passage of this Bill. Thank you, President.

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

MR SIN CHUNG-KAI (in Cantonese): President, I am not a member of the Bills Committee; Mr LEE Wing-tat of our political party is a member of the Bills Committee. But when I was still a Kwai Tsing District Board member, this topic was already brought up for discussions.

I was the Chairman of the Kwai Tsing District Board from 1994 to 1999. As pointed out by Mr TAM Yiu-chung in his speech just now, the District Board already started to raise objection to the incineration of clinical waste in Tsing Yi at that time. On Tsing Yi Island, there are many industries not welcomed by residential settlements. There used to be a cement factory near people's homes; it has been relocated to a more remote site, but it is still on the island. There are also shipyards, several oil depots and even a power plant. In the 1970s or before, Tsing Yi Island was basically a site accommodating various types of industries.

In 1975, a bridge was constructed — this first Tsing Yi Bridge was actually constructed for the power plant there. Subsequently, starting from the late 1970s and early 1980s, the Government began the construction of residential units in Tsing Yi. By now, there are more than 200 000 residents on the island. Over the past several years, after the local population has exceeded 200 000, the Government has made some efforts, as a result of which some slight improvements to the living environment of Tsing Yi residents are noticed. For example, both the shipyards and cement factory have been relocated to sites farther away from residential settlements. As for the Chemical Waste

Treatment Centre (CWTC), the whole story began in 1985 when I was a member of the Kwai Tsing District Board. I can remember that Mr James TIEN was once a member of this District Board as well. At that time, there were many industrial areas in Kwai Chung and huge quantities of industrial waste had to be treated. For reasons of geographical proximity, the Government thus decided to establish the CWTC in Kwai Tsing District. Following the establishment of the CWTC, however, the northward shift of industries to the Mainland began, leading to a shortage of industrial waste for incineration. To be exact, it should be said that there was a shortage of materials for incineration. For this reason, the Government started to consider the "reuse of waste", using the CWTC for other materials suitable for incineration. The dioxin residue of the Hong Kong Disneyland site was incinerated at the CWTC. After all the dioxin residue of the Hong Kong Disneyland site had been incinerated — no, to be exact, all the dioxin residue of Cheoy Lee Shipyards — sand was then transported there for incineration. And, they are now talking about incinerating clinical waste there.

Actually, back in the 1990s, when it learnt of the Government's plan to handle clinical waste, the District Board already questioned whether it was possible to identify another location away from Tsing Yi Island for the special purpose of incinerating clinical waste. The CWTC has existed for at least 15 years since the 1990s. Perhaps, it should even be more than 15 years. The CWTC should have been completed as early as the late 1980s. Since then, there have of course been continuous updating of facilities, and the Secretary will definitely claim that the relevant standards are very satisfactory. If Members look at the map of Hong Kong, they will notice that Tsing Yi Island sits right in the middle of the territory. At that time, people frequently thought that only Tsing Yi Island would be affected. I can remember that when I was the Chairman of the Kwai Tsing District Board, the CWTC recorded two incidents of leakage. After these incidents, someone measured the levels of dioxin in the neighbouring areas. What places recorded increases in dioxin levels in the end? Even Tsuen Wan, the district in which Mr Albert CHAN lives, was affected. Tsing Yi was not the only affected location. This is something that actually happened in the past, nothing unprecedented. And, all is put down on record. The District Board also convened a special meeting on this issue.

As the government official responsible for handling this problem, for identifying a place for incineration of waste, the Secretary has so conveniently decided to incinerate the waste at the CWTC, as though it were the only natural choice. But should we instead identify another place, with a view to solving the

problem once and for all? Hong Kong has thousands of islands. And, even if this is not the case and there are just several hundred islands, we should still be able to identify a more remote and uninhabited island for the construction of facilities to incinerate this type of waste. The costs will be higher, but this is something that should be done, a burden that should be borne by the people of Hong Kong. Why must Tsing Yi be chosen as the place for incineration of waste? As for the processes of incineration in the future, we of course think that they will be more satisfactory than the present approach. There is no doubt about it. But why must Tsing Yi Island still be chosen as the place?

I can remember that at the very beginning — this is still the case now, not just at the very beginning — there were six oil depots on Tsing Yi Island. There are still many oil depots on Tsing Yi Island now. With all these oil depots, the cement factory and chemical plants, Tsing Yi Island can be described as a place with many things unacceptable to residents. Generally speaking, Members are certainly right in saying that when it comes to the selection of a place for establishing such facilities, all will say that these facilities should not be set up in their districts. But we must still look at the situation on Tsing Yi Island. Is there really an especially large number of such facilities? If the Government had not encouraged people to live on Tsing Yi Island 20 years ago, there might not have been any problems. But the Government constructed many housing units there. If Tsing Yi Island was uninhabited, there would not be any problems because it would then be an intact, or isolated, island. Perhaps, the problems will be comparatively less serious.

President, we oppose the Bill today because we hope that the Government can seriously consider the idea of solving the problem once and for all by relocating the incineration facilities from Tsing Yi Island, with a view to meeting residents' needs. Mrs Selina CHOW says that I do not live in the district. But I do. I can see Tsing Yi from my home. I can see the island every day. If there is any leakage in the incineration process — Mr Albert CHAN lives in Tsuen Wan, so even though the distance is not short, he will also be affected.

We walk at the same pace as that of the local residents. As the Chairman of the District Board in the past, I must share the concerns of my former colleagues. Therefore, despite our strong support for environmentalism, I must still reflect the wishes of residents.

I so submit.

MR JEFFREY LAM (in Cantonese): As society advances and people's living standard rises, our ways of life have also changed.

In many cases, we will immediately dispose of the things we have used instead of reusing them. For the sake of patient safety, hospitals and clinics also do the same, thus leading to more and more clinical waste. How are we going to handle all the increasing clinical waste? This a grave concern of many people.

Some hold that clinical waste is still full of bacteria, which may not be killed immediately even when disposed of at landfills. The Liberal Party can accept the adoption of high-temperature treatment for clinical waste, but if high-temperature treatment takes the form of incineration, we must express our reservations, because as Members all know, incineration will lead to the production of dioxin and thus affect nearby residents.

As also mentioned by Mrs Selina CHOW just now, we have always hoped that the Government can explore more new measures relating to the use of incinerators. We understand that a new type of incinerator is now widely used in places such as Japan, France and Europe. These are closed incinerators that can retain all dioxin and prevent it from escaping.

We notice that in the case of Japan, although such incinerators are installed near residential settlements, there have been no complaints at all from the local residents. We therefore hope that the Government can study the information about this new type of incinerator. The reason is that if we continue to handle clinical waste in the absence of a satisfactory form of treatment, more and more residents will complain about the hazards of dioxin to their health.

Although the Liberal Party supports this Bill in principle, we must still express our reservations. In respect of bacteria extermination, while we acknowledge the merits of high-temperature treatment, we will certainly continue to question the Government if it fails to identify a better method of incineration. Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, in 1985, I first became a Kwai Tsing District Board member, and even now, I am still a member of the Kwai Tsing District Council. I can say that Mr LEE Wing-tat, Mr SIN

Chung-kai, Mr James TIEN and I actually witnessed the transformation of Tsing Yi because we all worked together as members of the Kwai Tsing District Board. Although we cannot claim complete knowledge of the situation of the whole district, we are certainly aware of the major problems faced by the district.

In the case of Kwai Tsing, its pollution problem has been the most serious in Hong Kong since the industrial boom in the past. The problem there has been acute. Apart from industries, the incinerators there have also been a source of pollution. Therefore, while local residents do not accept any incinerators or other sources of pollution, they are also very, very dissatisfied with the situation, hoping that there can be zero pollution.

Unfortunately, however, the Government constructed a Chemical Waste Treatment Centre (CWTC) in Tsing Yi in the 1980s. A moment ago, Mr SIN Chung-kai already told the whole story in great detail. I can remember that local residents were very, very dissatisfied at that time because they feared that chemical waste might have to be transported through the entire town centre in the course of transit, thus posing dangers to residents. They were therefore extremely worried.

Actually, the residents always fear that something might go wrong somehow. In case an accident really happens, what are they going to do? Given the dense population today, they are especially concerned about what they are going to do in case an accident happens.

Actually, down from the 1980s, through the 1990s and to the new millennium now, Tsing Yi residents are all the time engulfed by many fears. Their earliest worries are about oil depots. Oil depots have been a grave concern of Tsing Yi residents. Then, there are the worries about the cement factory, followed by transportation. They have been tortured continuously by various worries. Incinerators are also one of their worries and so are the CWTC.

Therefore, Tsing Yi residents do think that historically speaking, their district has been treated most unfairly in terms of overall planning. Since it is the intention of the Government to develop the district into an area with a huge population, why has it failed to consider the question of co-ordination and facilities distribution in the course of planning, so that local residents can live there happily?

The many problems mentioned by us just now have come one after another and have never ceased to exist. Kwai Tsing residents, especially those living in Tsing Yi, must withstand waves and waves of such problems, never able to live a peaceful life. I therefore think that it is very difficult for me to support the Bill today. We observe that in regard to waste disposal, the Government usually wants to adopt the simplest and easiest way out, thinking that this can already solve the problem. It has never conducted any in-depth studies on whether or not incineration is the only solution. The Government has never, never ever, considered other possibilities. We have in fact raised this question many times before during past debates. Incineration is the simplest, most convenient and quickest solution, but is it the best? This is also a question frequently asked by many other people.

Members are also concerned about other pollutants produced in the process of incineration. Many Members have talked about dioxin. Dioxin poses a great problem. As far as I know, dioxin can only be destroyed by high-temperature incineration, and this is followed by another problem — the problem of cooling. Only high-temperature incineration will not do; there is still the problem of cooling.

I can remember the experience of Japan, where the need for both high-temperature treatment and subsequent cooling once led to serious problems that might cause great harm. We may not be able to tell the Government what should be the best method of disposing of such waste, but I do not think that the Government should thus tell us that incineration is the only solution. I suppose this may not be the truth. And, as rightly pointed out by some Members, even if this is really the truth, must Tsing Yi be chosen as the place? Why can other locations not be chosen? This is also the question frequently asked?

We have therefore raised several questions about the Bill today. First, as mentioned just now, is incineration the only means? Second, is Tsing Yi the only suitable place? As mentioned above, the Government has never offered us any clear and detailed explanation. This explains why the Kwai Tsing District Council has been strongly opposing the idea. Today, I will adhere to the position of the Kwai Tsing District Council and oppose it.

President, I so submit.

MR ALBERT CHAN (in Cantonese): President, on the effect of incineration and treatment of clinical waste on health, an official once said jokingly to me that if one sat next to "Long Hair" and inhaled the smell of his tobacco smoke, there would be some impact on one's health as well. Therefore, with respect to various things which may affect health, in my opinion, both the residents and this Council are very concerned.

On the location of the incinerating facility for chemical waste in Tsing Yi, I think among the many Members here, I am the one who is the nearest to it — irrespective of the places where I live or work. I can see through the window of my bedroom the smoke from the incinerator. Every day when I get up and look outside, very often I would see some traces of thin smoke drifting in the air. I have an office in Cheung Hong Estate and it is very close to the Chemical Waste Treatment Centre (CWTC). On the problems associated with the CWTC, actually they have been hassling us for many years and this applies especially to the problem of treating clinical waste. I recall more than a decade ago, the Government began to plan to set up a treatment centre for clinical waste and there were discussions about it. At that time Tuen Mun was picked as the site. Many residents of Tuen Mun put up a very strong opposition against it. Mr LAU Wong-fat should know this very well. With respect to this issue of treating clinical waste, right from the beginning to this day, it is a big problem and it has become an impasse. It is about whether or not a new plant is to be built or this can be handled by other plants, or whether the conventional landfill option is to be adopted. It seems that the last option is gradually discarded for the reason that dumping clinical waste at landfills would trigger off a host of environmental problems and the act may mean a time bomb for an environmental catastrophe.

So it is never easy to find a good method of treatment. Many Members have pointed out that the Government lacks any long-term treatment plans. As I recall it, it has been more than a decade since the subject was first raised from the time that a clinical waste treatment plant in Tuen Mun was proposed. To address this problem, I think the Government must convince the public of the plan's technical and technological viability. Many Members and residents of Tsing Yi — actually it would be quite unfair to talk just about Tsing Yi — for as Mr SIN Chung-kai has said, both Mr SIN's home and mine are very close to the CWTC. Mr SIN lives in Wonderland Villas and I live in Belvedere Garden in Tsuen Wan. Both these two housing estates are located in high grounds and when the smoke of the incinerator drifts down, I think it will first go past our

homes and then to the homes of the people in Tsing Yi. When the westerly wind is blowing, the smoke will fly past the home of Mr SIN. When the southerly wind is blowing, it will fly past my home. The CWTC is quite a long distance away from the Chief Executive's office in the Government Headquarters and so the impact there is minimal. But for those residents living near the CWTC, the impact would surely be worrying.

