

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 7 July 1999**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE MRS RITA FAN, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE HO SAI-CHU, S.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE EDWARD HO SING-TIN, S.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE LEE KAI-MING, S.B.S., J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, J.P.

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE AMBROSE CHEUNG WING-SUM, J.P.

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

DR THE HONOURABLE LEONG CHE-HUNG, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM, J.P.

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

MR RAFAEL HUI SI-YAN, G.B.S., J.P.  
THE FINANCIAL SECRETARY

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

MR CHAU TAK-HAY, J.P.  
SECRETARY FOR TRADE AND INDUSTRY

MR GORDON SIU KWING-CHUE, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR NICHOLAS NG WING-FUI, J.P.  
SECRETARY FOR TRANSPORT

MRS KATHERINE FOK LO SHIU-CHING, G.B.S., J.P.  
SECRETARY FOR HEALTH AND WELFARE

MR JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

MISS DENISE YUE CHUNG-YEE, J.P.  
SECRETARY FOR THE TREASURY

MR STEPHEN IP SHU-KWAN, J.P.  
SECRETARY FOR ECONOMIC SERVICES

MR BENEDICT KWONG HON-SANG, G.B.S., J.P.  
SECRETARY FOR WORKS

MR LEO KWAN WING-WAH, J.P.  
SECRETARY FOR HOME AFFAIRS

MR LEUNG CHIN-MAN, J.P.  
SECRETARY FOR HOUSING

MRS REBECCA LAI KO WING-YEE, J.P.  
SECRETARY FOR FINANCIAL SERVICES

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**PAPERS**

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

Subsidiary Legislation	<i>L.N. No.</i>
Human Organ Transplant (Amendment) (No. 2) Regulation 1999.....	168/99
Human Organ Transplant (Amendment) Ordinance 1999 (7 of 1999) (Commencement) Notice 1999 ...	169/99
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 5) Order 1999.....	170/99
Trainee Solicitors (Amendment) Rules 1999 .....	171/99
Administration of Justice (Miscellaneous Provisions) Ordinance 1999 (21 of 1999) (Commencement) Notice 1999.....	172/99

**Sessional Papers**

- No. 134 — Provisional Regional Council  
Revised Estimates of Expenditure 1998/99
- No. 135 — Revised list of works of the Provisional Regional Council  
for the 1998/99 financial year (during the fourth quarter  
ended 31 March 1999)
- No. 136 — Revised list of works of the Provisional Urban Council for  
the 1998/99 financial year (during the fourth quarter ended  
31 March 1999)

- No. 137 — Schedule of revisions to the 1998/99 Estimates approved by the Provisional Urban Council during the fourth quarter of the 1998/99 financial year
- No. 138 — Report of the Independent Police Complaints Council 1998
- No. 139 — Sir David Trench Fund for Recreation Trustee's Report 1998-99
- No. 140 — The Eleventh Annual Report of the Ombudsman, Hong Kong (June 1999)
- No. 141 — Report of the Public Accounts Committee on Report No. 32 of the Director of Audit on the Results of Value for Money Audits and Supplemental Reports on Report Nos. 30 and 31 of the Director of Audit on the Results of Value for Money Audits  
(July 1999 - P.A.C. Report No. 32)

## Reports

Report of the Panel on Manpower 1998/99

Report of the Panel on Public Service 1998/99

Report of the Panel on Administration of Justice and Legal Services 1998/99

Report of the Panel on Home Affairs 1998/99

Report of the Panel on Transport 1998/99

Report of the Panel on Constitutional Affairs 1998/99

Report of the Panel on Planning, Lands and Works 1998/99

Report of the Panel on Welfare Services 1998/99

Report of the Panel on Information Technology and Broadcasting  
1998/99

Report of the Panel on Economic Services 1998/99

Report of the Panel on Health Services 1998/99

Report of the Bills Committee on Adaptation of Laws (No.12) Bill 1998

Report of the Bills Committee on Theft (Amendment) Bill 1998

Report of the Bills Committee on Merchant Shipping (Local Vessels)  
Bill

Report of the Bills Committee on Revenue Bill 1999

## **ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. Dr LEONG Che-hung will address the Council on the report of the Independent Police Complaints Council 1998.

### **Report of the Independent Police Complaints Council 1998**

**DR LEONG CHE-HUNG** (in Cantonese): On behalf of the Independent Police Complaints Council (IPCC), may I present the IPCC's Annual Report for 1998.

The IPCC is an independent advisory body appointed by the Chief Executive to monitor and review the investigation of public complaints against the police. Whilst the investigation work is carried out by the Complaints Against Police Office (CAPO) of the Hong Kong Police Force, case files and documents are examined in depth by the IPCC. A case will not be finalized until the IPCC has endorsed CAPO's investigation results.

In 1998, the IPCC reviewed and endorsed a total of 2 586 complaint cases involving 4 200 allegations, a decrease of 420 cases and 654 allegations. Allegations of Assault, Overbearing/Impolite Conduct/Abusive Language,

Neglect of Duty/Improper Action against the police constituted 77.3% of the complaints, representing a slight increase of 0.5% compared with the figure of 76.8% recorded for 1997. Of the 4 200 allegations endorsed, a quarter were resolved summarily. It means that full investigations were usually not required for complaints of a less serious nature, and the senior police officers in the district office of the police officer being complained against can resolve the issue by means of mediation. For example, if someone complained that a police officer has used abusive language when he issued a fixed penalty ticket, then this complaint case can be dealt with summarily. 1 768 and that is 42% of the allegations were classified as "Withdrawn/Not Pursuable"; 149 as "Substantiated" or "Substantiated Other Than Reported". It means that other inappropriate substantiated actions were discovered in the course of the investigations and such actions were not complained against in the original allegations. For example, if someone complained that police officer A had used abusive language in forbidding him to change his statement, then the complaint was actually against impoliteness, but upon investigation, it was found that the act of forbidding someone to change his statement was in contravention of the rules of the Police Operating Procedure Manual, then such actions would be classified as "Substantiated Other Than Reported". Sixty-three allegations were classified as "Not Fully Substantiated"; 666 as "Unsubstantiated"; 14 as "Curtailed". It means that although investigations on such allegations have not been completed, it was curtailed because certain special circumstances had been revealed, such as, it was confirmed that the complainant has a mental problem. 301 allegations were classified as "False" and 149 as "No Fault". The substantiation rate in relation to the 1 328 fully investigated allegations in 1998 was 15.9%, which showed a small increase over the substantiation rate of 12.8% in 1997.

In 1998, IPCC raised 950 queries on CAPO's investigation reports in the course of its deliberations, leading to the reclassification of 64 allegations. Arising from the investigation results endorsed by the IPCC, criminal proceedings, disciplinary and other forms of internal action were taken against 312 police officers in 1998.

In pursuance of the Government's policy on better serving the community, the IPCC promulgated its first performance pledges in April 1998. The pledges are made in terms of standard response time in handling public inquiries and monitoring complaints against the police. The performance of the IPCC in meeting its pledges in 1998 was satisfactory, with 92.6% of normal cases and

87.4% of complicated cases being endorsed within the pledged period of three and six months respectively. With experience gained from the first year's operation, the IPCC will strive to enhance its performance in 1999-2000.

In March 1998, the IPCC Secretariat moved into its new office premises in Wan Chai. The new office is equipped with simultaneous interpretation facilities and public seating to permit observation of IPCC meetings by the press and the public. Since 30 March 1998, part of the IPCC-CAPO Joint Meeting has been open to the public for observation. This procedure is believed to be successful in enhancing the transparency of and public confidence in the work of IPCC.

However, in order that the public will have real confidence in the IPCC, it is very important that a statutory status should be granted to the IPCC as soon as possible. Members may recall that a Bill to that effect was submitted to the then Legislative Council in July 1996, but the Bill was withdrawn by the Administration at the Legislative Council Meeting of 23 June 1997. The Administration insisted that some of the Committee stage amendments then proposed by Members, if endorsed, will largely changed the whole police complaints structure, and is therefore, unacceptable. The IPCC will like to express its deep regrets in respect of the withdrawal of the Bill, and we urge the Administration to resubmit the Bill to the Legislative Council as soon as possible.

During 1998, the IPCC stepped up its efforts to publicize its functions, work and image. A Chinese Slogan Competition was organized in November 1998 to promote the values, principles and spirit of its work. The competition was a resounding success with 2 382 entries. On the basis of the winning entries, the IPCC has chosen its own official Chinese Slogan as "警民權益 同樣重視 監察投訴 獨立公平". To promote the impartiality and transparency of the police complaints system and the independent monitoring role of the IPCC, the IPCC also produced its first TV and radio Announcements of Public Interest (APIs) in the last quarter of 1998. Broadcasting of the APIs has been made with effect from March 1999 through TV stations and radio stations. It is believed that this will achieve very effective results in raising the awareness of IPCC in the minds of the general public.

Madam President, to sum up, 1998 was a very eventful and successful year for the IPCC. We shall continue to keep up the high standard of thoroughness and impartiality in our monitoring and review of investigations

into public complaints against the police, and shall continue to build up public confidence in the integrity of the police complaint system.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Eric LI will address the Council on the report of the Public Accounts Committee on Report No. 32 of the Director of Audit on the Results of Value for Money Audits and Supplemental Reports on Reports Nos. 30 and 31 of the Director of Audit on the Results of Value for Money Audits.

**Report of the Public Accounts Committee on Report No. 32 of the Director of Audit on the Results of Value for Money Audits and Supplemental Reports on Report Nos. 30 and 31 of the Director of Audit on the Results of Value for Money Audits**

**MR ERIC LI** (in Cantonese): Madam President, on behalf of the Public Accounts Committee (PAC), I have the honour to table our Report No. 32 today.

According to the paper tabled in the Provisional Legislative Council on 11 February 1998 on the Scope of Government Audit in the Hong Kong Special Administrative Region — "Value for Money Audits", the Director of Audit's Report on the results of value for money audits completed between October 1998 and February 1999 was submitted to the President of the Legislative Council on 31 March 1999 and tabled on 21 April 1999.

The PAC's Report tabled today contains three main parts:

- (a) the conclusions reached by the Committee on Chapter 7 of the Director of Audit's Report No. 30 tabled in this Council on 18 November 1998;
- (b) the conclusions reached by the Committee on Chapter 6 of the Director of Audit's Report No. 31 tabled in this Council on 18 November 1998; and

- (c) the conclusions reached by the Committee on the Director of Audit's Report No. 32 tabled in this Council on 21 April 1999.

At the time when PAC Reports Nos. 30 and 31 were finalized, the Committee's deliberations on Chapter 7 of Report No. 30 and Chapter 6 of Report No. 31 were continuing. A full report on these two chapters was therefore deferred. The Committee has now concluded its deliberations and has the honour to table the supplemental reports on these two chapters together with the Committee's Report No. 32.

As in previous years, the Committee did not consider it necessary to investigate in detail every observation contained in the Director of Audit's Report No. 32. We have selected only those chapters in the Report which, in our view, referred to more serious irregularities or shortcomings. It is the investigation of those chapters which constitutes the bulk of the Committee's Report No. 32.

In examining Report No. 32, the Committee has made a detailed study of eight subjects. The Report tabled today covers our deliberations on seven subjects. The Committee is still considering the subject on "The Government's monitoring of electricity supply companies" and will hold a third public hearing on 22 July 1999 to receive further evidence from the full report on the subject. Under the circumstances, the Committee has decided to defer a full report on this subject. The Committee will endeavour to finalize its report to the Council at the earliest opportunity.

In dealing with the subjects for detailed studies this year, three significant considerations featured prominently in our deliberations:

- first, the need to monitor closely public works projects, especially those involving private sector participation, and the importance of maintaining full records and legal documentation with clearly-defined stipulation to ensure that the Government's stated objectives will be achieved and to remove any doubt that decisions taken by the Government are to suit its political expediency;

- second, the need to ensure that government systems and projects follow the best practices of internal controls and corruption prevention; and
- third, the need to pursue privatization and outsourcing of government functions in order to achieve better value for money.

In examining the Director of Audit's Report on "Acceleration of works in the Strategic Sewage Disposal Scheme Stage I", the Committee noted that, although \$143 million had been spent for implementing acceleration measures to catch up on the delay in the completion of the production shafts and other works under the advance contracts, Stage I of the Scheme was running far beyond the original target completion date of 30 June 1997. Whilst the Administration maintained that no political consideration was involved in the adoption of this unrealistic deadline, doubts in the public mind could not be dispelled. Herein lies an important lesson that, in managing public works projects of such strategic importance, we must not allow professional judgment and prudence to be clouded by political expediency.

The Committee considered that the delay was an expensive error. We were also concerned about the impact of the delay on the later stages of the Scheme and the continuing deterioration of the water quality in Victoria Harbour. We sincerely hope that the Administration has learned a lesson and will monitor the remaining stages of the project vigilantly to ensure their early completion, so that the project will start to produce the intended environmental improvements and the Government's significant investment will bear fruit as soon as possible. We also urge the Director of Audit to conduct, upon the conclusion of Stage I of the Scheme, further reviews to ascertain the full cost of the project and the factors that have led to the significant budget overrun.

The Committee also examined in detail another works project — the construction of the Kwai Chung Viaduct and noted the Government together with the Mass Transit Railway Corporation had to pay a sum of \$365 million to settle more than 300 claims from the contractor. The Committee were concerned that the Kwai Chung Viaduct Contract was awarded before

completion of the detailed design of the Airport Railway. The late design changes had left the project open to contractor's claims and made it difficult to control costs. It was apparent from our examination that there was room for improvement in contract and project management.

The Committee also observed that in this and in the case of the Strategic Sewage Disposal Scheme, the Administration had failed to apprise the Finance Committee of the risks involved and the full financial implications when funding approval was sought. When we tabled the PAC Report No. 29 in the Provisional Legislative Council in February 1998 and Report Nos. 30 and 31 in this Council in February this year, we expressed time and again our concern about the Administration's failure to make full and relevant disclosure of material developments and potentially contentious payments to the Finance Committee. We also requested that periodic reports on works projects be made to the Finance Committee. On both occasions, the Administration undertook to keep the Finance Committee informed on a timely basis of any significant project slippage, cost overruns and major departure from the funding submissions. The Committee urges the Administration to adhere to its undertaking. In the same spirit, it should also critically assess the risk and cost of contract management for time-critical projects and should be proactive in reporting to the Finance Committee any potential exposure to financial risks and contingent liability which may eventually create material impact on project estimates.

The Committee has examined at length the history and background to the Administration's failure to implement its policy objective of segregating pedestrians and vehicular traffic in the heart of Central District. The Government has made plot ratio concessions, at a market value amounting to \$700 million, in favour of three developers in exchange for their provision of five footbridges. The Committee condemns the Administration for allowing more than 20 years to elapse, while none of the five footbridges, which have been planned since the 1970s, has been built. We are concerned about the significant loss of public revenue. We are even more concerned about traffic and pedestrian safety, especially with the fatal accident which occurred at the junction of Wyndham Street and Queen's Road Central. The confusion within the Administration in handling the matter was incredible and totally inexcusable.

The Committee was also dismayed that the Administration had not taken timely action to investigate the cause of the problem and to consider whether the officials concerned should be disciplined to preserve public accountability. From the angle of corruption prevention, it is of utmost importance that there should be a complete system of internal checks and balances to safeguard the integrity of land administration. The Committee noted that the Administration has learned from the experience of the footbridge cases and has reviewed the relevant procedures, issued new sets of guidelines and tightened up the legal documents for the provision of footbridges.

The Committee welcomes the Administration's affirmation that two of footbridges can be expected to be completed by 2001 and that the Secretary for Planning, Environment and Lands will explore options for implementing the Government's policy to improve pedestrian movement and safety in the area. The Committee urges all the parties concerned to adopt a co-operative attitude and take positive and expeditious steps to provide footbridge connections in the area.

In examining the control of obscene and indecent articles by the Television and Entertainment Licensing Authority (TELA), the Committee was concerned and dismayed that although the Control of Obscene and Indecent Articles Ordinance (COIAO) empowers the TELA to seize indecent articles, the TELA's inspection staff had never exercised such powers independently in the last four years. There were neither strategic planning for routine surveillance inspections by the TELA nor systematic records of retail outlets covered by past inspections. Prompt prosecution action was not taken against publishers who have contravened the COIAO.

This state of affairs has led to a public perception that responsibility for this essential area of work is fragmented and unco-ordinated. This has also contributed to the proliferation of pornographic articles on the market. The Administration must step up enforcement action to arrest the situation. It should also conduct thorough investigations to ascertain whether the lack of enforcement action was caused by corruption, triad influence or simply dereliction of duty on the part of the TELA's management. In the light of the investigation results, the Administration should then consider the need for disciplinary action or criminal proceedings. For the longer term, a complete and effective system of corruption prevention measures should be in place to preserve the integrity in this area of work. This is critical to safeguarding the moral well-being of our young people and our community as a whole.

The Committee noted that in May this year, the contract of the Deputy Director of Information Systems of the Hospital Authority was terminated while an investigation was being conducted by the Independent Commission Against Corruption (ICAC). When examining the Director of Audit's Report No. 29 on "The implementation of the Information Technology/Information System Strategy of the Hospital Authority", the Committee had expressed concern about the deficiencies in the Hospital Authority's internal monitoring and control system over the implementation of Information Technology (IT) projects and the accountability of funds under the existing funding arrangements. We reiterated our concern about the inadequacy of internal controls and supervision when we examined "Management services in public rental housing estates" in the current Report. We were disheartened to note that earlier this month, six people including a Housing Department officer, a retired employee of the Department and four contractors were charged with graft by the ICAC in connection with maintenance contracts for public housing estates. The Committee considers that investigations by the ICAC in both incidents are indicative of the fact that weak internal control systems often render themselves open to corruption opportunities. We therefore urge the Administration to be mindful of this correlation and should seriously question any blatant weakness of internal control systems from an anti-corruption angle on a timely basis.

In April this year, the Chief Secretary for Administration stated publicly that the Government was committed to improving services for the community and their results, and to raising productivity. She also mentioned the option of moving the provision of some services out of the Government to the private and voluntary sectors. The Committee generally supports these principles but urges the Administration to act with caution and fairness in exploring various options.

The Committee noted that the Housing Authority's consultancy report on introducing private sector involvement in estate management and maintenance services has triggered off extensive debate in the community and strong reaction from Housing Department staff. While the Committee is supportive of the Housing Authority's determination to address the long-standing management problems within a bloated structure and a huge establishment, and of the need to improve the productivity and competitive edge of Housing Department staff, we earnestly hope that any reforms and measures to be adopted by the Housing Authority will be fair and reasonable to all parties concerned. Extra care

should be taken to ensure that a thin and lean structure will not be adopted just for the front-line staff, but for all levels of the Department including the central administration. The Committee also hopes that there will be more open and sincere communication between the management and the staff side with a view to working out a mutually beneficial arrangement for the future development of the Department's estate management and maintenance services.

In our examination of the management of telecommunications services under the 1998 Technical Services Agreement (TSA), the Committee noted the view in the Audit Report that Hong Kong Telecom International had become a monopoly in the field of telecommunications and aviation electronics maintenance. Following the surrender of Hong Kong Telecom's exclusive licence in 1998, the Government should examine critically other options for obtaining telecommunications services. Adhering to the present arrangements under the TSA might run contrary to the Government's policy of opening up the telecommunications market and might not provide the best value for money.