If we are to trace the root of this long-standing problem, we will find out that this was caused by a mistake made by the Government. Back in the 1970s and as planned by officials of the Planning Department, Tsing Yi was originally designated as an industrial island with oil depots, power plants, cement works and shipyards. Apart from some villages of indigenous inhabitants, there were no residential developments on the island. A senior official at that time who was not in charge of planning matters ordered that permission be given to a developer to construct housing on the island. Then Tsing Yi's nightmare began. I think Mr SIN Chung-kai also knows the traffic and environmental problems there very well. These residential buildings are situated near oil depots, cement works and dangerous goods. The Belvedere Garden in which I live is situated right next to a dangerous goods anchorage. A few years ago, when Anson CHAN was the Secretary for Economic Affairs, she compiled a report which said that the risk for the place was one in a million for an explosion to take place. When that happens, the residents would be affected. So when I get up in the morning, apart from watching the thin smoke from the CWTC that sails in the sky, I have to face things that have a high risk of explosion. Vessels loaded with Category 5 dangerous goods are just 50 or 60 yards away from my home. As I have said many times, New Territories West is the hardest-hit area, for almost all the oil depots, dangerous goods and warehouses with a risk of explosion are all located there. This exerts a certain degree of pressure on Members from New Territories West. It seems that the Government is really biased in planning and things unwanted in other districts are all dumped into New Territories West. Tuen Mun is one of the hardest-hit areas and Tsing Yi is another.

Secretary, if you want the people of Tsing Yi or its neighbourhood feel less annoyed and furious, the Government should devise more measures so that the people will know that not only the bad things are dumped in Tsing Yi — not only things like dangerous goods in the container terminals, there are also chemicals, and even things like clinical waste, they are all discarded there — but there are also good things placed there. I hope that more facilities can be built

on Tsing Yi Island and in the neighbourhood. An example is to beautify the conservation trail on the Island which is already very charming. About half of the land next to it is barren hilly country. The Government should do more greening there, grow more plants and flowers to attract the bees and butterflies. This will give the people an impression that the Government is not just dumping bad things at them but it will also give them some good facilities. They will think that while they cannot oppose or resist the high-handed policies from this Government which claims to practise "strong governance", they can have some kind of goodies to give them a little consolation in the heat of life.

In matters concerning waste disposal, it is important that both sides should engage in a dialogue. The Government should release the related figures frequently and it must not release them only when problems occur or after the media have uncovered the problems. This is like what had happened in the Kowloon-Canton Railway incidents. On each occasion, it was the media which first exposed the problem of cracks in the trains and then reports slowly came out afterwards. Such information should be released to the public every one or two months on a regular basis. This must be made a routine and the information must be made public. There must be an independent monitoring mechanism so that even if the people do not accept these facilities, there will be some credible groups to follow up and keep a close watch on the situation. The people can then be kept informed and they would stop worrying. I hope that in these developments, popular grievances will not spark off another intense conflict in the district and community.

I hope the Government can learn the lesson from this painful and disgusting example of Tsing Yi. Many of the problems there are caused by planning blunders. Therefore, planning must be made better. This would prevent conflicts from arising when land for residential and industrial uses is affected. I believe that the existing system lacks long-term planning. The Town Planning Board only deals with control plans. I suggested many years ago that the Government should set up a planning body to take charge of territory-wide planning, strategic planning and district planning. This will foster co-ordinated efforts in planning and hence avoid clashes and conflicts between social groups and between social groups and the Government.

I wish to see no more examples like Tsing Yi again. More so I hope that with better planning and other improvement initiatives, the life of the people will not be adversely affected by these facilities. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no Members wish to speak, I will call upon the Secretary for the Environment, Transport and Works to speak in reply.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND LANDS (in Cantonese): President, the Waste Disposal (Amendment) Bill 2005 (the Bill) mainly seeks to impose legislative control on the control of clinical waste and disposal of imported waste, and in relation to the Basel Ban.

The Bills Committee started the deliberations on the Bill in July last year and completed the relevant work in February this year. A total of 13 meetings were held. Here, I thank the Chairman of the Bills Committee, Ms Audrey EU, and other members of the Bills Committee for expending much time in scrutinizing the Bill in detail. This Bill concerning the control of clinical waste consists of five parts:

First, establishing a statutory licensing framework for all clinical waste collectors and operators of disposal facility;

Second, requiring clinical waste producers to properly manage their clinical waste and to consign the clinical waste to licensed clinical waste collectors for disposal at a licensed disposal facility;

Third, promulgating Codes of Practice to provide guidance on the management of clinical waste for clinical waste producers and waste collectors;

Fourth, setting up a trip-ticket system to track clinical waste from source to disposal facility; and

Fifth, designating the Chemical Waste Treatment Centre (CWTC) as the facility to treat clinical waste and levying a disposal charge on use of the facility.

The Bill aims to provide safeguards to public hygiene and public health. We consider the current practice of disposing of clinical waste at landfills unsatisfactory. In the process of disposal, there will be many infectious diseases. If they are not handled properly, our lives will be put at stake and the health of the public and waste collectors will be seriously threatened. Hong Kong has gone through the SARS outbreak; recently, we are also under the threats of avian flu, and other infectious diseases also exist in various medical centres. For these reasons, we must expeditiously put into practice the Clinical Waste Control Scheme to safeguard public health. Meanwhile, the problem we face is how such waste can be disposed of. Our experts and the Environmental Protection Department (EPD) have spent years looking into this issue. In fact, detailed environmental impact assessments have been conducted since 1999, and reference has been made to the methods of clinical waste disposal adopted in advanced countries all over the world. Apart from incinerators, high-temperature waste treatment or the thermo process can be conducted in many ways, just that the heating process may be different. They include gasification which turns all waste into gas; pyrolysis, which is a process of waste decomposition by heat in the presence of oxygen; plasma, which means decomposing matters using high voltage electricity directly and also involves a high temperature process; and the other options are irradiation, autoclave and finally, microwave. Microwave is the only method that does not involve high temperature; the temperature required can be very low, because the microwave system can work so long as each cell contains water and it will be unnecessary to heat up to 100 degrees, for the energy is already sufficient to kill the cells.

Why do we not choose these options? Why do we still choose high-temperature incinerators? There is a reason for it. It is because the effectiveness of those methods has yet been confirmed. So far, no country can provide standards which can meet the international requirement. In other words, everyone is still testing out these options and gathering information. Insofar as Hong Kong is concerned, as we do not carry out basic scientific experiments or commercialize a process that can be completed in a laboratory and turn it into something accessible to every citizen, which is something that we do not have the conditions to do. So we will choose to adopt an option only when we see that it works in other countries and that it works successfully. Moreover, clinical waste is a very sensitive issue, and if we cannot tell the public what exactly the standard is and what standard we have achieved, I believe it would be even more difficult to explain it to the public.

On the contrary, incineration has been adopted by many advanced countries worldwide. We had commissioned an expert to explain this to the Panel on Environmental Affairs, and the conclusion drawn is that incineration is to date the best option. That said, he also told us in a scientists' spirit that continuous effort should be made to explore new technology, instead of adopting incineration as a permanent solution and taking no further initiative to explore other options. This is not the attitude of the Government. I believe Members will also understand that after so much discussion, clinical waste has indeed remained a major problem in public health and as things now stand today, we must make a decision and cannot drag our feet anymore. We must choose the best technology available and that is why we have chosen incineration.

As to whether incineration is adopted in any advanced country in the world, I can cite a few examples, which include Germany, Australia, Japan, Singapore and Sweden. The Stockholm Convention which has just been endorsed in Sweden was quoted by many people. I remember that I had also quoted it many times in the Legislative Council. For instance, on the last occasion, I did not say it to Mr LEE Wing-tat but I told Mr Albert HO that this Convention had clearly stated total opposition to the old incineration technology and demanded that the use of old incinerators be ceased. However, new incineration technology is considered acceptable and this is explicitly stated in the Convention. It is also in the spirit of the Convention that we have worked to identify up-to-standard incineration technology. For instance, as regards dioxin emission which was mentioned by Members earlier, we will examine whether dioxin can be properly handled in the process of incineration.

The CWTC in Tsing Yi, which was set up in 1993, has operated for more than a decade. I know that Members still remember clearly that the standard was exceeded on one or two occasions, but we have continuously made improvement to the incinerators to enhance safety in the handling process.

According to the information available, the concentration of dioxin is required to meet the emission standard of 0.1 ng I-TEQ/m³, which is comparable to the most stringent standard adopted by other countries in the world. In 2004, the average dioxin level in the stack gas of the CWTC was 0.0054 ng I-TEQ/m³, which is 200 times lower than the prescribed standard and much lower than the emission standard of 0.1 ng I-TEQ/m³. Of course, some people may say that although you can do it today, it does not mean that you can do it tomorrow, and they are concerned that the actual situation will be disclosed

when the standard is met but withheld from the public when the standard is not met. This is actually not the case. We have uploaded all the information onto our website. Earlier on, some Members also asked us to enhance transparency, so as to make the public feel at ease. Now, the information is uploaded onto our website on a quarterly basis. I can ask the EPD to look into whether this is operationally viable, because they have commissioned independent laboratories to carry out work in this area. For example, the Department of Chemistry of the Hong Kong Baptist University has been commissioned to monitor the situation, and there are also other commercial arrangements. So, I will look into whether the frequency can be increased to show us the real-time emission level. I hope that scientific measures can be adopted to make the people feel better assured.

Many Members mentioned earlier that since a waste treatment centre is set up in Tsing Yi, can some compensation be provided to residents of Tsing Yi? First of all, I wish to point out that when the Tsing Yi Island was first developed, it was entirely a mistake in planning, and there were industries, oil tanks, power plant, shipyard and chemical plant, while residential dwellings was developed at the same time. It is not the case that we know nothing about it, and the reason why we chose to set up a waste treatment centre there was to provide convenience to the industries. Despite the relocation of industries northward, industries can still be found in Tsing Yi and to a certain extent, this mistake has prompted the Government to implement a number of environmental improvement programmes in Tsing Yi, and this is not a matter of priority. After an incinerator had been built in Tsing Yi, we did consider the fact that this would cause much inconvenience to the residents there. For example, there would be more vehicles transporting chemical waste, thus making it necessary to provide more noise barriers on road. I wish to emphasize that this is purely a matter of perception, that is, only the residents feel uneasy about it. In fact, from the data on emission, we can see clearly that the health of the residents absolutely will not be affected. Some people asked whether it is possible to reduce the dioxin emission to zero, thinking that only in this way can the people feel safe. In fact, a certain amount of this substance will be emitted by any process of burning, not just by a chemical treatment centre. Earlier on, Members also mentioned second-hand smoke. Smoking will definitely produce dioxin, and it is even more unfair to passive smokers. I hope that anti-smoking legislation can be processed more expeditiously to spare us this type of exposure. It is certainly better for a person to take in as less toxic, harmful substances as possible, and the accumulation of such substances also constitutes a problem.

Besides, vehicular exhaust also contains dioxin. So, Hong Kong has a standard for the concentration of dioxin and according to the international standard, our emission does not exceed the standard and what is more, it is far lower than it.

On the improvement of the environment in the district, I must stress that the question lies not in dioxin concentration exceeding the standard or emission of harmful substances, but residents having the feeling that the district seems to be unsuitable for use as residential dwellings. For this reason, we have proposed some projects — the Deputy Secretary has provided a list — to retrofit noise barriers at Tsing Tsuen Bridge. In respect of recreational facilities, the Leisure and Cultural Services Department (LCSD) will launch an open space project at a cost of \$14 million in Area 9 and another open space project in Shek Yam Estate (Phases I and IV) in Kwai Chung; preparatory work will also be carried out for a sports centre in Area 4, Tsing Yi; further greening works will be carried out in Tsing Yi by planting 830 plants, greening government land and conducting greening works afresh at eight sites; and greening works will also be carried out at the roundabout, Fung Shue Wo Road and Tsing King Road. It is not because we have to pass this Bill today that these projects are proposed. If I tell Members today that I thought of these projects only just now, I believe Ms Emily LAU would not let me off. Some of the projects have already reached the stage of Category B, and we will urge them to speed up. As we all know, public works projects have to line up for implementation, and priorities are set for such projects. After we have collected the relevant information, we will urge the relevant departments, such as the LCSD, to carry out the works expeditiously. Given a mismatch in the planning of Tsing Yi, efforts should be stepped up to beautify the environment, so that improvement can still be made to the living environment of the residents despite the fact that the district is a combination of industries and residential dwellings. So, the series of improvement works are carried out on this principle.

As to the question of whether more greening work can be carried out in the future, I can tell Members that we are determined to do so. After the enactment of the Bill, we will not just send the clinical waste there and then do nothing. We hope to continuously maintain contacts with the Kwai Tsing District Council and listen to the views of the locals through a committee or in other ways, with a view to expediting the environmental improvement works in the district.

In respect of implementation, many Members have spoken on this aspect, so I do not wish to repeat their points here. I only wish to point out that the

producer will need to keep records properly. The keeping of records is very important. Although this has not been done in Hong Kong under our environmental protection legislation, this can be a beginning. All environmental protection legislation — say, if you find someone dumping waste illegally, how can you prove to whom the waste belongs? When it comes to environmental protection, this is very difficult to prove. Therefore, in foreign countries, it is provided in law that records must be kept to prove that materials with environmental implications are handled appropriately. This will provide a defence in law. So, we would like to stress this point too. To facilitate implementation, the Occupational Safety and Health Council will arrange for a series of training in the future to provide comprehensive training to those who are required to handle clinical waste, so as to ensure that they are not affected by such waste in terms of hygiene.