The Committee notes that the Secretary for the Treasury will explore options for improving the existing arrangements for obtaining telecommunications services. We urge the Administration to make use of the new opportunities which are available after the market has been liberalized and become much more competitive with the entrance of new market providers, and to critically examine the viability of introducing greater competition in sourcing alternative providers for electronics and telecommunications services.

The Committee has serious concern about the fact that the scheme to enable schools to computerize operations through the School Administration and Management System (SAMS) has only achieved overall usage of 52% and that a significant proportion of the schools are not satisfied with the current system. In view of the unsatisfactory state of affairs and the fast pace of IT advancement, we urge the Government to heed the lesson learnt from the SAMS experience and to involve schools in planning before investing additional resources amounting to \$3.2 billion in capital costs in its IT Strategy for the education sector. This will not only ensure that the expenditure incurred will achieve the

policy objective of promoting IT in schools, but also ensure that the benefits will materialize and be appreciated by the user schools. Whilst the object is laudable, we must have a clear road map before embarking on the journey. It is, thus, of utmost importance for the Government to clearly define its IT policy in education and to allow individual schools adequate flexibility in determining the pace and timing for developing their own IT programme. Otherwise, the plans and the additional resources may again run into the sands.

In closing, Madam President, I wish to emphasize that in line with the fine tradition of the PAC, we have conducted our examination of Report No. 32 in a constructive spirit to safeguard the integrity and accountability of the Special Administrative Region's public service. In studying the individual subjects, we have striven to rise above the specific issues and to look beyond the immediate horizons. We believe that we have drawn some practical conclusions to help the Administration focus on the monitoring of public works, introducing good work practices and internal controls, highlighting areas which are particularly vulnerable to possible corruption opportunities and the pursuit of privatization and outsourcing.

It is very heartening to note that we are continuing to make measured progress in securing improvements across the board through the work of the PAC. I should also register my appreciation of the contributions made by members of the Committee in our deliberations. Our appreciation also goes to the representatives of the Administration and other organizations who have attended before the Committee for their input. Last but not the least, we are grateful to the staff of the Legislative Council Secretariat for their unfailing support and hard work.

Madam President, we put forth our report in a spirit of constructive co-operation and trust that the Administration will continue to consider our recommendations in the same spirit.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr LEE Kai-ming will address this Council on

the Report of the Panel on Manpower 1998/99.

### **Report of the Panel on Manpower 1998/99**

**MR LEE KAI-MING** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Manpower, I shall table a report on the Panel's work in 1998-99 and highlight some of the major items.

The climbing unemployment rate has been a major concern of the Panel, which has closely monitored the progress of the measures taken by the Administration to create more job opportunities and to tackle the unemployment problem. On the manpower requirement for infrastructural construction projects, members asked the Administration to assess the labour supply for each job type, and take measures and action as soon as possible so as to stave off the possible shortage of manpower and the need for importation of labour. Members also asked the Administration to require that contractors of government projects must give priority to employing local workers. The Panel urges the Administration to adopt new and more effective measures to stimulate the economy, thus tackling the unemployment problem. The Administration is also urged to cast its sight further ahead when it conducts manpower planning and sets training strategies, so that the needs of the ever-changing economy can be met.

The number of disputes involving employer unilaterally changing the terms of employment is increasing, which is also the concern of the Panel. The Administration told members that the Employment Ordinance provides for employee protection, and an employer must not unilaterally and unreasonably change the terms of employment, which, if necessary, must have the agreement of both the employers and the employees. The Administration has issued a set of guidelines, stating how to handle salary reduction and retrenchment. Some members think that such guidelines are not binding on the employers and cannot provide any protection to the employees' interests, thus they are not very effective in handling disputes associated with salary reduction and retrenchment. They urge the Administration to regulate any salary reduction activity of the employers by way of legislation.

As to the suggestion that Hong Kong should establish a system providing for minimum wage, the Panel noted the position of the Administration in relation to not setting down any form of minimum wage in Hong Kong. The Panel has studied the research report prepared by the Research and Library Services Division of the Legislative Council Secretariat. The report detailed the experience of places other than Hong Kong where a minimum wage system is implemented. Before the Panel conducts further discussion on this issue, members have asked the Administration to give its response on the report to the Panel, and to explore the effect of minimum wage on enterprises (especially small and medium enterprises) and the Hong Kong economy in general.

Some members have urged the Administration to look seriously into the employment problem faced by the elderly, and set down necessary measures including legislation against age discrimination. The Administration considers that continued promotion and public education and encouragement of self-regulation are the most effective and appropriate ways to eliminate age discrimination; and to this end, the Administration has already issued practical guidelines to employers. The Administration has also taken measures against acts of age discrimination against job applicants. Some members think that both legislation against age discrimination and public education can be taken forward at the same time.

The Administration affirmed to the Panel that since the Basic Law took effect on 1 July 1997, Hong Kong residents have the rights and freedom to organize and join unions and to hold strikes under Article 27 of the Basic Law. The Panel asked the Administration to conduct a general review of the provisions of the Employment Ordinance and make the necessary amendments as soon as possible, so as to bring the relevant provisions into conformity with Article 27 of the Basic Law and to amend the existing wordings.

I would like to take this opportunity to thank the members for their contribution to the work of the Panel, and the Administration for the response it gave to the members' requests.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung will address this Council on

the Report of the Panel on Public Service 1998/99.

### **Report of the Panel on Public Service 1998/99**

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Public Service, I table to this Council a report on the work of the Panel for the period from July 1998 to June 1999.

The Report sets out the major work undertaken by the Panel over the past year. I shall highlight a few points here.

First of all, the Panel is concerned about the proposals made by the Administration in relation to the new measures and extensive reforms to be implemented within the public sector, especially the following three items:

- (1) The Administration will introduce non-civil servant contracts so that heads of departments and grades may have greater discretion in employing non-civil servant contract staff;
- (2) The Administration proposes to set up more trading funds and implement corporatization and privatization plans; and
- (3) The Administration proposes reforms to the civil service system.

The Panel understands that the Administration has implemented the new measures and proposed reforms for the long-term improvement of services. However, the Panel has already urged the Administration to consider carefully the effect of these proposals may have on the civil servants and the quality of public services. On reforming the civil service system, the Panel is in agreement with the concerns expressed by civil service unions and some academics, especially the pace of reform and the effect of some reform proposals on the stability of the Civil Service, and the practicability of pegging pay to performance. The Panel also asks the Administration to consider carefully the opinions expressed by Members at the 9 June 1999 meeting of the Legislative Council, especially on the introduction of an accountability system for senior civil servants.

In addition, the Panel is also concerned about the remuneration, allowance,

benefits and declaration of investments by civil servants. The Panel supports the Administration's review of the current policy on allowances given to civil servants so as to ensure the appropriateness of such allowances under the current situation. The Panel has also urged the Administration to adopt more effective means to ensure the enforcement of rules against double housing benefits.

As to the declaration of investments by civil servants, the Panel thinks that it is necessary to improve the current declaration system so that heads of departments are required to declare all the investments they have made in Hong Kong and outside Hong Kong annually, and to have their investments and interests registered for inspection by the public. In declaring the occupation of their spouses, the heads of departments shall provide further details of the company of which their spouses are a partner or executive director, such as the nature of business. The Administration has promised that it would consider the Panel's views.

Finally, I would like to thank the members of the Panel for their contribution to the work of the Panel.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Miss Margaret NG will address this Council on the Report of the Panel on Administration of Justice and Legal Services 1998/99.

### **Report of the Panel on Administration of Justice and Legal Services 1998/99**

**MISS MARGARET NG:** Madam President, I speak in my capacity as the Chairman of the Panel on Administration of Justice and Legal Services. The Panel has discussed many issues in this Session. Today, I would like to speak on a few important ones.

Members may recall that after the reference to "Crown" in section 66 of the Interpretation and General Clauses Ordinance was adapted to "State", there was wide concern within the legal profession and the community at large as to why certain ordinances would be binding on the Hong Kong Government, but not otherwise on "State" organs. The Administration conducted a review of the

17 relevant ordinances that expressly bound the Government, but were otherwise silent on their applicability to "State" organs in Hong Kong. The Panel noted the Administration's findings that the "State" organs and their personnel should abide by 15 of these ordinances, and that one ordinance had no relevance to either the "Government" or "State" organs. As regards the review of the Personal Data (Privacy) Ordinance, the Administration will report its outcome to the Panel in due course.

On legal aid, the Panel took note of public responses to the findings and recommendations of the Legal Aid Policy Review 1997 and exchanged views with the Administration on a number of the recommendations. The Administration has agreed to take into account views expressed by members in finalizing the recommendations. The Panel also noted the recommendation of the Legal Aid Services Council that an independent statutory legal aid authority should be established by a phased approach. The Panel will follow up on the matter with the Administration after it has studied the Legal Aid Services Council's Report in detail and come up with some recommendations.

The Panel also discussed the criminal jurisdiction of the courts of the Mainland and the Hong Kong Special Administrative Region arising from two cases which Members are well aware of. Some members of the Panel and the majority of the legal academics and professionals invited to attend the special Panel meeting did not agree with the Administration's interpretation of Article 7 of the Chinese Criminal Code 1997 which provided that the law was applicable to Chinese citizens who committed the crimes prescribed under the law outside the Chinese territory. They were of the view that the term "territory" should refer to the "geographical" territory under the sovereignty of the People's Republic of China, and not "jurisdictional" territory as advised by the Administration.

Following the delivery of judgment on the *Hong Kong Standard* case on 20 January 1999, the Secretary for Justice was requested to address the Panel on her earlier decision not to prosecute Ms Sally AW. In her statement to the Panel, the Secretary for Justice explained that she had decided not to prosecute Ms AW because there was insufficient evidence to bring a prosecution against her and it was also not in the public interest to do so. Notwithstanding the Administration's explanations, some members of the Panel did not agree with

the Secretary for Justice's understanding of public interest. They pointed out that in deciding whether or not to prosecute a person, it would be irrelevant and grossly unfair to have regard to factors such as the person's financial position, the nature of his business or the number of people under his employment.

Madam President, these are my short remarks on the report.

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk will address this Council on the Report of the Panel on Home Affairs 1998/99.

### **Report of the Panel on Home Affairs 1998/99**

**MISS CHOY SO-YUK** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Home Affairs, I table a report of the work of the Panel for 1998-99.

The Panel has had a very busy schedule this legislative year, with its work covering a very wide area. On certain significant issues such as the International Covenant on Human Rights and the new framework for culture, recreation and sports administration, it held a number of special meetings to conduct detail consultation and discussion. I shall give a brief summary of the Panel's work in these two respects.

On the International Covenant on Human Rights, the Hong Kong Special Administrative Region (SAR) issued four reports during the period from September 1998 to May 1999 on the implementation of the Covenant. On Hong Kong's first ever submission in respect of the International Convention on the Elimination of All Forms of Discrimination Against Women, the Panel had held three special meetings with the interest groups and the Administration. The Panel urged the Administration to establish a high-level Women Commission to co-ordinate and develop all policies on women, and provide comprehensive services to women. Some members also proposed that the Administration should repeal some out-dated savings clauses and provide equal opportunities for women to take part in public affairs. The Panel also urged the Administration to implement the proposals to be made by the United Nations

Commission after the hearing in February 1999.

On the report submitted by the SAR in respect of the International Covenant on Civil and Political Rights, the Panel had expressed its preliminary views to the Administration, and invited interested parties to submit their views. The Panel shall hold special meetings to listen to views from all sectors of society.

The Panel is now studying the submissions in respect of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and International Covenant on Economic, Social and Cultural Rights, which were issued respectively in May and June 1999. The Panel will hold discussions with the Administration and the interested parties with reference to the hearing dates of the United Nations.

In the cultural, recreational and sports areas, the Panel is extremely concerned about the new framework for providing cultural, art, recreational and sports services. It has urged the Administration on a number of occasions to lay down a comprehensive and far-sighted cultural policy for public consultation. But the Administration has so far made no response. At the repeated urging of the Panel, the Administration published a consultancy report at end March 1999, on a new framework for the provision of cultural, recreational and sports services. The Panel then invited the cultural, recreational and sports organizations and various sectors of society to submit opinions on the report, and held discussions with the relevant organizations and the Administration. The Panel urged the Administration to conduct detailed consultation with participants on the functions of the future Cultural Commission, the functions of the government departments and the Arts Development Council and the Council for Recreation and Sports, the policy direction, the provision of services, and resources and venues management, and then make amendment. However, the Administration has not responded positively to the views expressed by the Panel and the various sectors of society to the general disappointment of Members. The Panel understands that the Administration has already set up a task group to take charge of studying all matters relating to the implementation of the framework. The Panel shall follow up on the concerns of the Panel and participants, especially on the proposals relating to the mechanism for monitoring cultural and recreational services, cultural exchange projects and the contracting out of services and privatization.

With respect to policies on sports and the allocation of resources, the

Panel held discussions with major service providers, for example, the two Provisional Municipal Councils, Hong Kong Sports Development Board and Hong Kong Federation of Sports and Olympic Committee. The Panel thinks that the Administration and the major sports organizations should further improve the arrangement in respect of the allocation of resources and venues to ensure that public funds are used effectively and that the development of elite athletes and the promotion of sports can proceed together at the same time.

Madam President, discussion on other aspects of the Panel's work is detailed in the report, which I shall not repeat here.

I would like to take this opportunity to thank members of the Panel for their enthusiastic participation in the various discussions and their positive suggestions.

I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mrs Miriam LAU will address this Council on the Report of the Panel on Transport 1998/99.

### **Report of the Panel on Transport 1998/99**

**MRS MIRIAM LAU** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Transport, I table a report on the work of the Panel for 1998-99. As the Report has already set out in details the work of the Panel, I shall only highlight here a few of the more important issues.

On public transport service, the Panel supports the Administration's putting up the ferry service franchise held by Hongkong and Yaumatei Ferry Company Limited (HYF) for open tender, so as to promote competition in the ferry service. However, the Panel is deeply concerned about the so far

unsatisfactory service quality of HYF since the switch of old and new services on 1 April 1999. The Panel passed a resolution, urging the Administration to hold talks with HYF on restoring the ferry service running among Peng Chau, Mui Wo and Cheung Chau to the old schedule, using tripe-deck ferries for the route, deploying faster ferries suitably, improving the ventilation and noise situation on board ferries, reducing the fares for faster ferries and restoring the concessionary fares for residents of outlying islands on weekends and public holidays.

As regards the domestic transport network, the Panel will continue to monitor how the Administration plans and implements the various priority railway schemes to provide the necessary transport infrastructure.

In respect of monitoring the public transport service, the Panel studied various ways to improve the transparency and accountability of the fare pricing system. One of the proposals was to establish an independent committee to determine the fares. The Administration noted the views of members and promised that it would further improve the consultation procedures for fare increase proposals.

The Panel is gravely concerned with the Administration's intention to partly privatize the ownership of the Mass Transit Railway Corporation by way of a public offer of some of its shares. As this move may have far-reaching impact on various railway development schemes and the respective regulation, members urged the Administration to consider the experience of other countries, study the plan carefully and consult further the views of the Panel before submitting the legislative proposals formally.

Madam President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mr Andrew WONG will address this Council on the Report of the Panel on Constitutional Affairs 1998/99.

**Report of the Panel on Constitutional Affairs 1998/99**

**MR ANDREW WONG:** Madam President, in my capacity as the Chairman of the Panel on Constitutional Affairs, I would like to give a brief report on the major work of the Panel in this Session.

The Panel discussed the review of the district organizations, that is, the Municipal Councils and district boards at 11 meetings. The Panel was briefed at various stages of the review. Some members expressed strong reservation about the way the Government had conducted and presented the results of the public consultation. Following the release of the Consultation Report on the review, some members criticized the proposed abolition of the Municipal Councils as dismantling a well-established channel for public participation in community affairs and a retrogression in democratization. They also pointed out that under the new framework proposed, the decision-making powers of the Municipal Councils were transferred neither to the Legislative Council nor the District Councils.

The Panel was briefed on the electoral arrangements for the 2000 Legislative Council Election. Many members expressed concern about the proposal to allow paid election advertisement on television and radio, as it would put independent candidates or political parties with less financial resources at a disadvantaged position. The Panel requested the Administration to reconsider the proposal.

The Panel was briefed on the major new measures introduced in the Electoral Affairs Commission's proposed Guidelines for the 1999 District Councils Election. On the proposal to prohibit those presenters, regular contributors or columnists who were candidates or members of a political party/organization whose other members were candidates from appearing in television or radio programmes or contributing articles in the print media once the nomination period began, it was the consensus of the members present at the meeting that the prohibition, if any, should apply to candidates only.

On the mechanism for amending the Basic Law, the Administration had identified for further detailed study eight issues necessary for the Basic Law amendment mechanism to be put in place. Subsequent to the public consultation conducted by the Panel in March 1999, the Administration advised that a number of new and important issues were identified and required further consideration. The Administration would need to consult all parties involved including the relevant Central Authorities so that their views could be taken into

account in devising the mechanism. Members were particularly concerned about the timetable for the Administration to work out an appropriate mechanism to give effect to Article 159 of the Basic Law. While the Administration advised that it was impossible to provide any concrete timetable at this stage, its rough estimate of the time required for those steps in the process not involving discussions with the Central Authorities was about 15 to 22 months which included drafting and enacting the necessary local legislation to give effect to the finalized proposal.

The Panel also followed up matters arising from the Chief Executive's decision to request the State Council to approach the Standing Committee of the National People's Congress (NPC) to interpret Articles 22 para 4 and 24 para 2(3) of the Basic Law. Deputations were invited to give views on the need for a formal mechanism for submitting future requests for interpretation of provisions in the Basic Law. There were diverse views as to whether it was lawful and constitutional for the Chief Executive to request the State Council to seek an interpretation from the Standing Committee of the NPC under Articles 43 and 48(2) of the Basic Law, and whether a formal mechanism should be established regulating the Chief Executive's power in submitting future requests for interpreting the Basic Law. The Administration's position was that the Chief Executive had pledged that such assistance from the Central People's Government would only be sought in very exceptional circumstances. The Government of the Hong Kong Special Administrative Region would carefully consider the issue and suggestions of setting up a mechanism and it would not make any commitment at the present stage.

With these remarks, I refer you, Madam President, and Honourable Members to the report of the Panel on Constitutional Affairs tabled today.

**PRESIDENT** (in Cantonese): Mr Edward HO will address this Council on the Report of the Panel on Planning, Lands and Works 1998/99.

### **Report of the Panel on Planning, Lands and Works 1998/99**

**MR EDWARD HO** (in Cantonese): With your permission, Madam President, I submit a report of the work of the Panel on Planning, Lands and Works, for the current Legislative Session in my capacity as Chairman of the Panel. I do not intend to enumerate here every item of the report, rather I would highlight those planning items that have attracted extensive public concern.

Undoubtedly the Southeast Kowloon Development is a development item that has caught the attention of every Hong Kong citizen because it covers a very large area, and in the foreseeable future, there would not be any similar urban development project. Like the public, members of the Panel have great reservation in the plan proposed by the Administration last year. The Panel requested the Administration to amend the Outline Zoning Plan by reducing the scale of land reclamation as far as possible, so that the characteristics of Kai Tak Airport can be preserved and in the future the public can still go to the waterfront to enjoy the view there. Members are very appreciative of the creative proposals made by the Hong Kong Institute of Architects, Hong Kong Institute of Engineers and Hong Kong Institute of Surveyors in respect of the Southeast Kowloon Development. The Panel welcomes the Administration's willingness to amend the plan in accordance with the views expressed by the professional bodies and the public, and to consult Honourable Members' views.