Now, I would like to speak on the Basel Convention. The Bill proposes to include a Schedule 9 which sets out the provisions of the Basel Ban, in order to ban the export of hazardous waste to Hong Kong from specified developed countries, including state-members of the Organization for Economic Co-operation and Development, European Community and Liechtenstein. In the course of the scrutiny of the Bill, we accepted the suggestion of an organization to include a catch-all provision in Schedule 9, so that control would immediately apply to a new member of the economic co-operation zones. There are also many other details in the Bill, and I believe Members can see them in our papers. Some Members are concerned about the monitoring of electronic waste workshops. The EPD has actively conducted inspections, and over the past two years, 993 inspections were conducted and law-breaching operators were prosecuted. We will continue to closely monitor the operation of these electronic waste workshops in future.

In relation to imposing legislative control on the disposal and recovery of used electronic materials, we proposed to draw up the Product Eco-responsibility Bill in the Policy Framework for the Management of Municipal Solid Waste published in December last year, and the Producer Responsibility Schemes will also cover electrical appliances and electronic products.

In the course of the scrutiny of the Bill, an organization proposed to the Bills Committee that a grace period be provided for the Clinical Waste Control Scheme. In fact, during the entire preparation process, it will take 12 months for the CWTC to complete installations and the collection facilities, and the

Scheme will come into effect only in mid-2007. So, we consider a grace period unnecessary.

Finally, I call on Members to support the Bill and the amendments that I will propose at the Committee stage. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Waste Disposal (Amendment) Bill 2005 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes, after which the division will start.

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

PRESIDENT (in Cantonese): I have been informed that a Member has pressed the wrong button. A total of 46 Members have cast their votes.

PRESIDENT (in Cantonese): Is there any problem? If there are no queries, voting shall now stop and the result will be displayed.

Mr James TIEN, Dr Raymond HO, Dr LUI Ming-wah, Ms Margaret NG, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr WONG

Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Ms Miriam LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr Abraham SHEK, Ms LI Fung-ying, Ms Audrey EU, Mr Vincent FANG, Mr LI Kwok-ying, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Alan LEONG, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr Ronny TONG, Mr CHIM Pui-chung, Mr Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Mr LAU Wong-fat, Mr WONG Kwok-hing, Mr LEE Wing-tat and Mr Daniel LAM voted against the motion.

Mr TAM Yiu-chung, Mr Albert CHAN and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that there were 46 Members present, 30 were in favour of the motion, 12 against it and three abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Waste Disposal (Amendment) Bill 2005.

Council went into Committee.

Committee Stage

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

WASTE DISPOSAL (AMENDMENT) BILL 2005

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Waste Disposal (Amendment) Bill 2005.

CLERK (in Cantonese): Clauses 3 to 7, 11, 12, 14 to 17, 19, 20 and 26 to 30.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 2, 8, 9, 10, 13, 18 and 21 to 25.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam Chairman, I move the amendments to clauses 1, 2, 8, 9, 10, 18 and 21 to 25 and the deletion of clause 13.

Here, I wish to brief Members on the various amendments.

The amendment to clause 2(d) is to cater for the addition of the term "construction waste" to the definition of "waste" of the Waste Disposal (Amendment) Ordinance 2004, which came into operation on 1 December 2005.

Part (a) of the amendment to clause 2(g) is proposed in response to the Bills Committee's suggestion that the definition of "clinical waste" in clause 2(g) should be separated into two paragraphs so as to highlight more effectively the

independence of the two types of clinical waste control. Part (b) of the amendment to clause 2(g) proposes to delete the definition of "designated waste disposal facility" because it has already been added to the Waste Disposal (Amendment) Ordinance 2004, which came into operation on 1 December 2005.

The amendments to clauses 1(3), 8(c), 8(d), 9 and 9(b) propose to delete from the Bill the proposed section 20A(4)(f), two sub-sections of section 20B(4)(g) and the reference to the Basel Convention.

The amendment to clause 10 proposes to empower the Director of Environmental Protection (the Director) to charge an administrative fee for the handling of applications for approval for the disposal of imported non-hazardous waste.

The amendment to clause 13 proposes to delete the proposed definition of "The Basel Convention" because the full name of this Convention has already been added to the heading of Schedule 9 through another amendment.

The amendment to clause 18(b) is proposed in response to the Bills Committee's suggestion that consideration should be made to delete "或批准" from the Chinese text of section 23D(e) as far as possible.

The amendment to clause 21(a) is proposed to amend the Chinese text of section 33(1)(eb) so as to make it consistent with the English text.

The amendment to clause 21(b)(iii) enables the authorities to make regulation to empower the Director to authorize the health care profession to remove clinical waste from a collection point, so as to tie in with the implementation of the clause which empowers the Director to authorize the reception of clinical waste at a collection point.

Part (a) of the amendment to clause 22 is proposed to re-number the relevant provision to tie in with the recently enacted amendment ordinance. Part (b) of the amendment to clause 22 provides that the Director may, by notice published in the Gazette, specify Group 6 of clinical waste — the definition of "other wastes". This amendment is proposed in response to the request of the Bills Committee to provide for the procedures required for specifying the waste of Group 6.

The amendment to clause 23 is proposed to ensure that the Chinese rendition of the heading GC 010 is consistent with that of the new heading AA 1180 to be added under clause 24(a).

The amendment to clause 24(a) proposes to add a new entry of hazardous electronic waste under the Seventh Schedule, so as to state clearly that the import and export of electronic waste is subject to the control of the Waste Disposal Ordinance.

As for part (a) of the amendment to clause 25, it concerns with the definition of "clinical waste", which after amendment, excludes dead animals and animal tissues, organs and body parts arising from a veterinary practice or a Chinese medicine practice, and teeth arising from a dental practice. Part (b) of the amendment proposes to add another virus under Group 4 of clinical waste. Part (c) concerns with the procedure for specifying the abovementioned Group 6 of clinical waste.

The amendment to clause 25(d) is a technical amendment which adds in the heading of Schedule 9 the full name of the Basel Convention. The amendment to clause 25(e) proposes to include a general provision in Schedule 9 to the effect that the import control on waste will immediately apply to new member of countries of the Organization for Economic Cooperation and Development or European Union even if the name of the new member has not yet been included by legislative amendment.

The above amendments are supported by the Bills Committee, and I implore Members to support the passage of the amendments.

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex)

Clause 2 (see Annex)

Clause 8 (see Annex)

Clause 9 (see Annex)

Clause 10 (see Annex)

Clause 13 (see Annex)

Clause 18 (see Annex)

Clause 21 (see Annex)

Clause 22 (see Annex)

Clause 23 (see Annex)

Clause 24 (see Annex)

Clause 25 (see Annex)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendment to clause 13, which deals with deletion, has been passed, clause 13 is deleted from the Bill.

CLERK (in Cantonese): Clauses 1, 2, 8, 9, 10, 18 and 21 to 25 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

WASTE DISPOSAL (AMENDMENT) BILL 2005

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the

Waste Disposal (Amendment) Bill 2005

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Waste Disposal (Amendment) Bill 2005 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.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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.

Dr Raymond HO, Ms Margaret NG, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Ms Miriam LAU, Ms Emily LAU, Miss CHOY So-yuk, Ms LI Fung-ying, Ms Audrey EU, Mr Vincent FANG, Mr LI Kwok-ying, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Alan LEONG, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr Ronny TONG, Mr CHIM Pui-chung, Mr Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Mr LAU Wong-fat, Mr WONG Kwok-hing, Mr LEE Wing-tat and Mr Daniel LAM voted against the motion.

Mr TAM Yiu-chung, Mr Albert CHAN and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that there were 43 Members present, 27 were in favour of the motion, 12 against it and three abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Waste Disposal (Amendment) Bill 2005.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Hong Kong Export Credit Insurance Corporation Ordinance.

PROPOSED RESOLUTION UNDER THE HONG KONG EXPORT CREDIT INSURANCE CORPORATION ORDINANCE

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I move that the motion as set out on the Agenda be passed.

The Hong Kong Export Credit Insurance Corporation (ECIC) was established in 1966 under the Hong Kong Export Credit Insurance Corporation Ordinance (the Ordinance). The objective of establishing the ECIC is to encourage and support export trade through the provision of insurance protection

for Hong Kong exporters of goods and services against non-payment risks arising from commercial and political events.

Section 18 of the Ordinance provides that the Government shall guarantee the payment of all moneys due by the ECIC, and section 23 of the Ordinance stipulates that the contingent liability of the ECIC under contracts of insurance shall not at any time exceed a specified amount which may be determined by the Legislative Council by resolution. The existing cap on the contingent liability of the ECIC stands at \$12.5 billion.

As at 31 December 2005, the ECIC's contingent liability amounted to \$11,712 million, or 93.7% of the maximum liability permitted. The ECIC has therefore proposed to raise the cap on its contingency liability by \$2.5 billion to \$15 billion, in order to cater for its business growth in the next few years and to ensure that it continues to promote export trade effectively. The Government agrees to the proposal.

Let me stress that contingent liability refers to the total amount which the ECIC is contractually liable to indemnify policy-holders in respect of all its insurance policies at any point of time. The actual gross claims of the ECIC are in fact much lower than the maximum contingent liability. For example, the gross claims incurred in 2004-05 amounted to only \$33.89 million. The ECIC will continue to adhere strictly to the principle of prudence in underwriting and risk management.

Madam President, I beg to move.

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

"RESOLVED that the contingent liability of the Hong Kong Export Credit Insurance Corporation under contracts of insurance shall not at any time exceed the sum of 15,000 million dollars."

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?

MR JEFFREY LAM (in Cantonese): President, I wish to declare that I am the Chairman of the Advisory Board of the ECIC.

MR WONG TING-KWONG (in Cantonese): President, I wish to declare that I am a member of the Advisory Board of the ECIC.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now put the question to you and that is: That the motion moved by the Secretary for Commerce, Industry and Technology be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Two proposed resolutions under the Interpretation and General Clauses Ordinance in relation to amending the subsidiary legislation.

First motion: Amending the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I rise to move the motion to amend the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006 standing in my name on the Agenda to enable the Director of Agriculture, Fisheries and Conservation to issue exemption permits to allow keeping of the specified birds, including chickens, ducks, geese, pigeons and quails, that have been kept as pets before the law that banned backyard poultry came into effect.

The confirmed case of a backyard poultry infected with H5N1 virus in a local household on 1 February this year showed the grave hazard backyard poultry keeping activities would pose to public health. Therefore, the Administration gazetted the Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006 and Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006 on 8 February, which came into effect on 13 February, to ban backyard poultry keeping in Hong Kong.

Since the law came into effect, a few members of the public have openly asserted that their poultry were kept as pets instead of being food animals. Most of the members of the Legislative Council Subcommittee of the relevant subsidiary legislation also agreed to make special arrangement for these pet poultry. The Administration has considered these views and noted with compassion the bonds between the owners and their pet poultry and the owner's wish to keep their poultry as pets till their natural deaths.

Therefore, we table an amendment motion today to amend the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006. Subject to the provision of sufficient evidence to prove to the satisfaction of the Director of Agriculture, Fisheries and Conservation that the poultry concerned have been kept as pets before the law that banned backyard poultry came into effect, the Director of Agriculture, Fisheries and Conservation would consider granting exemption permits. Under the conditions stipulated in such an exemption permit, the Director of Agriculture, Fisheries and Conservation may send staff to inspect the premises concerned to ensure compliance with the biosecurity measures and other relevant conditions. The exemption permit may be revoked in case of breach of any conditions.

The Subcommittee has already endorsed these amendments. I hope Members would also support this motion.

Thank you, Madam President.

The Secretary for Health, Welfare and Food moved the following motion:

"RESOLVED that the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006, published in the Gazette as Legal Notice No. 20 of 2006 and laid on the table of the Legislative Council on 8 February 2006, be amended -

(a) by adding -

"1A. Interpretation

Section 2 of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139 sub. leg. L) is amended by adding -

""specified bird" (指明禽鳥) means a chicken, duck, goose, pigeon or quail;".";

- (b) in section 2(1), by repealing "of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139 sub. leg. L)";
- (c) in section 2(1), in the new section 4(2A), by repealing "a licence is applied for" and substituting "a licence in respect of the keeping of specified birds is applied for";
- (d) in section 2(1), in the new section 4(2A)(a) and (b), by repealing "livestock keeping" and substituting "the keeping of specified birds";
- (e) in section 2(1), in the new section 4(2A)(c), by repealing "poultry, if any," and substituting "specified birds";
- (f) by repealing section 2(2);

- (g) by repealing section 3;
- (h) by adding -

"4. Section added

The following is added -

"9A. Power of Director to issue exemption permit in respect of specified bird kept as pet, etc.

(1) In this section, "exemption permit" (豁免許可證) means a permit issued by the Director under subsection (2).

(2) Subject to this section, the Director may issue a permit in respect of the keeping of any specified bird that has been kept as a pet immediately before 13 February 2006.

(3) The Director may issue an exemption permit only if -

- (a) evidence to his satisfaction is furnished to establish that the relevant specified bird has been kept as a pet immediately before 13 February 2006; and
- (b) he is satisfied that the total number of specified birds (including the relevant specified bird) kept in or on the premises where the relevant specified bird will be kept does not exceed 20.