Members of this Council certainly will agree that the Victoria Harbour is an important natural asset of Hong Kong. The development on both sides of the harbour is a matter of concern to the Panel. Members welcome the draft "Vision and Goals of the Victoria Harbour" promulgated by the Administration which intends to use it as the basis for setting long-term development strategies and as a guideline for future development of the harbour sharelines. The Panel hopes that the Administration can, after listening to the views of the public, implement the "Vision and Goals of the Victoria Harbour" as soon as possible, and incorporate the vision and goals into the development of Central Reclamation Phase III and the Tamar Base Reclamation Site.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han will address this Council on the Report of the Panel on Welfare Services 1998/99.

**Report of the Panel on Welfare Services 1998/99**

**MR CHAN YUEN-HAN** (in Cantonese): With your permission, Madam President, I report on the work of the Panel on Welfare Services for the current Legislative Session in my capacity as Chairman of the Panel. As the Report of the Panel has already detailed its work throughout the year, I do not intend to enumerate here every item, rather I would talk specially on the issue of the Comprehensive Social Security Assistance (CSSA) Scheme and that of school social workers, which have attracted extensive concern among the general public.

The Panel is very concerned about the Administration's review of the CSSA Scheme, especially how the review will affect the elderly, disabled and single-parent families. Though the review report stressed that the elderly, the sick and the disabled would not be affected, they were indeed affected when the Social Welfare Department implemented all the tightening measures on 1 June. Under the new measures, if an elderly is living with his family, his application for CSSA will be examined together with his family. Stopping the special grant for telephone also affects those disabled living with their families. The Panel will follow up on these in its July meetings.

With the single-parent families, the Administration, after considering the views expressed by the Members, the social welfare sector and the organizations concerned on the proposals, decided to revoke the proposal that a single parent must find a job after his/her youngest child has reached 12 years of age. As to the proposal that an owner-occupied property must be included in the assets calculation, Members think that this should not apply to single-parent families as, after using up all the proceeds from the sale of their properties, they would apply again for CSSA. In the long run, this would only increase the expenditure of the Government. The Administration recently told Members that, because of the special difficulty faced by those single parents having young children, the Director of Social Welfare has the discretion to extend the 12-month grace period for realization of property. As long as the youngest child of such families is under 15 years of age, and the value of the property, with reference to the standard of calculation of the CSSA Scheme, cannot support the family expenses for 10 years, then the property needs not be sold and the family can continue receiving CSSA.

Moreover, with the unemployment rate climbing and the wage levels

sliding, Members held a meeting on 24 February 1999 and successfully passed a motion to urge the Administration to reassess the definition of "frequent work" and to adjust downwards the exemption requirement with respect to income calculation. The Administration promised that it would study further the current arrangement and would submit a report on the review to the Panel in September.

On the issue of school social workers, after years of bargaining, the Panel, the social worker sector and the education sector are pleased that the Administration finally agrees to the proposal of one social worker for each school. However, we are disappointed at the same time that the \$97 million required for the addition of such service in the existing schools and schools to be opened in 1999-2000 will be redeployed from the resources earmarked for existing youth services. In assessing the effect of the proposal on the youth service, the Panel will, together with the Panel on Home Affairs, hold a meeting with the Administration next week to discuss the respective problems.

Furthermore, I would like to take this opportunity to thank the colleagues at the Secretariat of the Legislative Council for their assistance rendered to the Panel.

Madam President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai will address this Council on the Report of the Panel on Information Technology and Broadcasting 1998/99.

### **Report of the Panel on Information Technology and Broadcasting 1998/99**

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Information Technology and Broadcasting, I submit a work report of the Panel. During the current Legislative Session, the Panel has handled a number of major issues, which all have attracted much attention, and they are all detailed in the report. I shall only highlight here a few of the major

issues.

The Panel agrees that Hong Kong needs to further develop its information technology, and is therefore greatly concerned about the Cyberport project announced by the Administration. The Panel has held four meetings with the Administration to discuss in great detail the various arrangements of the project. Members support in principle the Cyberport development in Hong Kong. However, some Members think that it is open to question for the Administration, instead of following the usual procedure of inviting public tender for award of contracts, to enter into an agreement with the company advocating the Cyberport project. They also think that such a move by the Administration is in violation of the principle of fair competition and may set a bad precedent.

The Administration reiterates that as information technology develops in leaps and bounds, the Cyberport project needs to be implemented as soon as possible. The Administration also expresses that it has considered thoroughly the quality and investment undertaking of the technology company concerned. At the request of members, the Administration agrees that it will report to the Panel on the progress of the Cyberport project. Furthermore, it will also lay down and make public policy guidelines for future large-scale development projects.

As to the solution to the Year 2000 digital "Y2K" problem, members think that this should brook no delay. Given the great concern shown by the Panel on the far-reaching impact the Y2K problem may cause, and that the Panel has also stressed the importance of timely monitoring, the other Panels also follow up on the work, including rectification and contingency plans, that falls within their policy area. The Panel will keep on monitoring the progress, especially on a territory-wide contingency plan and the relevant promotion and publicity efforts.

On the liberalization of the telecommunications market, the Panel held a number of discussions with the trade and the Administration in relation to the consultation paper "1998 Review of Fixed Telecommunications — A Considered View" and followed up on the various policy proposals. On the whole, the Panel welcomes the Administration's liberalization of the market for external telecommunications service and external telecommunications facilities. The Administration has decided to set a moratorium on the issue of local FTNS licence until the end of December 2002, and the Panel will monitor closely, during the moratorium period, the promises made by the three new FTNS

operators in relation to network expansion and their negotiation with the Administration.

On how to promote the development of the local film industry, the Panel has exchanged views with the trade and the Administration. The Panel urges the Administration to take rigorous actions against piracy activities, and to look seriously at the concerns expressed by the trade, for example, on the financing of movie-making and on on-site shooting, and take corresponding actions. On the control of indecent and obscene articles, the Administration has promised, in response to concerns expressed by the Panel, that when it drafts the policy proposals, for which public consultation will be conducted later, it would make reference to similar measures adopted by other countries have.

Up to July 1999, the Panel held 20 meetings, of which seven were special meetings held at short notice to deal with some major issues, and met altogether 39 deputations. I am deeply thankful of the prompt response given by the Administration to the members' request, and also of the views from various sectors of society. Finally, I would like to thank colleagues of the Secretariat of the Legislative Council for their support. Their work has helped us perform and complete our duties efficiently and smoothly.

Madam President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mr James TIEN will address this Council on the Report of the Panel on Economic Services 1998/99.

### **Report of the Panel on Economic Services 1998/99**

**MR JAMES TIEN** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Economic Services, I shall briefly highlight some of the major work of the Panel for the current Legislative Session.

Monitoring the development of the electricity supply industry is one of the key areas of work of the Panel. In the course of examining the interim review of the Scheme of Control Agreement between the Government and the electricity companies, members noted that if there were any surplus capacity from future generating units, the expenditure incurred by the relevant generating units and equipment would be deducted from the average net fixed assets of the electricity company. However, the Panel is still concerned about the enormous impact

that may be caused by the average standby capacity which may reach 30%. Some members think that an enhancement in the interconnection of the two electricity companies can effectively reduce the necessary minimum standby capacity, and they have therefore urged the Administration to complete as soon as possible the consultancy report on this issue. Some members proposed that the Administration should implement as soon as possible measures for demand side management so as to reduce the maximum demand at peak periods, thus postponing the need for additional generating facilities. Members generally think that the most important thing is for the Administration to seriously review the appropriate time for demand forecast and additional generating equipment, and to learn from the incident that CLP has to postpone the operation of its two generating units at Black Point.

Madam President, in view of the fatal accidents involving flueless gas water heaters, the Panel requested the Administration to follow up on the incidents immediately to reduce as much as possible the possibility of such incidents recurring. Members urged the Administration to tighten the control to ensure the safety of gas water heaters, by requiring gas suppliers to keep its client record up to date and to increase the number of checks on gas equipment and to step up the publicity on the correct way to use such heaters. In addition to supporting the Administration's proposal to ban the use of flueless heaters in bathrooms, the Panel considered that such heaters should also be banned in kitchens, and in fact, the sale of such heaters should be banned. The Administration agreed to consider the views of the Panel and would submit appropriate legislation as soon as possible.

After the various agencies had completed their inquiries into the various problems that emerged at the opening of the new airport, the Panel, together with the Administration, had followed up on the proposals made in the various inquiry reports, and will continue to monitor closely all matters related to the new airport, especially the operation of the second runway, the competitiveness of the airport charges and the plan for Y2K compliance. On the Y2K problem, besides carefully studying to what extent each system of the airport is Y2K compliant and also the relevant contingency plans, members also looked into the readiness of the major commercial partners, like the air cargo terminus, of the Airport Authority in dealing with the Y2K problem, and urged the Airport Authority to lay down clearly the respective responsibility of the Airport Authority and its commercial partners in respect of the problem. Some members also considered there is a need for an external monitoring mechanism

to ensure more effective supervision.

Madam President, the other key areas of the Panel's work have already been detailed in the Report. I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mr Michael HO will address this Council on the Report of the Panel on Health Services 1998/99.

### **Report of the Panel on Health Services 1998/99**

**MR MICHAEL HO** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Health Services, I report to this Council the work of the Panel during the current Legislative Session. I shall not give an item by item rundown of the work undertaken by the Panel during the year such as food safety and Enterovirus issues, which have been detailed in the Report. Rather, I would like to mention work in three areas which involve important policies.

Over the past year, the most important issue for the medical sector is the release of the consultancy report of the Harvard Team at a meeting of the Panel on 12 April. This has been a long over due review, and the report proposals on health care financing has attracted extensive attention. The Panel held two meetings in June, inviting representatives from the medical sector, academia and other interested organizations to express their views on the current medical system and the direction for future reforms. In the coming three weeks, at least three more meetings will be held to continue the discussion on the reform direction and the problem of health care financing. At the request of the Panel, the Health and Welfare Bureau has already announced that the period for public consultation will be extended until mid-August.

The second important policy issue is the proposed new framework for food safety and environmental hygiene services.

At a meeting held in October 1998, the Panel held the first discussion on the major problems existing in the current framework which oversees the work related to food safety and environmental hygiene, and matters that needed to be considered when a new framework was to be set up. The Panel held four joint meetings with the Panel on Environmental Affairs and the Panel on

Constitutional Affairs to follow up on the matter. Though at these meetings, many government departments had explained that the purpose of the restructure was to improve co-ordination and to put the resources to more effective use, some Members were not satisfied that the proposed framework could improve the co-ordination among various government departments as these Members found that the duties of the Department of Health overlap with those of the proposed new department. Members were concerned that the procedure for issuing restaurant licence and liquor licence was too complex and takes too long. They requested the Administration to review the whole licensing mechanism so that a "one-stop service could be provided to the applicants, thereby achieving the performance pledge that a licence could be issued within a month.

Besides asking for additional information to clarify the proposed framework and how much savings could be made, Members also requested the Secretariat of the Legislative Council to study how other countries (including the United States and the United Kingdom) deal with food safety and environmental hygiene matters, and what arrangements overseas cities have in relation to the issue of food licence for the reference of Members when they consider the new framework.

Moreover, the Panel was also very much concerned whether the objectives of the Enhanced Productivity Programme would put extra burden on Hospital Authority (HA) front-line staff who already had a very heavy workload. The Panel discussed the above matter at four meetings. The HA explained that it would concentrate on the management structure, support service and energy saving, and explore ways to make savings on expenses whilst raising productivity. In addition to reallocating resources from services the demand of which is decreasing, the HA would also review the clinical service to improve the mode of operation and to increase the number of cases treated. The HA would submit progress reports to the Panel for further discussion.

Madam President, I so submit.

**ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. Question time normally does not exceed one and a half hours, with each question being allocated about 12 to 15 minutes. I would like to remind Members again that when asking supplementaries, Members should be as concise as possible, do not ask more than one question and should not make statements.

After a Member has asked his or her main question, other Members who wish to ask supplementary questions to this question please indicate their wish by pressing the "Request-to-Speak" buttons in front of their seats.

If a Member wishes to follow up and seek elucidation on an answer, or raise a point of order, please stand up to so indicate after the public officer has given his or her reply and I will ask him or her to speak.

First question.

**Level of Dioxin in Living Environment**

1. **DR LEONG CHE-HUNG** (in Cantonese): *Madam President, will the Administration inform this Council:*

- (a) *whether routine tests are conducted on the level of dioxin in our food, air and other matters that affect our health; if so, of the average levels of dioxin in food, air and those other matters in each of the past three years, and how these levels compare with the relevant international safety standards; and*
- (b) *of the measures it has taken and will take to reduce the level of dioxin in our living environment?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in

Cantonese): Madam President, dioxins are a group of chemicals that are generated in trace quantities as by-products from various combustion and chemical processes. These include incineration of chlorinated organic substances, among which one common type of plastic, polyvinyl chloride (PVC) is most well-known. Other processes that can produce dioxins are pesticide manufacturing and pulp and paper bleaching. These chemicals are dispersed into the environment as fine dust particles. Dioxins do not dissolve in water, but are fat-soluble, and tend to accumulate up the food chain. Humans are primarily exposed to dioxins through consumption of food products with high fat content, such as meat, fish and dairy products, or through inhalation, rather than from drinking water. Against this background, my answers to the questions are as follows.

- (a) There is no international consensus on the acceptable levels of dioxins in individual food items. However, the Department of Health and the Government Laboratory have been working together to introduce a regular surveillance programme for dioxins in food. As soon as the testing of the samples of foods from certain European countries is completed, this regular monitoring programme will be introduced as planned. As no regular tests on dioxins in food have been carried out in the past, there are no records for reference.

The Environmental Protection Department (EPD) measures dioxin concentrations in ambient air on a monthly basis. Concentrations are measured in picogrammes<sup>(1)</sup> of Toxic Equivalent Units per cu m of air. Measurements began in July 1997. Since then, average concentrations have been as follows:

1997	0.135	Picogrammes per cu m <sup>(2)</sup>
1998	0.097	Picogrammes per cu m <sup>(3)</sup>
1999	0.236	Picogrammes per cu m <sup>(4)</sup>

<sup>(1)</sup> A picogramme is one millionth of one millionth part of one gramme.

<sup>(2)</sup> Average of measurements from July to December.

<sup>(3)</sup> Average of measurements for the full year.

<sup>(4)</sup> Average of measurements from January to May.

This unit reflects the toxicity level. There are no agreed international standards for the level of dioxins in ambient air. Japan and the California Air Resources Board have adopted standards of 0.8 picogrammes per cu m and 3.5 picogrammes per cu m respectively.

The level of dioxins in the ambient air depends on the number of individual sources of dioxins, and how much they are emitting. As well as measuring ambient levels, the EPD also monitors the dioxin emissions from potential emitters in Hong Kong on a monthly basis. We have no pesticide or paper bleaching plants here. The Chemical Waste Treatment Centre (CWTC) on Tsing Yi Island is the only major potential source presently in Hong Kong. The average level of emissions from the chimney stack of this plant over the past three years has been around 0.03 nanogrammes<sup>(5)</sup> of Toxic Equivalent Units per cu m of air. Again, there is no internationally agreed standard for dioxin emissions from point sources to compare this against. Japan has a standard of 0.5 nanogrammes per cu m. The United States has a standard of 0.16 nanogrammes per cu m. Several European countries, including Germany and Sweden, have a standard of 0.1 nanogrammes. This is the standard that the EPD has adopted for regulation of emission sources in Hong Kong. As I have noted, present emissions average only 30% of this limit.

The Water Supplies Department (WSD) monitors the quality of treated water to ensure that it conforms to the World Health Organization (WHO) Guidelines for Drinking Water. These guidelines include concentration levels for various probable carcinogenic substances. This should ensure the safety of drinking water and safeguard against any significant risk to public health. At present, dioxins are not specified in the WHO Guidelines and are not regularly monitored by the WSD. They are insoluble in water, and, if introduced into water, will separate out as sediments. All water brought into Hong Kong for drinking goes through a treatment process that includes sedimentation to remove solids and impurities. The WSD is working with the Government Laboratory on the feasibility of analysing dioxin in fresh water supply. It will

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<sup>(5)</sup> A nanogramme is one thousandth of one millionth part of one gramme.

continue to keep closely in touch with international developments on this issue, and to ensure the efficiency of its treatment system.

(b) The only effective way to reduce dioxins passing into the food chain is to reduce the level of dioxins emitted into the environment. To that end, within Hong Kong, the Administration has already taken and will take the following measures:

- All the major municipal waste incinerators that could not burn waste at a temperature high enough to break down dioxins were closed down by 1997.
- As a stop gap measure, starting from January 1999 the Hospital Authority (HA) has delivered all hospital waste that contain chlorinated organic chemicals to landfills, rather than burning them at the hospital incinerators. In addition, the HA has already reduced the number of hospital incinerators that are used from 13 to 3.
- We also plan to improve facilities at the CWTC so that eventually it would be able to burn clinical waste.
- The EPD is working with the Government Laboratory to establish whether a system to monitor dioxins at the Southeast New Territories Landfill is feasible. This is the landfill that would be used for the disposal of dioxin contaminated products should they be found in future.

In addition to these measures, the four remaining small scale incinerators operated in remote areas by the Regional Services Department will be closed down as quickly as alternative waste handling arrangements for these places can be devised. The EPD will continue to keep careful watch over any standards that may be developed for the control of dioxins, and of the best available technologies and practices to reduce such emissions. Our policy is to ensure that the best practical measures to reduce local emissions to the lowest possible level are taken.

**DR LEONG CHE-HUNG:** *Madam President, as reported and as is confirmed in the first part of the Secretary's answer, incomplete incineration of PVC is a major source of Dioxin contamination. PVC is commonly used for a lot of household and daily used products such as plastic ware, plastic pipes, toys and so on. Yet the suggested procedure to reduce Dioxin in the second part of the Secretary's answer seemed to focus only on disposal of chemical waste. Could the Administration inform this Council whether it has any plans to control the use of PVC such as the banning of PVC water pipes, water containers and so on, which are implemented in other countries.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** For the actual use of PVC or materials which are linked with that type of substance, the use itself does not produce Dioxin. It is the burning of those substances within a certain temperature range that leads to the production of this type of chemical. It is therefore, not necessary in our view at this point to ban the use of the material or any PVC-related material. What is needed is a way to treat the rubbish which are left behind upon the burning of PVC material, and at the moment, we deal with it by putting them into landfills, and there no Dioxin is released.

**MISS CHRISTINE LOH:** *Madam President, I am interested to know that since the Government has obviously carried out some tests, whether those tests have been carried out particularly in food and whether that information has even been publicly released, and if not, why not?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President, would you mind if I ask my colleague to assist?

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, the Department of Health and the Government Laboratory are planning on introducing a regular surveillance programme on food. But owing to other work on hand recently, this programme has not yet started but I believe that it will commence soon. In respect of food, we have not conducted this kind of tests before but we will do so in future.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, in the main reply, the Administration indicated that dioxin is not soluble in water, but it can dissolve in fat and coagulate into sediments. As it stands at an insignificant proportion in the ambient air, in 1999, its average concentration is about 0.236 picogrammes per cu m, the volume of impurities of dissolved sediments must certainly be very small. Does the Administration know whether such minute impurities will be totally removed through sedimentation in the filter process?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, as far as raw water is concerned, such substances generally settle in the river bed. In the process of pumping water to supply to users, the inlets of the pipes are usually a distance away from the river bed and therefore there is little chance that these sediments would be carried by the water into the water mains. Even if these substances are carried into the raw water mains, as the water will pass through the sediment tank in the filter process, they will not be allowed to settle down just by natural process; instead, many chemicals will be added to the water to solidify all substances that can be settled down and they are then filtered away. Therefore, there is little, if not none, chance that our drinking water will be contaminated by dioxin.