(4) The Director may impose such conditions as he sees fit in respect of an exemption permit.

(5) The Director may revoke an exemption permit if any condition imposed in respect of the exemption permit under subsection (4) has been contravened.

(6) A person who, for the purpose of obtaining an exemption permit, furnishes any evidence or information which he knows or reasonably ought to know to be false or incorrect in a material particular commits an offence and is liable to a fine at level 3."."

(i) by adding -

"5. Specified fees

Item 1(b) of Schedule 2 is amended by repealing "Poultry" and substituting "Specified birds"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed.

MR FRED LI (in Cantonese): Madam President, I shall now speak in my capacity as the Chairman of the Subcommittee on Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006 and Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006. After speaking in this capacity, I shall speak again in my capacity as a Member belonging to the Democratic Party.

The two legislative amendments presently put forward by the Government are meant to address the concerns of Subcommittee members about the two pieces of subsidiary legislation on banning backyard poultry keeping activities.

The Administration has explained that the purpose of banning backyard poultry keeping activities is to prevent contact between wild birds and poultry and reduce the incidence of avian influenza. The approach of the legislation is to remove the exemption for people keeping not more than 20 poultry presently

provided for under the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation and the Waste Disposal Ordinance. Under the Waste Disposal Ordinance, the term "poultry" means chickens, ducks, geese, pigeons and quails.

The Subcommittee has held four meetings, including one meeting to listen to the opinions of deputations and members of the public. The deliberations of the Subcommittee are set out in detail in its Report.

The Subcommittee generally supports the policy of banning backyard poultry keeping as a measure to prevent avian influenza infection in local live poultry. Nevertheless, members have expressed reservations about the arrangements for the legislative amendments to take effect only five days after gazettal. Some members have criticized the Administration for not allowing a more reasonable grace period for the affected households to dispose of their poultry,

Some organizations and individuals have reflected to the Subcommittee that some poultry are being kept as pets, not for food, and that the owners concerned are prepared to comply with the necessary biosecurity requirements so that they can continue to keep their poultry. In some of these cases, the pet birds are housed in extremely low density environment and they have little or no contact with wild birds. These birds should therefore pose relatively less risk than livestock kept in backyards. Some owners of racing pigeons maintain that racing pigeons should not be banned because there have not been reports of pigeons infected with H5N1.

These deputations and individuals have urged the Administration to consider making special arrangements or granting exemptions for keeping pet birds and racing pigeons, so that such birds will not have to be surrendered or slaughtered. Some deputations have also pointed out that although it may be possible in some cases for owners of pet birds and pigeons to apply for "animal/birds exhibition licence", under the Public Health (Animals and Birds) (Exhibitions) Regulations, the licence fee of over \$10,000 is too expensive to some persons who keep only a few birds.

After discussion with the Subcommittee, the Administration has advised that to cater for the needs of a small number of people who keep poultry as pets, the Administration will amend the two pieces of subsidiary legislation to exempt

those persons who have kept poultry as pets immediately before the coming into effect of the legislative amendment on 13 February 2006, and to grant exemption permits to such persons who have kept 20 or less specified poultry, so that they can continue to keep the specified birds until their death.

The authorities have accepted the view of the Subcommittee and agreed to incorporate the requirements of exemption permit issuance and the consequences of violation in the conditions for granting exemption permits.

For racing pigeons, the Administration has agreed to consider on a case-by-case basis whether to issue "animal/birds exhibition licence" to owners who wish to continue to keep racing pigeons. To address the concern about the high fee charged for the exhibition licence, the Administration will amend the Public Health (Animals and Birds) (Exhibitions) Regulations to stipulate a separate licence fee for persons who keep a small number of (that is, less than 20) racing pigeons. The Administration will specify the licence fee in the subsidiary legislation to be introduced into the Legislative Council shortly.

As for the new section 4(5)(aa) added to the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation, some members are concerned that the Administration may invoke this section to impose a lesser number of livestock originally allowed to be kept on a licensed farm. These members are of the view that if the Director of Agriculture, Fisheries and Conservation (DAFC) already has powers to specify the number of poultry kept in any premises, it is not necessary to add the new section 4(5)(aa) to the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation.

The Administration has explained that the addition of the relevant provisions was originally meant to better clarify the powers of the DAFC, but in order to address members' concern, the new section 4(5)(aa) and the related section 8(ba) will be deleted from the Amendment Regulation. The amendments to the Amendment Regulation presently put forward by Administration already incorporated the proposed repeal.

The Subcommittee has also conducted discussions on whether the banning of backyard poultry keeping activities is consistent with Article 105 of the Basic Law. Article 105 of the Basic Law provides that the Hong Kong Special Administrative Region shall, in accordance with law, protect the right of

individuals and legal persons to the acquisition, use, disposal and the inheritance of property and their right to compensation for lawful deprivation of their property.

Some members have pointed out that many poultry owners regard the poultry they keep as their property, and the surrender of their poultry to public authorities following the coming into effect of the legislative amendments constitutes a deprivation of property. Therefore, these members opine that the households concerned should be provided with compensation in accordance with Article 105 of the Basic Law. The majority of members of the Subcommittee express support for providing compensation to those people who have surrendered their poultry to the Government before commencement of the legislation concerned.

The Department of Justice and the legal adviser to the Subcommittee have separately provided legal opinions on the issue. The Department of Justice considers that neither the voluntary surrender of the poultry by owners to the Government before the commencement of the amendment legislation, nor the seizure of poultry kept by persons reasonably suspected to be in breach of such amendments after their coming into effect, would not amount to *de facto* deprivation.

The legal adviser to the Subcommittee is also of the view that, in the present case:

- there appears to be no deprivation of property;
- it appears that a case of *de facto* expropriation may not be easily made out; and
- subject to the acceptance of the justifications for introducing the legislative measures as provided by the Government, it is probable that the Court may hold the legislative measures to be reasonable and proportionate.

During the course of discussion, the Subcommittee considered it inappropriate to continue discussion on the issue as an application for judicial review on whether the legislative amendments have breached Article 105 of the Basic Law had been filed with the Court.

The Subcommittee has expressed concern that prosecution may be initiated against those persons who did not surrender their poultry before 13 February 2006. The Subcommittee considers that if owners of backyard poultry are discouraged to surrender their poultry for fear of prosecution, or if they even set their poultry free, there may be higher incidence of cross infection among birds, thus posing an even greater danger to public health. To allay members' concerns, the Administration has advised that it will adopt a sensible and flexible approach in dealing with voluntary surrender of backyard poultry after 13 February 2006.

Some members have expressed concern that the legislative amendments on banning backyard poultry keeping activities do not deal with other types of poultry or birds such as turkey, swans, pet birds and wild birds. Given that there were reports of H5N1 infection in some of these birds, these members are concerned that the keeping of turkey and swans at backyards/fish ponds will also increase the risk of avian influenza infection in poultry. These members have urged the Administration to step up surveillance of such birds and take precautionary measures against the spread of avian influenza among birds.

Madam President, the majority of Subcommittee members support the two amendments to be moved by the authorities.

In the following part of my speech, I shall speak in my personal capacity.

Basically, the banning of backyard poultry keeping activities is not a very controversial issue. Unfortunately, we, or at least Members belonging to the Democratic Party, think that lots of criticisms have emerged in society due to the Government's inadequate and disorderly planning. Rural residents first voiced their discontent, and then the Heung Yee Kuk also said that it wants to apply for a judicial review. This is not to speak of the many other subsequent petitions and protests. We are disappointed by the Government's approach.

As mentioned in the Subcommittee's Report, as early as October last year, the Legislative Council already expressed concern about how the Government would deal with the problem of keeping no more than 20 poultry. At the time, the Government said that it would enact legislation, but then the matter was delayed for months. It was not until the spotting of a dead chicken in Sha Tau Kok that it hastened to do so.

This aside, we must still point out that since the Government had already expressed its intention of enacting legislation as early as last year, it should have at least several months for conducting studies. When it put forward the amendments, the Government should have grasped the basic information, such as the loopholes of existing legislation and the number of backyard poultry in Hong Kong. But it did not realize that public outcries were so loud and strong until after making its decision on banning backyard poultry keeping activities. Nor did it know that some people kept chickens as pets and owners of racing pigeons were so discontented. And, we even discovered that the Amendment Regulation did not cover turkey. In brief, we can use one adjective — disorderly — to describe the decision-making and policy formulation and execution of the Government.

After the imposition of the ban by the Government, many people voluntarily surrendered their chickens. But shortly afterwards, having listened to the views of the Subcommittee, the Government agreed to accept exemption applications from people, so that they can continue to keep their poultry. Those who still surrendered their chickens despite all their reluctance must be feeling very bad now. They may wonder, "Why was the whole thing not clarified at the very beginning?"

When the Democratic Party first met with the Secretary and the Permanent Secretary, it already pointed out that the Government should offer appropriate compensation to those affected by the ban. Unfortunately, the Government insisted that this would induce people to smuggle poultry or catch birds for the prospects of compensation, thus increasing the risks involved. Actually, even now, we are still skeptical of such an argument. Every household can receive compensation for at most 20 poultry, so the amount involved will just be several hundred dollars. This is indeed a very small amount. Will it really become a factor inducing many Hong Kong people to smuggle and hoard poultry for the prospects of obtaining compensation from the Government?

In regard to racing pigeons, the annual licence fee of \$10,000 originally proposed by the Government is much too unreasonable and high and will only drive pigeon racing out of existence. We therefore think that a reasonable licence fee should be set by balancing public health and the normal development of pigeon racing.

Lastly, I again urge the Government to conduct more basic studies before amending any legislation in the future. It must grasp the scope of effects and

introduce adequate supporting measures before putting forward any legislative proposals. If not, the rows resulting from the legislative amendments this time around will only keep repeating themselves.

Madam President, I so submit.

MR WONG YUNG-KAN (in Cantonese): Madam President, during the earlier outbreaks of avian influenza in Hong Kong, we had already reminded the Government to take note of the issue of backyard poultry kept by individual households, but the Government was indifferent to our advice. We have to bear in mind that people who keep a small number of poultry usually do not vaccinate their poultry, and no protective measures are in place in the households. Such poultry are kept in cages, so they are susceptible to coming into contact with wild birds, thus leading to greater chances of cross infection. When the Agriculture, Fisheries and Conservation Department confirmed the presence of the deadly H5N1 avian influenza virus in a dead chicken which had been smuggled from the Mainland into Hong Kong in the Chinese New Year, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and I contacted the New Territories Chicken Breeders Association Limited at once to make an appointment with the Secretary for Health, Welfare and Food, Dr York CHOW. At that time, Dr CHOW had just returned to Hong Kong from an overseas trip, but he met with us in the first instance to discuss the issue. We demanded the Government to expeditiously amend the legislation to ban backyard poultry keeping activities in households because we do not want to see that this loophole provides a pretext for the Government to massacre the poultry farming industry and bring about its demise.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

During the discussion, we suggested to the Secretary on several occasions that, as an incentive for people to surrender their backyard poultry, the Government should consider compensating their losses in the form of an *ex gratia* payment. Given that the maximum number of poultry qualified for compensation is 19, compensations can reduce the conflicts between the people and government officials who are assigned the job of collecting live poultry reared at backyards. However, the Government did not take our advice

seriously. It kept putting forward an argument, that is, there were approximately 1 800 households with backyard poultry, but compensations might induce illegal smuggling of poultry into Hong Kong on a massive scale, thereby costing the Government a hefty amount of money. Regarding this argument, I found it weird at that time and I told the Government that, should there be illegal smuggling, responsible departments should be asked to step up law enforcement actions, instead of speculating on whether or not people would engage in illegal smuggling. After all, smuggling in itself is illegal. As regards why additional manpower had not been deployed to handle the matter, the Government said it had designated the Assistant Commissioner of the Customs and Excise Department to follow up the matter. If the Government has been doing everything it could, we would certainly co-operate with it, and I believe Hong Kong people are neither finding fault with the Government, nor trying to be difficult with it.

Yet, just for such a small sum of money, the Government dispatched 260 staff during 13 to 26 February to patrol the hillside areas all over Hong Kong (including the New Territories) to study the problems. Subsequently, we learnt that this is the legislation that the Government worked out after having mobilized so many people. Yet, what upset us most was the attitude of some government officials. Apparently, they treated the Hong Kong farmers, the New Territories poultry keepers and the households keeping backyard poultry as barbarians. The government officials said that if they were denied access to the residents' home, they would call for the assistance from the police for forced entry. Some local residents in the New Territories complained to us, saying that the Government's practice was inappropriate. In their opinion, this is a trivial matter which could easily be resolved simply through discussions with the residents. I too had told the Secretary that the matter could be taken to the Rural Committees so that the residents could work out a solution. The problem could have been solved without much glitch, as it did not involve a huge amount of money after all. Yet the Government was indifferent to our advice and turned a deaf ear to our suggestions. Later on, when we discovered that 260 people had been deployed only to confiscate several hundreds chickens, we were shocked. The Government had initially estimated that there were 1 800 households (with backyard poultry), but the actual number turned out to be fewer. Consequently, the incident had infuriated "Uncle Fat" and others, who filed a lawsuit against the Government and sought a judicial review.

What worries us most over this matter is that, while the Government had kept saying that backyard poultry was prohibited, once it met with voices of opposition, it changed its stance and said that poultry keeping could be allowed if they were kept as pets. So as long as they are pets, these poultry can be kept; all we have to do is to apply for a license for the poultry or to apply for a life-time exemption.

We have been worrying that the Government might handle the matter inadequately — in fact, not only in this case. While the case was being considered — take the deliberation on the legislation as an example — similar cases have actually been identified one after the other. Not long after the Government had enacted the legislation, there were cases of swans being infected; in Europe, it had been proved that swans could carry the virus of avian influenza. So could the turkeys. All recent cases identified in Turkey had been documented too. Yet the Government failed to include them into the legislation. Even backyard poultry had not been included, as the Government did not think that there would be any problem. However, if there were problems, if these two types of poultry were infected with avian influenza, then the Government would be subject to public criticisms: Why did the Government not ban them and list them as poultry subject to regulation, given that similar cases had been reported all over Europe when the legislation was being enacted in Hong Kong? Why are Hong Kong people allowed to keep these poultry, some even keep scores of swans? In this connection, I believe the authorities have not made sufficient efforts in protecting the people. I know the Secretary cares a lot about epidemic prevention. Yet, there has been a lack of comprehensive study over the whole initiative.

Recently, I have learnt some news from a certain website. They show that the Animal Inoculation Group of the Animal Inoculation Centre had issued a directive to kill all relevant poultry immediately until the number is reduced to 200. Furthermore, the number of chickens supplied to Hong Kong from the Mainland should best be restricted to 20 000 per day, so this will reduce the chance of an outbreak of epidemics. Of course, this is irrelevant. But then, it was mentioned in the directive that it would be ideal if there was no backyard poultry in Hong Kong. Now since the authorities have not mentioned turkeys and swans, what shall we do about other birds?

As we all know, the falcon which has been tested positive of avian influenza in Hong Kong is a migratory bird. This virus is always connected

with migratory birds, but according to the Government, birds kept by human will be regulated where practicable, but to birds that cannot be regulated, the Government has turned a blind eye. They will see what should be done only when some people have been infected. But what is the point here? We have always felt that the Government has not done adequately in this aspect.

As a matter of fact, the poultry farming industry has made a lot of efforts in accordance with the guidelines issued by the Government. We hope that the Government would not push the poultry keepers into the dead corner in the way it did to households with backyard poultry. In future, with the exception of pets, local residents will not even be allowed to keep just a couple of chickens. The Secretary may not have seen this scenario, when a 70-year-old granny with two poultry farms burst into tears as she related how the ban on the import of day-old chicken had turned her life upside down when she met with the Permanent Secretary yesterday. I do not want to see the Government acting as if the poultry farmers are their arch enemies, or that the poultry farmers are always at odds with the Government. They need not be "on guard" every time when they deal with each other, and they need not keep insisting on their own views. As a matter of fact, we are just people trying to make a living. Just as the granny has put it, "We work so hard just to try to be self-reliant. We do not want to receive CSSA payments, please do not force me into that situation!" Of course, the Government also says that it has to do all the work properly as well.

After criticizing the Government, I would like to say something else. I am thankful for the assistance furnished by Honourable colleagues of this Council when the legislation was being scrutinized. I do not know why the Government had imposed some "extras" onto the legislation, such as the addition of item (aa) in section 4(5) and the addition of item (ba) in section 8. When we read the legislation, we were worried, as we did not know what the Government was up to by inserting such "extras" all of a sudden. Given that the authorities have specified in the legislation the number of chickens a poultry farm can keep, why is it necessary to state that the Government could, at its own discretion, dispose of the chickens or to limit the number of chickens on the poultry farms? Subsequently, the Government was willing to accept the opinions of the Subcommittee and deleted these parts. This had relieved local poultry keepers of the worries that the legislative amendments were a move designed to divert attention, whose aim was to get rid of the poultry farming industry in the name of banning backyard poultry.

Deputy President, this is an issue that we have been worrying about all the time. Let me reiterate this: The farmers in Hong Kong and the people living in the New Territories who keep backyard poultry are very co-operative with the Government. However, I do not know why the Government has to raise such an issue in this way without first considering where the actual problems lie and without considering the issues very carefully. All that the Government wants to do is to introduce a ban by way of legislation. The two chickens that have been tested positive with avian influenza were not raised in local poultry farms; they were imported into Hong Kong. We can say that the Government is taking this seriously precisely because it knows the chicken in question in the Sha Tau Kok case was a smuggled chicken. Nevertheless, the mainland authorities have acted in line with the practices adopted by the Hong Kong Government. Therefore, I hope when the Government introduces its amendment..... We have to cast the vote now; the DAB supports this legislation in principle. However, we hope that in future when the Government deals with legislation on livestock farming, or any legislation for that matter, it will not handle it in such a hasty manner. A problem that could have been solved without spending a large amount of money has become controversial and caused many grievances. Therefore, I hope the Government can listen to the aspirations of the people and be aware of the problems in society whenever any legislation is enacted.

Thank you, Deputy President.

MR LAU WONG-FAT (in Cantonese): Deputy President, during last week's Budget debate, I quoted a famous line by Confucius reflecting his people-oriented philosophy and that is, if the people have no faith in their rulers, there is no standing for the state. The expression of "people-oriented" has always been mentioned by the Government since the establishment of the Special Administrative Region. Ironically, the originally well-intentioned initiative of banning backyard poultry for prevention of avian flu has failed entirely to serve its desired purpose because of great haste and sloppiness. The fierce criticisms attracted are indeed deeply regrettable.

In the final analysis, the most serious blunder of the initiative is that the authorities concerned have rudely and unreasonably refused to compensate backyard poultry farmers with complete disregard to private ownership. This is

precisely the reason why the public has found it most difficult to be convinced, thereby leading to significant repercussions and reverberations.

When the relevant initiative was hastily launched at the beginning, the New Territories Heung Yee Kuk clearly stated its position solemnly that while it appreciated that the ban on backyard poultry was imposed for protecting public health and safety, backyard poultry farmers must be compensated. However, our request was flatly refused by the relevant government officials who made such insulting remarks as "compensation would result in villages smuggling poultry for profit-making". In addition, the aggrieved were even given a slap on the face. The Government is utterly cold-blooded and ridiculous.

The Heung Yee Kuk has swiftly and strongly condemned the Government's hasty act of "slaughtering without compensation" and criticized the Government for violating Article 105 of the Basic Law in relation to protection of individuals' property and offer of compensation for deprivation of property.

From whatever angle, the poultry kept by the public as backyard poultry is private property, and must be protected by law. In this respect, a number of legal professionals have spoken out to uphold justice. Mr Alan LEONG, a Senior Counsel, has argued strongly for his view of "*de facto* deprivation" in an article. In his opinion, legally speaking, it is very hard to believe the Government's act does not constitute a *de facto* deprivation of the use of property.

As the saying goes, people responding in the same way to a just cause enjoy abundant support. There has been overwhelming support from various sectors of the community. In addition to the unanimous passage of a motion by representatives from various parties and groups in a relevant Subcommittee in the Legislative Council appealing to the Government for compensation, opinions expressed in society, including that expressed by newspaper commentaries, columns, academics, and pet groups, have overwhelmingly pointed to the Government's fault. As far as I can remember, the unanimous voices of opposition from inside and outside the Legislative Council to the Government's initiative are truly unprecedented. Actually, a female villager is now seeking a judicial review in the hope of seeking justice for herself as well as some villagers who have been deprived of their poultry.

Deputy President, it must be pointed out that the villagers and Heung Yee Kuk have no intention to fuss over the trivial compensations. Our strong objection is based on the important principle that the Government must not indiscriminately cite safeguarding public interest as a justification to adopt the tactic of coercing the people into submission through introducing amendments or enacting legislation in disregard of the legal rights and interests of the minority. While compensation is just a trivial matter, principle is a matter of great significance. If we do not raise our voice to stop the Government and launch collective attacks on it, it is feared that similar incidents might continue to occur.

As the old saying goes, "When everybody speaks against a person, it will make him frightened to death." However, times changed. Although the Government has been criticized by many for its act of "slaughtering without compensation", the responsible officials have continued to hold onto the position and remain unrepentant to the end. Instead of making brave commitments and restoring things to order, they resort to window-dressing by making a small compromise on the keeping of poultry, birds and pets. It is indeed difficult for the Government to justify itself. What is more, this will not be helpful to the Government in building up an image of care and justice.

Deputy President, even if the resolution is passed today, there will be no winner at all as the avian flu precaution, which should be carried out in a proper manner, has been reduced to tyranny whereby people are bullied and oppressed, and laws twisted into a tool for denying fairness and justice. It is indeed lamentable that Hong Kong's history of the rule of law has thus been left with a blemish that is hard to polish out.

With these remarks, Deputy President, I oppose the motion.

MR CHEUNG HOK-MING (in Cantonese): Deputy President, the Government's present handling of the regulation of backyard poultry demonstrates to us what it really means by "tyranny is even more frightening than a tiger". In just a couple of days, the Government has, through upholding an "imperial order" of safeguarding public health, disregarded the feelings of the general public and swiftly deprived them of the backyard poultry activities they have been legally carrying out for decades, and even centuries. Is it reasonable for the Government to do so? I do understand that the continual discovery of birds infected with H5N1 in Hong Kong has raised the risk of avian flu outbreaks

in the territory. A responsible government is indeed duty-bound to take measures to protect public health. However, this does not mean that the Government can make frequent changes in policies by bullying or coercion, without regard to public interest, in order to achieve its policy objective of "strong governance".

We can quote from past history to show that a government supported by its people must adopt a "people-oriented" policy. As the saying goes, the benevolent is invincible. Even if he is forced to adopt a strong governance policy, in the course of implementation, he must take into account the degree of acceptance of the common masses. Only a policy of control through reconciliation can lead to a win-win situation in which social harmony and "people-based governance" can be achieved. If people are driven to rebellion by maladministration, both the people and the government will lose in the end. However, we can see only the act of bullying by the Government of the Special Administrative Region during this urgent legislative process. By way of bullying, the Government has even unreasonably deprived the backyard poultry farmers of their private property. Even though the keeping of their poultry has been conducted in a lawful manner, the Government insists that no compensation will be offered.

Deputy President, the saying that "no compensation for slaughtering chickens" has been circulating in the New Territories lately. These words, expected to be circulating not only among people of this generation but also in the New Territories for a long, long time, have indeed produced a very negative impact on society and the Government's image.

Insofar as this issue is concerned, despite the shared view held by villagers, members of the public and comments made in society that reasonable compensation should be offered, the Government keeps putting forth some groundless arguments such as, as cited by many colleagues earlier, it is feared that a large number of villagers will smuggle chickens into the territory to cheat the Government out of public money once compensation is offered. However, let us imagine this. Under previous laws, the quantity of backyard poultry was restricted at 20. No one would be so foolish as to run the risk of smuggling chickens into Hong Kong merely for the sake of making a miserable profit. Worse still, we believe the chickens, geese, ducks, eggs or duck eggs are kept by the villagers solely for self-consumption. Before the amendment of legislation, the ownership of the poultry and eggs of the villagers is recognized. After the

amendment of legislation, however, the villagers will be stripped of their property and will no longer be allowed to eat chickens, ducks, geese, or even eggs, duck eggs. What is it if this is not considered a deprivation of the people's property? Deputy President, as a member of the New Territories Heung Yee Kuk, and given that I was brought up in the New Territories, I simply cannot accept the Government's decision.

From another angle, we can tell from our past experience that the Government has been adopting stopgap measures in dealing with these problems: The tragic lessons drawn from SARS are still vividly remembered. To tackle the incident of malachite green being found in fresh water fish, the tactic of "trimming the toes to fit the shoes" was adopted by imposing bans on this and that. Why can the Government not act proactively by looking for scientific or medical solutions to tackle the hazards posed by avian flu and infectious diseases to Hong Kong citizens? Why has the Government frequently stripped the public of their rights in the name of strong governance?

Deputy President, I have to state my view solemnly here that today's motion, if passed, will cause far-reaching implications to Hong Kong. I hope the Government can think twice when tackling similar issues in future. Apart from taking account of the interests of all the people in Hong Kong, the losses incurred by the weak and the vulnerable have to be borne in mind from another angle.

With these remarks, Deputy President, I oppose the motion.

MR VINCENT FANG (in Cantonese): Deputy President, the motion today was submitted by the Secretary for Health, Welfare and Food on behalf of some 200 poultry kept as pets. Such an act has brought me tremendous joy and sadness. I am overjoyed to find that the Government is so compassionate that it has even proposed to amend enacted law for some 200 pets. However, I feel sad that the Government's policy treats animals even better than humans because the legislative amendment will give some 200 pets a chance to survive. How can one not help sighing with sadness that the live poultry wholesale and retail sectors have not been given even a chance to survive?

The introduction of amendments by the Health, Welfare and Food Bureau to a piece of law that has just taken effect has once again reflected the Bureau's

failure to consider seriously when deciding on matters that have a bearing on people's livelihood. As a result, some people in society are seriously affected. The either too slow or too fast response by the Bureau to the streptococcus suis and malachite green incidents occurred in last summer has also caused a great impact on both the community and the industry. The same applies to the present ban on backyard poultry.