**MR LAW CHI-KWONG** (in Cantonese): *Madam President, it has been reported that villagers in the New Territories still use old-fashioned incinerators to burn waste, including plastic bags and polyurethane foam, and produce large quantities of dioxin in the process. May I ask the Government of the measures, if any, taken to dissuade villagers from burning this kind of rubbish or to improve the situation so as to prevent the emission of this toxic chemical into the air?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, it is done through publicity and through the colleagues of the EPD who would explain to the village representatives and villagers, telling them that in disposing of rubbish by means of incineration, some substances can be burned while others should not be put to the fire. Colleagues of the EPD do participate in explaining to villagers and also in the publicity work.

**MR HOWARD YOUNG:** *Madam President, the Secretary replied that there is no agreed international standard for the measurement of Dioxin, but he has also listed out figures for 1997 to 1999. I realized that the figure for 1999 is about 2.5 times that of 1998. I would like to know whether this should be cause for alarm or is it just a one-off figure of no particular significance?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President, actually first of all, the figures are way way below the standards that are adopted by, for example, Japan or California. Secondly, these are seasonal fluctuations and there is actually no trend to explain why there was a drop in one year and then for the first part of this year we had an increase, but suffice it to say that we watch this carefully, and we believe that we have taken all measures within Hong Kong itself to reduce the production of Dioxin through burning and there is no cause for alarm whatsoever.

**MR LEE WING-TAT** (in Cantonese): *Madam President, it has been mentioned in the main reply that the EPD is relatively confident that the CWTC on Tsing Yi Island is the only major potential source of dioxin. Although its dioxin emission is yet to reach a dangerous level, it has reached an obvious level, which is about 30% of the dangerous level. May I ask whether a detailed analysis has been conducted to find out why such a large quantity of dioxins is emitted there? It is mentioned in the last paragraph of the main reply the plan to improve the facilities at the CWTC. May I ask when and what these improvements are?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, Hong Kong has stopped treating waste by incineration. The only probable source of dioxin emission in the air is the CWTC which disposes of some chemical waste by incineration. Hence, we have established a mechanism to measure the volume of dioxins emitted there. As Mr LEE has said, the figures that are recorded at the Centre only average 30% of the international standard, so the operation there is perfectly safe. We plan to improve the facilities in the hope that the CWTC will eventually be able

to burn medical waste as well. We are calculating the costs of the improvement works and we will officially request for funding to carry out the project in due course. The works are expected to be completed in two years. This will not be a large scale project other than to add new facilities to the CWTC to change the mode of operation there.

**PRESIDENT** (in Cantonese): Although many Members are still waiting to ask questions, as we have spent more than 18 minutes on this question, we have to proceed to the second question.

### **LDC Redevelopment Projects**

2. **DR YEUNG SUM** (in Cantonese): *Madam President, regarding the urban renewal projects undertaken by the Land Development Corporation (LDC), will the Government inform this Council whether:*

- (a) the economic downturn has affected the desire of private developers to participate in the LDC redevelopment projects, hence slackening the progress of such projects; if so, how it will address the problem;*
- (b) it has assessed if the LDC, by collaborating with those real estate developers who owned a large amount of properties in Nga Tsin Wai Village instead of going through a tendering exercise to select developers for the Redevelopment Project, has violated the principle of fair competition; whether such practice will encourage real estate developers to acquire in advance properties in areas scheduled for redevelopment; and whether it has monitored the acquisition and tendering process of the LDC's redevelopment projects; and*
- (c) it will consider injecting capital into the LDC or financing its individual redevelopment projects, so as to really achieve the target of improving the living environment of redevelopment areas?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President,

- (a) In December 1998, the LDC invited expressions of interest for eight of its redevelopment projects. As a result of this exercise, the LDC has successfully secured joint venture partners for four projects. The terms and conditions proposed by private developers for the other four projects were unacceptable to the LDC. The depressed market sentiments prevailing at the time might have contributed to this. However, the high cost of site assembly of the LDC, the long land acquisition process required under the Land Development Corporation Ordinance as it stands and the limited gains in plot ratio upon redevelopment in the four unsuccessful projects are also contributing factors. The Government has recognized that these negative factors may well affect our urban renewal programme, and is therefore reviewing whether it will still be viable to undertake all future urban renewal projects on a self-financing basis. We are finalizing proposals on the establishment of a statutory Urban Renewal Authority (URA) to replace the LDC. We are considering streamlining and expediting the land acquisition process and redeveloping under-utilized industrial areas. The new approach will be to undertake urban renewal in a more holistic and comprehensive manner and on a larger scale. We plan to consult the public on our legislative proposals later this year, with a view to setting up the URA in 2000.
- (b) The Nga Tsin Wai Village project is the second project to be implemented by the LDC under the "Owners' Participation Proposal" scheme. Under this scheme, the LDC invites all property owners in the project area to participate in the project either as cost-sharing or non-cost sharing participants. Irrespective of whether they own a single lot or have a larger holding, all owners are offered an equal opportunity to participate in the project. In the case of the Nga Tsin Wai Village project, a private developer already started acquiring interests in the project area in the early 1980s. The developer's architect also made an application to the Government for redevelopment of the Village in 1983. By the time the LDC announced the project for redevelopment in 1991, the developer had already acquired about 38% of the property interests in the Village.

As regards monitoring, the LDC has to seek the approval of the

Secretary for Planning, Environment and Lands (SPEL) before implementing all redevelopment projects, including those to be implemented under the Owner's Participation Proposal scheme. For cases requiring land resumption, the SPEL will only make a recommendation to the Chief Executive in Council if he is satisfied that the LDC has taken all reasonable steps to acquire the land including negotiating for the purchase of properties on terms that are fair and reasonable. The Director of Home Affairs, the Director of Lands and the Director of Planning are *ex officio* members on the LDC Managing Board and they play a monitoring role in the implementation of the LDC's urban renewal programme. As the Land Development Corporation Ordinance allows the LDC to request land resumption for any remaining properties it cannot acquire within a project area, acquisition of properties by individuals or land developers within that area cannot frustrate the redevelopment. It has been the LDC's established practice to publicly announce project plans so as to ensure fairness.

- (c) The Government has provided various forms of assistance to the LDC for the purpose of implementing projects to improve the living environment of the older parts of Hong Kong, Kowloon and Tsuen Wan. Apart from a \$31 million start-up loan provided to the LDC upon its establishment, the Government has provided other resources to assist the LDC in implementing urban renewal projects. Two linked sites at Ka Wai Man Road and Yeung Uk Road will be granted to the LDC in order to cross-subsidize the financially non-viable projects in Kennedy Town and Tsuen Wan. Some two hectares of land will also be granted to the Housing Society at one third of the full market value premium in order to provide flats to rehouse domestic tenants affected by the LDC's redevelopment projects. Any need for further assistance by the LDC will be considered carefully. However, with the Land Development Corporation Ordinance as it stands, the scope for further refinement is limited. This is why the Government has reviewed the policy for and the operation of the LDC with a view to drawing up new proposals for urban renewal, the details of which will be incorporated into the Urban Renewal Authority Bill.

**DR YEUNG SUM** (in Cantonese): *Madam President, I am glad to note that the URA will be established as a result of the Government's awareness of the many problems haunting the LDC running on a self-financing basis. Will the Government inform this Council whether the Housing Authority will assist the URA in resettlement work? In addition to compensation, the issue of resettlement is a major consideration in the process of urban renewal.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): *Madam President, the feasibility of this arrangement is one of the important items of the current review.*

**DR RAYMOND HO** (in Cantonese): *In part (a) of the main reply, the Government indicated the intention of setting up the URA in 2000 and to redevelop under-utilized industrial areas. Will the Secretary inform this Council whether the areas include old industrial areas such as San Po Kong, Wong Tai Sin, Diamond Hill and Kwun Tong?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): *Madam President, we will be conducting a comprehensive review on land zoned for industrial use before in Hong Kong, Kowloon, Tsuen Wan or the more remote areas. It has yet to be decided as to whether such land will be used entirely, partially or in stages under the urban renewal programme. However, the general policy is that as urban renewal plans are executed, we hope to be able to develop such industrial land.*

**MR ALBERT HO** (in Cantonese): *Madam President, in part (b) of the main reply, it was said that three directors are ex officio members of the LDC and there should be sufficient monitoring. But I learned from news reports that the LDC took 10 years to resume a large piece of land next to Argyle Street, straddling seven streets. To date, the redevelopment work has yet to start, leading to a loss of interest to the tune of \$10 million. I do not know what technical problems there are causing the delay. Is this sufficient monitoring? What has the LDC learned from this case so that the future URA may make reference to?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, the delay in this project can be attributed to a number of technical problems such as land resumption and relocation of shops. In a nutshell, delays in this project and other projects previously encountered by the LDC make us feel that the present arrangements, that is the arrangements provided in the Land Development Corporation Ordinance are not without problems. That is why we need a full review. We hope the new law in future will adopt a different approach so that what takes say five years now would take half as long or an even shorter time. This will be what Members will see in the bill we will be submitting later.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I hope to ask the Secretary this question, through you. In part (b) of the main reply, it was said the Nga Tsin Wai Village project would be the second project to be implemented by the LDC under the "Owners' Participation Proposal" scheme. Nga Tsin Wai Village is one of the 13 old villages in the urban area in Hong Kong, with a history of several hundred years. In the Government's present thinking, the plan may go ahead when the LDC and owners of title to the land reach an agreement. However, has the Government given an overall consideration to rehousing of residents there and to the redevelopment of a village with such a long history?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, regarding the rehousing of residents, we will follow the usual practice adopted by the LDC as it conducts redevelopment: compensation in the form of flats, or residents or owners not wanting to join the proposal but demanding compensation alone — all will be treated in the usual way.