I have originally believed that, with the experience gained from the two previous cases, the Bureau will come up with a comprehensive plan for handling the present ban on backyard poultry. To my great surprise, the plan is still far from comprehensive. On the one hand, many backyard poultry farmers have been forced to slaughter and eat their poultry in tears, and on the other, some have gone petitioning at the Chief Executive's residence. As a result, today the Secretary has to specially amend a new law, which was passed half a month ago, for these 200 or so pets.

In a meeting held by the Panel on Food Safety and Environmental Hygiene in late October last year, the issue of how to handle backyard poultry in Hong Kong was actually already discussed. At that time, I already raised the point that, given the more frequent contact between private chicken farms and the public, coupled with the lack of legislation requiring vaccination for the poultry, enforcement must be taken for there are potential crisis. However, no action was taken by the Bureau all along. Three months later, however, a privately kept chicken was confirmed to carry H5N1 virus and it was only until then that legislation banning backyard poultry was hastily enacted. In order to give the backyard poultry farmers some time, the new legislation was gazetted on 8 February to be effective on 13 February, or five days after. The buffer period allows the owners of some 200 pets to apply for exhibition licence, and it in turn led to today's amendments.

(THE PRESIDENT resumed the Chair)

I have no intention to object to the granting of exemption to these pets. However, the Bureau has once again failed to come up with a comprehensive plan in handling the present case. As they did not know that they can apply for exhibition licence, some members of the public had not applied for it and instead slaughtered and eaten their poultry or surrendered their poultry to the Agriculture, Fisheries and Conservation Department. They acted according to

the Government's request but in the end, they got nothing at all. Has the Bureau treated these obedient people fairly?

The live chicken import and retail sectors have also fully met the Government's requirement by importing chickens from mainland chicken farms approved by the Food and Environmental Hygiene Department. Like pet poultry, these chickens have been vaccinated in accordance with the Bureau's requirement. Moreover, biological installation has been properly provided in the farms. However, a three-week ban on import of live chickens was imposed for no reason other than the Bureau's expressed worry about possible avian flu risks. The industry has done nothing wrong. Even the man who died in Guangzhou from avian flu had not visited any farm supplying chickens to Hong Kong, and the chickens sold in the market in question were not supplied by chicken farms supplying chickens to Hong Kong too. So, why should mainland chickens be banned? The reaction of the industry, aware of the increasing risk of avian flu, was indeed hard to come by. Bearing the overall situation in mind, the industry was forced to accept the Bureau's unilateral administrative decision.

According to the Secretary, there had been a substantial decline in the demand for live chickens because of public fears of avian flu. As a result, it was simply impossible for the market to digest the usual daily import of 30 000 chickens from the Mainland. I believe Honourable colleagues have already learned from news reports that, following the Rest Day on the 26th, local farms sold nearly 100 000 chickens, and more than 40 000 on the 27th. According to retailers, chickens had been selling quite well, which was not consistent with the arguments held by the Secretary. The Secretary has increased the sales of local chickens for fear that mainland chickens are not safe enough. However, it must not be forgotten that even our day-old chickens are supplied by the Mainland. Moreover, 100 000 to 200 000 chilled chickens are imported from the Mainland daily.

Madam President, I am talking to the question because the amendments introduced by the Secretary today are entirely related to live poultry and avian flu. For fear of avian flu, the Secretary imposed a ban on 13 February on all backyard poultry. Later, owing to excessive negative voices prompting pet owners to petition at the Chief Executive residence, the Government finally decided to give the owners a way out. However, the Government has turned a blind eye to more than 10 000 families who are currently relying on the sale of live chickens to maintain their livelihood.

Madam President, the Secretary said that the Bureau had no intention to force the industry into extinction; instead, the industry was forced into extinction by avian flu. I disagree. Insofar as health care services are concerned, we have always stressed that prevention is more important than treatment. The same applies to avian flu. Today, the Government is proposing to grant exemption to some 200 pets and merely requires them to be vaccinated after which they can maintain close contact with human beings. Likewise, live chickens raised in farms have also been vaccinated. Why are they considered more dangerous on the contrary, given that there is simply no chance for them to come into contact with humans?

Madam President, I so submit. Despite my support for the amendments, I hope that the Bureau can give serious consideration and take into account the circumstances of various affected sectors when implementing its policy in future. Thank you.

MR TOMMY CHEUNG (in Cantonese): I did not intend to speak today. But after listening to the speeches of many colleagues, I cannot help having some kind of responses, so I have decided to speak.

Since the Secretary's assumption of office, he and I have never seen eye to eye with each other. Mr WONG Yung-kan and I have been advocating the regulation of backyard poultry keeping activities for many years. We were especially worried about one problem, the problem which I mentioned in the relevant panel in October. In many foreign countries, chickens kept by households or in backyards often contract avian influenza from migratory birds and pass the disease on to humans. We were deeply worried about this problem and what I wanted the Secretary to do was just to see whether there should be any regulation of such poultry keeping activities. I did not intend to ban poultry keeping altogether. My only intention was just to see whether there was any need for regulation. That way, those people could continue with their activities and we could at least know what they were doing.

Unfortunately, I do not know whether I should describe this as the Secretary's personal style or the style of the department concerned, but I often have the impression that they are a strong administration with the support of majority votes or a totalitarian regime with the support of majority votes — he only needs to know that there are enough votes and the support of several

political parties. In some cases, the policies are not really that bad, but the devil is always in the details and they always make efforts in respect of details. I do not want to dwell on smoking, the topic I have been following. Members all support the banning of smoking, but the implementation of the legislation must make some allowance. We must ensure that the legislation will not make life difficult for the catering industry or even drive it out of existence. Does everybody really want the industry to wither away? It is often said that because of smokers, we must pay huge health care expenses, or that passive smoking has necessitated huge health care expenditure and brought about many problems for us to handle. But do we also need to handle the problems relating to the financial interests of the industry? It seems that the Government has completely ignored all these problems. The same problem is also detected in the case of regulating poultry keeping activities.

It is so unfortunate that we have even heard the Government talk about many things unpleasant to our ears. Let me once again say something for the Secretary. When compensation was made for the culled chickens last time, the Government asked whether anyone in the poultry industry had shipped chickens to Hong Kong in order to obtain compensation. We believe that some in the industry might have done so. Both Mr WONG Yung-kan and I will not say that no one will ever do so. Some might have done so, shipping one or two hundred cages of chickens to Hong Kong. They might have bought some fat chickens or old chickens in Shenzhen at a unit price of \$1 or \$2 and then brought them all to Hong Kong for purchase by the Government at a unit price of \$38. The Government may argue that some people may do the same this time around, so it will not be "fooled" again and does not want to waste taxpayers' money.

But the Government must put forward some justifications. It is very difficult for the Government to come up with any convincing justifications. The Government still says that some may bring in sick chickens. Apart from saying that some may bring in chickens to obtain compensation dishonestly, the Government also claims that some may even bring in sick chickens which will pose threats to the health of Hong Kong people. Actually, those who want to obtain compensation from the Government by bringing in sick chickens will have to bear the greatest risks because they and their family are most vulnerable to infection. Members may do some calculations themselves. There is just \$38 for one chicken, and when this is multiplied by 20 — I estimate that they will bring in the maximum of 20 chickens — the total sum will just be \$780. Will

anyone bring in any chickens infected by avian influenza for this small sum of money? Honestly speaking, it is not at all easy to find even one diseased chicken in Shenzhen, Dongguan or the whole of Southern China these days because the chickens in these places are all under Hong Kong's surveillance. Officials of the Hong Kong Government conduct inspections in these places, and the authorities there attach very great importance to such inspections, which is why it is impossible to find even one diseased chicken. It is all too convenient for the Government to accuse people of obtaining compensation dishonestly, but I really cannot agree to the mean and unfeeling remarks delivered by many Members. But it seems that government officials like very much to say such things. They may not dare to say so in my presence, but in private, they may say that Tommy CHEUNG opposes smoking — I admit that I am a smoker They may say that it is alright for him to die, but he should not endanger the lives of those sitting at the tables next to his. They have never said so, of course, but they do give people such an impression. The important point is that if the Government wants to do anything, it should just go straight ahead instead of putting forward any absurd arguments.

Madam President, what I want to say is that although we in the Liberal Party and I myself do support this legislation, I must nonetheless make it clear that this is not the legislation I want to see. What I want to see is surveillance. However, the Government has always preferred the easy to the difficult. In other words, it simply wonders how there can be any manpower to handle the thousand or so households in case surveillance is implemented. The Government does not care about what will happen to the livelihood of the old lady who keeps ducks for their eggs. In brief, the Government does not want to give her ducks any vaccination, nor does it want to implement any surveillance because there is no manpower for that. As a result, it has opted for the most expedient way, that is, obtaining enough votes. I often express my worry about this type of totalitarian rule based on the support of majority votes, because once the Government has secured enough votes, it will do whatever it wants despite opposition. Social discord will thus result. We have known Mr LAU Wong-fat for a very long time, and even he has delivered such a speech. Can the Government do something, so that Mr LAU Wong-fat, an awardee of the Great Bauhinia Medal whom Hong Kong people and Members know so well, does not have to deliver a speech like that? Should our government officials consider whether they can do something to make society more harmonious?

In the anti-smoking issue, I have seen enough of this totalitarian regime based on the support of majority votes. The points deduction system adopted now is in fact a repetition of past measures. They have come here to count the votes they can get. The Democratic Party, the DAB and even the Civic Party have all agreed to render their support. So, why should it still care about Tommy CHEUNG? Just go ahead and shoot the industry. The Government should not do something like this. Of course, the Government is standing on moral high ground — the Secretary is a medical doctor, so it is easy for him to say things on moral high ground and we will easily accept what he says. People will easily "buy" such an argument, and the Government needs not make too many efforts to "sell" it. People will still "buy" it because everyone is afraid of death.

As pointed out by Mr Vincent FANG just now, since the last outbreak of avian influenza among our chickens, we have sold 100 million chickens, but none of these chickens was found infected. In other words, the risk is even less than one in a hundred million. That being the case, when will the Government think that the risk is low enough to the satisfaction of the public and gain their acceptance? Every day, when we walk in the streets, when we wake up, we will have to face various risks. The Government simply should not tell others that it wants to ensure zero risk for the public. If it insists on zero risk, it will be impossible for Hong Kong to do many things, and society as a whole will come to a complete standstill.

Therefore, I must advise the Secretary that although we will support this motion, I nonetheless still find it very difficult to do so. I also hope that the officials in the Health, Welfare and Food Bureau can do some serious reflections in the future. I hope that even when they talk with people in the streets, they can still consider the fact that their words will influence large numbers of people. Where there is plenty of money, the Government will say that there is too much. When there is not much money, it will say that there is too little. Therefore, sometimes, "a sword can be double-edged" and "there are two sides to a coin". The staff of the Bureau may have to reach out for others to find out how they feel. What will these officials think if they must earn a living by selling the eggs of the ducks they keep?

Madam President, I so submit.

MR DANIEL LAM (in Cantonese): Madam President, the Government claims that backyard poultry are posing a serious threat to public health. By way of negative vetting by the Legislative Council, it has swiftly amended the legislation. The legislation was gazetted on 8 February and came into effect on 13 February. The Government hopes that it can manifest its strong governance in the issue of prohibiting backyard poultry keeping activities in Hong Kong. Unfortunately, however, in addition to failing to achieve the desired objective, the move has come under the sever criticisms of the various social sectors.

Madam President, the Heung Yee Kuk basically agrees that the spirit behind this legislation is proper, and Mr LAU Wong-fat and Mr CHEUNG Hok-ming have already reflected the views of New Territories residents. But I must still stress that New Territories villagers also support this legislation for reasons of public safety and health. They have never resisted the Government's prohibition of backyard poultry keeping activities. But the Government has failed to handle the losses they have suffered in any fair and reasonable manner. For example, it has ignored the fact that villagers do treat their poultry as property. It has thus refused to pay any compensation and even claimed that their demand is unreasonable. In addition, the Government has also ignored the motion passed by the committee earlier on. The Heung Yee Kuk must express its regret.

With these remarks, I oppose the amendments.

MR ALAN LEONG (in Cantonese): Madam President, from the angle of tackling avian flu, the Government's proposal to amend legislation is understandable and deserves our support. However, the high-handedness, lack of prudence, failure to give serious consideration, and inconsistency demonstrated by the Government during this legislative exercise have been spectacular. Actually, strong governance does not mean that the executive organ must draft legislation to be passed by the Legislative Council for the purpose of achieving the governance objective set at the time in full compliance with our well-tested rule of law. As an integral component of our rule of law, the Government must be responsible for enacting legislation, and the public must abide by the law. It must also be understood that law is intended for protecting our "people-oriented" rights.

In the course of enacting this piece of law, the Government not only failed to realize the rule of law mentioned by me earlier, it also demonstrated a poor understanding of the rule of law. Before the commencement of the legislation, backyard poultry farmers of less than 20 chickens were given only five days to dispose of their chickens. Members could see from the news reports on television that some farmers had chicken porridge in the morning, chicken soup in the afternoon, and chicken noodle in the evening. On the next day, all their dishes were again prepared from chickens. After slaughtering all their chickens, they kept eating chickens for five consecutive days. But still, five chickens could still be found in their refrigerators. They were forced by the legislation to act in this way. Even so, the Government was even prepared to spend not more than \$1 million to launch a legal battle against the backyard poultry farmers by citing how Article 105 of the Basic Law should be interpreted.

Madam President, I have always said that only one party wins in a legal battle. However, politics should preferably achieve a win-win situation in which many people are winners. Only in doing so can harmony be fostered, social hostility be reduced, and internal depletion be eliminated.

However, the Government has decided not to offer any compensation, even though there is absolutely no law prohibiting it from doing so. As pointed out by Mr LAU Wong-fat earlier in the debate, the Government has been "slaughtering without compensation". Why? During the meetings held by the Subcommittee examining the relevant legislation, the Government gave us some utterly ridiculous reasons. First of all, it was feared that backyard poultry farmers or members of the public might smuggle chicken in order to seek compensation amounting to dozens of dollars per chicken. A number of colleagues have actually pointed out a while ago that it is absolutely ridiculous for the Government to say something like that. Are we assuming that the Commissioner of Customs and Excise has been doing nothing all day long without performing his law-enforcement duties? Or do we think that Hong Kong people will go so far as to break the law for just dozens of dollars by smuggling chickens across the boundary for compensation? It really sounds quite ridiculous.

After discovering that these ridiculous reasons have failed to convince the public, the authorities concerned came up with another reason, that the decision was made for the good of the people. This is because it is feared that, if dozens of dollars were offered as compensation, people might risk contracting avian flu

by hunting for chickens, ducks or geese everywhere in order to get compensation. Madam President, if I am now asked to catch a chicken, I really have no idea where I can go to catch one. I do not know how many people will be convinced by these excuses made up by the Government. Actually, whether the public will be convinced is less important. It is most important, and is most puzzling, that the decision not to offer compensation is running contrary to the legislative intent and objective. The objective of this piece of legislation is to expeditiously collect all chickens, ducks, geese and quails from backyard poultry farmers. Given that the authorities concerned insisted not to offer compensation, some farmers would rather set free their chickens and let the birds run around on the hills to make it impossible for the Government to collect all the birds from them within a short period of time. Though this is completely contrary to its policy objective, the Government is prepared to implement its decision. This is really baffling and incomprehensible.

Madam President, the most criticized part of the Government's policy on handling backyard poultry keeping is that the Government has failed to fully respect the rights of the backyard poultry farmers. Even if objective circumstances render it necessary to prohibit backyard poultry keeping, the Government should still adopt a measure acceptable to the most people by political means in order to achieve an all-win situation and enable all the people to accept this policy.

I hope the Administration can sum up the experience from the present enactment of legislation on backyard poultry keeping, strive to achieve a situation in which many people will become winners, and reduce internal depletion when new policies are launched in future.

Thank you, Madam President.

MS EMILY LAU (in Cantonese): President, the whole world is gravely concerned about an outbreak of avian influenza. Every day when we read the news, we invariably panic. Faced with such a situation (especially because there was a previous outbreak in Hong Kong), the public are extremely worried. Therefore, I believe that if the authorities can make decisive efforts to prevent an outbreak of the epidemic, it will receive the support of society.

I am not a member of the Panel on Food Safety and Environmental Hygiene, but after studying the relevant information, I know that in October last year, they already discussed the topic of avian influenza, and some Members even urged the authorities to regulate or prohibit backyard poultry keeping activities. It was October last year. Then, on 30 November last year, when a motion on this topic was moved, the Secretary replied that they would consider the enactment of legislation to prohibit backyard poultry keeping activities. It was the end of November. However, nothing was done subsequently.

But on 1 February this year, when the news of a dead chicken in Sha Tau Kok came almost like a bolt from the blue, the authorities were plunged into a state of panic. I heard that some foreign consuls in Hong Kong even asked the authorities what should be done and whether Hong Kong would become an infected area. Consequently, the authorities started to take actions. Initially, on 6 February, they attempted to collect chickens but some people refused to co-operate, claiming that the authorities did not have the power to take away their chickens. On 8 February, the legislation was gazetted, and on 13 February, the legislation came into effect. I very much agree with Mr Alan LEONG that since the authorities took actions so very hastily without responding to the basic and reasonable demands of some members of the public, it is only natural to see negative responses in society.

Though not a member of the relevant Panel, I could still observe that something had gone wrong. Therefore, when a Subcommittee was formed to scrutinize the legislation, I decided to take part. I think that very often, when the authorities want to do something, Members will very much like to render their support, in the hope that they can do a good job. But this time around, President, even the Heung Yee Kuk — you may say that I belong to the opposition camp, but it is not my practice to oppose everything regardless of what it is, and I do support that piece of legislation — even the Heung Yee Kuk has voiced its objection and intention of instituting a lawsuit. I have cautioned the Heung Yee Kuk that the number of their seats in the Election Committee may be reduced. I suppose my advice is justified, right? In many cases, all is just a matter of trade-off. I believe you people should know better than I do.

But even these strong apologists of the Government have voiced their objection. But I am very happy that this time around, the Heung Yee Kuk has not mobilized people to bring any chickens and ducks here to stage a protest. If it had done so, the situation would have been very bad. Am I correct,

President? If people really bring any chickens and ducks here, there will certainly be strong negative responses. I can remember that several years ago (I cannot recall whether the President was here), chickens and ducks were thrown all around, though they stopped short of throwing pigs around. It is fortunate that nothing like this has happened today.

Therefore, the authorities should really think about this: As remarked by some, all have in fact joined the opposition camp on this occasion. The Liberal Party, the Heung Yee Kuk and everyone are opposed to the authorities. If this is really true, the authorities must resort to the Eight Diagrams as a means of divining its fortune, so as to find out why so many people have voiced their opposition. President, the authorities have told us that avian influenza is a very terrible disease. If there is a fresh outbreak, the economy will be affected to such an extent that its growth rate will drop by more than 50%. At the same time, the authorities also warn that stock prices (many of you own stocks) will fall by at least 30%. Therefore, a fresh outbreak will make quite a racket. I hope that if the authorities can get the support of Members, it must do something really effectively, whether in respect of backyard poultry keeping activities or the regulation of other matters. The only condition is that it must not arouse the discontent of everybody, or any disputes, or even any lawsuit.

I frankly fail to understand what has been going on. The Secretary should explain to us why a problem which can otherwise be resolved satisfactorily has been turned into such a mess. As also mentioned by Mr Alan LEONG just now, initially, there was an excuse of some kind, and later on another excuse was given. People thus cannot help wondering, "Why has something like this happened? They simply keep changing what they say." Besides, the way in which pets are handled is even more absurd. At the beginning, it was said that no such pets should be kept and all of them had to be taken away. Some then flew into a rage, refusing to let the authorities do so. Later on, when the authorities met with us, they said that permission would be given for people to keep such poultry. Gee! It is small wonder that some people have said, "One only needs to fly into a rage, right? Nothing will happen if one simply refuses to co-operate, right? Those who co-operated with the authorities and surrendered their pets can only blame their own bad luck." At a meeting of the Subcommittee I once asked, "Things are already very miserable for those who have surrendered their poultry. Their chickens have already been culled, so they cannot become alive now. But if they want to keep poultry again, or if they want to hatch all those eggs (but someone has told me

that those eggs can no longer be hatched) Since the authorities have taken away their chickens, can they offer some assistance to these people?" The authorities replied, "No. We have taken away some 800 chickens. Since we do not know which were kept as pets and which were not, there will be no possibility of any negotiations." This means that these people are very miserable. How can the Secretary formulate a policy like this? President, may I ask the Secretary whether his present approach is meant to encourage people to disregard everything, to "stand firm" and refuse to co-operate right at the very beginning, just to see when the Government will make concessions? Is this his real intention? In some cases, we must of course "stand firm", but we must always be backed up by some reasons and principles when doing so. But in the present case, people only "stood firm" for just two weeks and the Government might then say that it was prepared to make concessions. Those who have surrendered their poultry to the Government are really very unfortunate. I am frankly very much perplexed by such a situation.

President, the Government once referred to the relevant provisions of the Basic Law, and we did hold discussions on these provisions in the Subcommittee. Members of the public are not concerned about chickens; they do not care whether we are talking about chickens, ducks, turkey or roasted chickens. They will not care about this at all. They will only care about their property. They will refer to Article 105 of the Basic Law, which reads, "The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property."

The Government is being accused of taking away people's chickens without paying them any compensation. I have tried to offer an explanation from the standpoint of the Government. I have explained that the action this time around does not constitute any deprivation because if this had been the case, the Government would have obtained the ownership of the articles concerned. It is only when this happens that we can call the action deprivation. But the point is that although people have lost their chickens, the Government has not obtained the ownership of these chickens either. So, members of the public all say, "What is wrong with the Government? This time around, we are talking about chickens. But in the future, other things may be involved." Members of the public will not bother whether the Government has obtained the ownership of the articles concerned. Their only concern is that they have lost their property.

If the Government does not pay any compensation, how can it be possible to tolerate such an action? Therefore, some members of the public have told me that they must fight to the last, because they simply do not know what consequences such an action may lead to. How can such an interpretation be adopted? This is a very narrow interpretation — they say that people still have the ownership; the ownership has not been transferred to the Government; the Government has not taken away the chickens, nor does it own them. But the only important fact remains that people have lost their chickens. Other things may be involved in the future. I think members of the public will surely fail to understand why they should be deprived of their property in this way. Although I will support this Regulation proposed by the Government today, I must still say that the authorities do owe the public an explanation. If no explanation is offered, the public will be extremely worried.

If the Government continues to be so unreasonable, to the extent of making people feel that the Government can distort Article 105 of the Basic Law at will, some people may give strong support for a lawsuit. Even if there is no legal aid, they may still want to take the matter to court. Why must we allow such a situation to emerge? What is involved is just the payment of compensation to people for surrendered chickens. What is the point of dragging in the issue of constitutionality, the ownership right of the people? Sometimes, I really cannot understand what is going on. The Secretary has a lot of tasks waiting for him. Why must he allow such a situation to emerge?

President, I will support the Secretary's amendments. But I must add that many problems remain unresolved. To begin with, I hope that the Secretary can offer assistance in resolving these problems. Second, I do not know when avian influenza will attack us again. I have privately told the Secretary of my grave concern, saying that if the epidemic really strikes us once again, there will be many things for us to do. We will support the actions of the Government. But we also hope that when taking any actions, the Government can, first, conduct more consultation and, second, refrain from making people feel that they are aggrieved. I often tell the Secretary that in case he encounters any major problems, he may invite four, five, six or even all representatives of political parties to a consultation session — my views are insignificant, so he does not have to invite me — and listen to their views. These political parties and groupings will be able to offer him assistance. The Secretary often thinks that many government employees are highly competent. But he must remember that there is no highest mountain as such. And, he must also realize that we are

different from him in one respect: we are elected by the people and we can hear their voices. I hope that the Secretary can pay higher respect to the views of Members elected by the people, so that there can be more partners to work with him. That way, he will be able to do his job much more smoothly, whether in respect of health care, hygiene, welfare and women's rights.

I so submit.

DR KWOK KA-KI (in Cantonese): Madam President, the Government now proposes a motion to take away poultry (or "backyard chickens" as referred to by us), and I will support it. Before discussion on this motion, I remember that when the Panel on Food Safety and Environmental Hygiene discussed the prevention of avian flu last year, I was almost the first person who raised this issue. At that time, I told the Secretary — not the Secretary, but his colleagues, and I remember Mr Eddy CHAN, the Permanent Secretary, was there — I told them that this must be done. As usual, the answer was that the Government would go back and study or consider the issue, but after their going back for studies and consideration, nothing has been heard of it anymore. Had the Government taken actions after listening to the views of the Panel, things actually would not have developed to the present state. Members may, to varying degrees though, consider this regrettable, because a good thing has turned sour.

I believe that all, including me and also the medical profession or members of the public, are in fact very concerned about the threats of avian flu. We do not wish to see Hong Kong repeating its past mistake. Whether it be avian flu or SARS, we have sacrificed the lives of many healthy people, and tens of billions of dollars were spent on these natural disasters. However, in handling avian flu, especially in handling the "backyard chickens", what the Government has done is hardly convincing indeed. If it is the wish of the Government to enact this law, it should have plenty of time to do so from last year to the present. When discussing this in the Subcommittee, we already proposed that if the number of chickens was below 20, we might as well do away with it. I remember that Eddy CHAN opposed this at the time, because he said that the Government was thinking about licensing. Did licensing turn out to be possible in the end? Certainly not. They still have to be taken away in the end, which means that it is not viable. Why is the Government so slow in handling things? Why can it not have some foresight? We do not wish to see negligence on the part of officials again as in their handling of SARS or avian flu before. I would

really give the Secretary my staunch support, and I will support all the bills proposed and speeches made by him, especially as the many proposals put forward by him, including this legislation and the bill relating to the smoking ban, all seeking to improve public hygiene in Hong Kong. I entirely support these bills unreservedly. Regrettably, he has not been doing enough in respect of actual implementation and the preparatory work.

Earlier, many colleagues have spoken on many issues relating to compensation, so I do not wish to repeat the points here. But whenever I mention Article 105 of the Basic Law, I have great doubts about it, although colleagues from the Department of Justice had spent much time debating in the Subcommittee, arguing that there is no question of the Government violating Article 105. Let me quote from the Article: "The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property. Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay. The ownership of enterprises and the investments from outside the Region shall be protected by law." End of quote. "Taking the chickens away" is not a new measure. As we all know, back in 1997, millions of chickens were culled, and we knew very clearly at the time that the chicken cull served to protect public safety and we must therefore pay for it. This time around, the reason is actually very similar; of course, it is not entirely the same, as the Government proposes that the public should do it by themselves. However, there is actually no difference in the sense of helplessness among the people or in their situation. The public still feels that under this law, they will be forced to destroy the chickens by themselves or to surrender them to the Government. In fact, many chickens have been surrendered to the Government.

Now, let me further speak on some practical issues. When we made this proposal back then, we were talking about paying only \$30-odd for each chicken. Assuming the Government's calculation is correct and there were only 1 700 or no more than 2 000 chickens, all it would require was just hundreds of thousands of dollars. Colleagues said earlier that some 260 staff were deployed to conduct inspection for many days, and many officials of the Department of Justice had racked their brains and kept on holding meetings and arguing. I do not know how much money was spent there and it must definitely be over \$700,000. The worst thing is that the loss in terms of the public image is incalculable. The

Secretary's image has all along been good, for he genuinely wishes to strive for a better, healthy environment for the public. But on this issue, he has lost many marks indeed.

I do not know how many more laws or foreseeable emergency legislation will be handled in the future. But I hope that the Secretary will really conduct an internal review of the approach adopted this time around, because the concern about "smuggled chickens" raised by the Secretary at that time as a reason for opposition is very far-fetched. We all know that even if compensation was made, it would cost some \$30 only for each chicken, but chickens cannot be smuggled into Hong Kong at no cost and what is more, one must run the risk of carrying with him 19 chickens at a maximum. I believe no one would really do so. If so much effort would be required, one would choose to do other things instead. It is because of this misgiving which I consider unreasonable that this has turned sour and developed into a bad thing that gives cause for criticism. The press may be the only party feeling happy about this, as the Chinese media has written stories about it for many days. They may be thankful to the Secretary for this "benevolent policy" for they could at least write about it continuously for the entire week, and they can still write about it today.

The second point that I wish to make is that the situation is the result of a lack of preparation. Now, the Government ultimately has to make amendments to the legislation, in order to allow the keeping of pet chickens or pet poultry. This precisely shows that these problems are entirely avoidable had the Government been willing to spend a little more time considering this matter, or had it given more thoughts to it and conducted more discussions. Why did it take hasty steps and eventually make the amendments? Now, the problem is not resolved fully. I do not know whether there will be other people who have kept poultry as pets seeking compensation, judicial review, and so on. This has, in fact, used up plenty of effort and time, and public coffers are set to suffer losses.

But in any case, what happened has happened, and mistakes made have been made. On this issue, I only hope that Members can learn from experience. We will have to face avian flu eventually, and this will eventually make Hong Kong a comparatively safe place. But I believe the new measures arising from avian flu, including some controversial measures that we will face, such as whether consideration will be given to regional or central slaughtering and the location of the slaughterhouse, will cause many contentions. I sincerely hope

that the Secretary can really gain some experience from this issue, so that when it is necessary to handle changes in public policies and legislation, especially those arising from the avian flu, the Legislative Council and members of the public can have more time to understand them and take a more objective attitude in giving audience to opinions. I trust that the Secretary will do this. The Secretary is certainly better than his colleagues. I was complained against by a colleague of the Secretary yesterday. I wonder if he had already lodged a complaint with you, President. What the Secretary's colleague did yesterday was most disappointing to me. Anyway, Madam President — Madam President, you are not aware of it, and you may need to read the newspaper — I am willing to support this legislation, but I hope that things can be done better in the future.

I so submit. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no Member wishes to speak, I now call upon the Secretary for Health, Welfare and Food to reply.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I would like to thank Members for their speeches and their views on the amendments to the legislation. Regarding this legislation, some said that the amendments to the legislation were introduced expeditiously because of the need to prevent the outbreak of avian influenza. Indeed, the outbreak of avian influenza is always a potential risk which was particularly high in February. Members may recall that just after the Lunar New Year, local wild birds were found affected by avian influenza one after the other. Then in Sha Tau Kok, the virus was also found in a smuggled chicken. Afterwards, the virus was found in a chicken kept in a seaside backyard in Tuen Mun. There were altogether about seven or eight different species of wild birds found to have carried this virus.

This posed a great risk to Hong Kong. If we did not introduce this legislation expeditiously, I believe we would have been prone to incidents like that occurred in Guangzhou and Shanghai, where some people contracted the disease

through contact with chickens or birds with such a disease unawares. The consequence may even be fatal. So, we must act quickly. About the legal basis, particularly the Basic Law, we have explained our justifications in various committees. But as a judicial review has been filed with the Court, I will not make any comment in response to this aspect.

However, Members should know that after the implementation of this policy and amendments to this legislation, and five days before this amended legislation came into effect, people were very co-operative and surrendered 600 chickens, ducks and geese to us. Besides, one week after the legislation had come into effect, 200 poultry were surrendered. Within the following week and up to now, no more backyard poultry has been found. This shows that Hong Kong people are most co-operative and fully appreciate the need of this policy. We would also like to thank the Heung Yee Kuk for their assistance in co-ordination so that people were willing to surrender their poultry. Some Members have also demonstrated the culling and eating of chickens. We are most grateful to them and appreciate what they have done.

Just now Members have put forward various arguments and viewpoints, I fully understand them. I would also like to thank Members who are prepared to give their continuous support to this motion.

Regarding measures to combat avian influenza, we all know that prevention is better than cure. But such work must be pursued on the condition that we should not affect people's livelihood and their daily activities. So we cannot rush to any decision of banning chicken import or chicken farming. With a certain degree of constraint, we will do our best to control the size of poultry population in Hong Kong. We will put in place various security measures, apart from educating the public to take good care of themselves so that our risk can be minimized. At the same time, we will strengthen our disease detection and surveillance programme. All these tasks are under my portfolio and I will continue to perform them.

I appeal to Members for support of our work. But at the same time, I will continue to review what we have done, in the hope that when the Health, Welfare and Food Bureau launches all policies, we will get your support as far as possible. As we all know, if we do not get Members' support, it is difficulty for us to implement any policy. We fully appreciate that. So, I thank

Members again for their speeches and ask for their support for this amendment. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr Daniel LAM rose to claim a division.

PRESIDENT (in Cantonese): Mr Daniel LAM has claimed a division. The division bell will ring for three minutes, after which the division will begin.

PRESIDENT (in Cantonese): We have 10 seconds to go. Will Members please remain seated.

PRESIDENT (in Cantonese): A quorum is not present. Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): A quorum is now present. Since the bell has been rung for three minutes, Members can now proceed to vote.

(When Members were casting their votes, the President found that the number of Members present showed by the computer was only 29)

PRESIDENT (in Cantonese): When we were doing the head count, the Clerk told me that 30 Members were present. But the computer showed that a quorum was not present and only 29 Members were present.

PRESIDENT (in Cantonese): Will the Clerk please continue to ring the bell in order to summon Members back.

(After the summoning bell had been rung again, the Clerk did a head count and found a quorum present)

PRESIDENT (in Cantonese): Voting shall now begin.

(After Members had cast their votes, the computer still showed that a quorum was not present)

PRESIDENT (in Cantonese): Why is the number of Members present still 29?

(The Clerk found that Mr Howard YOUNG, though present, had not pressed the button)

PRESIDENT (in Cantonese): Mr Howard YOUNG, you are present, but you have not pressed the button. (*Laughter*)

(After Mr Howard YOUNG had cast his 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 Albert HO, Dr Raymond HO, Mr Fred LI, Dr LUI Ming-wah, Ms Margaret NG, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Miriam LAU, Ms Emily LAU, Ms Audrey EU, Mr Vincent FANG, Mr LEE Wing-tat, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr

Alan LEONG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr Albert CHENG and Mr KWONG Chi-kin voted for the motion.

Mr LI Kwok-ying and Mr Daniel LAM voted against the motion.

Ms LI Fung-ying abstained.

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

THE PRESIDENT announced that there were 30 Members present, 26 were in favour of the motion, two against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Amending the Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I rise to move the motion to amend the Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006 standing in my name on the Agenda to incorporate the names of individuals who have obtained valid exemption permits for keeping poultry under the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006 into the list of exempted persons in Schedule 4 to the Waste Disposal Ordinance (Cap. 354). The background and purpose of the amendments are identical to those I have mentioned earlier.

The Subcommittee concerned has already endorsed these amendments. I hope Members will also support the motion.

Thank you, Madam President.

The Secretary for Health, Welfare and Food moved the following motion:

"RESOLVED that the Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006, published in the Gazette as Legal Notice No. 19 of 2006 and laid on the table of the Legislative Council on 8 February 2006, be amended, in section 2, by adding -

"(2A) The Fourth Schedule is amended by adding -

"13A. Any person who keeps poultry pursuant to a valid exemption permit issued under section 9A of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139 sub. leg. L)."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 3.00 pm tomorrow.

Adjourned accordingly at twenty-nine minutes to Eight o'clock.

Annex

WASTE DISPOSAL (AMENDMENT) BILL 2005

COMMITTEE STAGEAmendments to be moved by the Secretary for the
Environment, Transport and Works

<u>Clause</u>	<u>Amendment Proposed</u>
1(3)	By deleting "13,".
2(d)	By deleting everything after ""trade waste", by" and substituting "adding ", clinical waste" before "or construction waste";".
2(g)	(a) In the proposed definition of "clinical waste", by deleting paragraph (a) and substituting – "(a) a dental, medical, nursing or veterinary practice; (aa) any other practice, or establishment (howsoever described), that provides medical care and services for the sick, injured, infirm or those who require medical treatment;". (b) By deleting the proposed definition of "designated waste disposal facility".
8(c)	By deleting "a semicolon" and substituting ""; and"".
8(d)	(a) In the proposed section 20A(4)(e), by deleting everything after "state" and substituting "or party that is referred to in Schedule 9." (b) By deleting the proposed section 20A(4)(f).
9(b)	By deleting "a semicolon;" and substituting ""; and".

- 9 By deleting paragraphs (c) and (d).
- 10 In the proposed section 20DA(3), by deleting everything after "shall" and substituting –
"be –
(a) made in writing in such form as the waste disposal authority may specify; and
(b) accompanied by such application fee as may be prescribed by regulations made under section 33."
- 13 By deleting the clause.
- 18(b) In the Chinese text, by deleting "或批准".
- 21(a) By adding –
"(ia) in paragraph (eb), by repealing "thereof" and substituting "of the regulations";".
- 21(b)(iii) In the proposed section 33(1A)(a)(ix), by deleting everything after "(1)(ca)" and substituting –
"–
(A) to receive clinical waste at such location as the Director may specify in his authorization; and
(B) to remove the waste so received in such manner as may be prescribed;".
- 22 (a) By renumbering the proposed section 37(2) and (3) as proposed section 37(2A) and (2B) respectively.
(b) By adding –

"(2) The Director may, by notice published in the Gazette, specify as wastes that belong to Group 6 of Schedule 8 any wastes that, in his opinion –

- (a) are likely to be contaminated with infectious materials from patients falling within such case definition as specified in the notice; and
- (b) may pose a significant health risk."

23 By adding –

"(aa) under the heading of "GC – 其他含金屬廢物", in the entry of "GC 010", by repealing "配件" and substituting "組件";".

24(a) By adding –

"AA1180	Waste electronic and electrical assemblies or scrap contaminated with any substance to an extent which renders the waste as chemical waste"
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after –

"AA220	Spent etching solutions containing dissolved copper".
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25 (a) In the proposed Schedule 8, in Group 3, by deleting everything after "but excluding" and substituting –

" –

- (a) dead animals and animal tissues, organs and body parts arising from a veterinary practice or a Chinese medicine practice; and
- (b) teeth arising from a dental practice."

(b) In the proposed Schedule 8, in Group 4, by adding –

"Nipah virus (立百病毒);"

after –

"Marburg virus (瑪堡病毒);".

- (c) In the proposed Schedule 8, by deleting Group 6 and substituting –

"Group 6 – Other wastes

Such other wastes as specified by the Director under section 37(2) of this Ordinance."

- (d) In the proposed Schedule 9, by deleting the heading and substituting –

"STATES OR PARTIES INCLUDED IN ANNEX VII OF THE
BASEL CONVENTION ON THE CONTROL OF
TRANSBOUNDARY MOVEMENTS OF
HAZARDOUS WASTES AND THEIR
DISPOSAL CONCLUDED AT BASEL
IN SWITZERLAND ON 22 MARCH
1989 AS AMENDED FROM TIME
TO TIME AND AS APPLIED TO
HONG KONG ("Basel
Convention")".

- (e) In the proposed Schedule 9, by deleting –

"United States of America"

and substituting –

"United States of America

and any other state, or party to the Basel Convention, that is a member of –

- (a) the Organization for Economic Co-operation and Development; or
(b) the European Union".