As regards retaining the characteristics or facilities of the Village, the LDC will seek advice from experts in the preservation of antiquities, and work with them so as to preserve any monuments that are worthy of preservation in the process of redevelopment.

**MR JAMES TO** (in Cantonese): *Madam President, in part (a) of the main reply*

*and in answering a supplementary question earlier, the Secretary said land requisition was a lengthy process. Will the Secretary inform this Council whether he is aware of the fact that not only is the process adopted by the LDC lengthy, an LDC application made, by invoking the Lands Resumption Ordinance, to the Chief Executive in Council for land resumption is also a cause of delay to many projects? For example, the Wan Chai Road project suffered a delay of 21 months, and the delay of the Kennedy Town project, a whole year. The interest cost involved in these projects amounts to millions of dollars. Are public officers aware that extended delays may mean huge monetary losses? Will the Government make improvements to the respective procedures in this respect?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, the Government is fully aware of the various problems with the present procedures. We encounter not only time problems, but also problems with the interest of the entire investment and other operational issues. Our difficulties lie in the close scrutiny required, often through the series of paper chase, before land is resumed under the present law, as the Government must abide by the law as it acquires land, before ownership is transferred. Sometimes, the Secretary for Planning, Environment and Lands has to employ experts to verify the interest distribution between owners and the LDC. Thus, the time needed to resume land is extended. Hence, we are considering less time-consuming alternatives that are fair to owners and other parties. I hope in the bill we will be submitting in future, Members may see the solution that we propose.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary indicated the LDC is ready for four projects. Will the Secretary inform this Council what these four projects are? Residents living in old areas very much hope the renewal process is quickened, but are the four projects what we have before the establishment of the URA which will then proceed to decide what projects to work on after 2000? In other words, from now till 2000 before the URA is established, are there just four projects? What are they?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, in fact there are totally 19 projects being undertaken by the LDC. The four projects mentioned are those at Cherry Street, Tai Kok Tsui; Wing Lee Street/Staunton Street; Lee Tung Street/McGregor Street and Johnston Road, Wan Chai. As I mentioned earlier, there are four projects without any tenderers but they may be reconsidered in

future. Other than the four projects fail to secure any joint venture partners, a dozen projects are under consideration by the LDC. So, first, a number of projects are underway. Second, there are still some waiting to be proceeded with and will be proceeded with as and when the time is ripe.

**PRESIDENT** (in Cantonese): We have spent more than 16 minutes on this question. We must proceed to the next question. Mr TO, a point of order?

**MR JAMES TO** (in Cantonese): *I need to declare an interest. I am a member of the LDC Management Board.*

**PRESIDENT** (in Cantonese): Very well, thank you. Third question.

### **Aircraft Noise**

3. **MR LEE CHEUK-YAN** (in Cantonese): *Madam President, it is learnt that the residents of Sha Tin, Kwai Chung, Tsuen Wan, Tsing Yi and Sham Tseng have been disturbed by aircraft noise since the opening of the second runway of the airport. According to the findings of a survey on noise levels, the highest aircraft noise level recorded at Royal Ascot in Sha Tin was 82.6 decibels, while an aircraft noise level of 80.9 decibels was recorded at Hong Kong Garden in Sham Tseng. In this connection, will the Government inform this Council of:*

- (a) *the respective highest aircraft noise levels recorded by the Environmental Protection Department (EPD) in the above five districts during the past month;*
- (b) *the total number of complaints about aircraft noise received by the EPD from residents of the five districts since the opening of the second runway; and*
- (c) *the latest progress of the discussions between the Civil Aviation Department (CAD) and the various airlines on the improvement*

*measures to mitigate aircraft noise?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, my replies to the three parts of the question are as follows:

- (a) The EPD and the CAD have been monitoring aircraft noise levels in various districts in Hong Kong. In the past month, the highest levels recorded in Sha Tin, Kwai Chung, Tsuen Wan, Tsing Yi and Sham Tseng are set out below:

Sha Tin	66.9 decibels
Kwai Chung	68.6 decibels
Tsuen Wan	76.3 decibels
Tsing Yi	74.8 decibels
Sham Tseng (including Tsing Lung Tau)	78.2 decibels

I would like to point out that the number of aircraft recorded with the highest noise levels merely accounts for a very small portion of the total number of overflying aircraft. In fact, for the three districts with relatively higher noise levels, the aircraft noise levels recorded in Tsing Yi are mostly below 65 decibels, and those in Tsuen Wan and Sham Tseng are mostly below 70 decibels. In addition, according to the Hong Kong Planning Standards and Guidelines, the noise impact caused by aircraft operations is assessed on the basis of the Noise Exposure Forecast (NEF) contour. The NEF contour is an internationally accepted assessment method. Besides the decibel levels of aircraft noise, this indicator takes into account other data such as the tonal characteristics of the noise as well as the duration and frequency of overflying flights at different times of the day. The standard currently adopted by Hong Kong is the NEF 25 contour, which is more stringent than the standard adopted by airports in many other places. According to the information collected by the CAD, all the five districts mentioned above are outside the NEF 25 contour and therefore the aircraft noise levels there do not exceed the relevant standard.

- (b) Since the partial opening of the second runway on 26 May 1999 up to 4 July 1999, the CAD, EPD and the Airport Authority (AA) have

received a total of 282 complaints against aircraft noise from the five districts mentioned above.

- (c) Subject to the condition that flight safety and air traffic operation will not be affected, the CAD has been implementing the following two aircraft noise mitigation measures since last October:
- (i) aircraft arriving between midnight and 7 am will be arranged to land from the southwest, subject to acceptable wind direction and speed. This measure aims to reduce the number of aircraft overflying districts like Sha Tin, Kwai Chung, Tsuen Wan, Tsing Yi and Sham Tseng during night time; and
  - (ii) aircraft taking off towards the northeast between 11 pm and 7 am will be arranged to use the southbound route via the West Lamma Channel as far as possible, in order to avoid overflying the populated areas in Kowloon and Hong Kong Island.

Since implementation, an average of nearly 90% of the aircraft taking off/landing during the periods concerned have adopted the above measures. This has effectively reduced the number of aircraft overflying residential areas at night. The CAD has also been discussing with airlines take-off procedures for reducing aircraft noise. The plan is to require aircraft taking off towards the northeast to maintain a specified speed and power level during the initial phase of the take-off so as to reach a high altitude within a shorter distance and minimize the aircraft noise impact as far as possible. It is now at the final stage of examination and is expected to be implemented with effect from August this year. In addition, the CAD will continue to explore the feasibility of other measures, including restricting the use of the airport by certain relatively noisy aircraft during night time and minimizing the use of the second runway during night time in future when traffic volume is small.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, in part (a) of the*

*main reply, the Secretary provided many average figures. I do not like these average figures because the fact remains that there is aircraft noise after all. In part (c) of the main reply, the Secretary mentioned some noise mitigation measures. May I ask whether more active measures will be taken? The adjustment of flight paths has to depend on wind direction and speed. Are there other noise mitigation measures? The second runway will operate round the clock starting from next month. I hope that the noise would not cause sleeplessness among the residents. Can the Secretary provide any good solutions so that residents can have a good night's sleep?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Thank you, Mr LEE. The Government of course understands perfectly how the residents feel. Actually, the CAD has adopted measures as far as possible. We feel that we should do whatever can be done. Even if it is a small measure, we should implement it if it is feasible. As Mr LEE said just now, wind speed and direction are in fact very important factors, since flight safety is a major concern. We must remember that geographically, Hong Kong is hilly with little flat land. The airspace is relatively narrow. In addition, there are other airports near Hong Kong, such as in Shenzhen and Macau. Therefore, there is not much we can do.

I would like to reiterate that the CAD will actively consider and implement each and every feasible measure. Indeed, the most effective method is to arrange for aircraft to fly in/from the southwest during night time as far as possible, since that is where the sea is and overflying there will definitely not affect residential areas. Besides, because it is the sea, overflying there during night time will minimize the impact on residents. In Hong Kong, the winds are mostly easterly or north-easterly in winter. Therefore, hopefully this measure can be adopted most of the time. Actually, the CAD is implementing this as far as possible between 11 pm and 7 am. However, it still has to depend on the wind direction and speed. As I said, over 90% of flights taking off or landing during that period have adopted this measure. The Government will continue to study how to improve the situation.

The Government is also examining the take-off procedures for reducing noise mitigation and hopes to implement them next month. This will reduce the noise along Castle Peak Road. Although it is only of little help, we will adopt the measure.

The CAD is also actively exploring how to ban relatively noisy aircraft from using the airport during night time. Although the International Civil Aviation Organization will only ban all aircraft except those complying with Chapter 3 standards of noise from using airports during night time from 2002 (aircraft that comply with Chapter 3 standards of noise are the quietest aircraft), the CAD hopes that it will not have to wait until 2002. Instead, it hopes to allow only the quietest wide-bodied aircraft to use the airport during night time as soon as possible. At present, the CAD is discussing this matter with the airlines. However, this involves aircraft in Hong Kong and other regions. If other regions allow these kinds of aircraft to use their airports, while Hong Kong bans them from entering ours, we will need some time to make preparations.

Lastly, the CAD is exploring the possibility of minimizing the use of the second runway during late night and early morning when traffic volume is small. Of course, this has both pros and cons, that is, it will affect the residents under the impact of the first runway. Therefore, we have to deal with it very carefully in order to balance the interests of the different districts. The CAD will consult the relevant district boards and discuss with them to find the best solution to everyone. I can guarantee that the CAD will continue to adopt any feasible measures.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, a few hundred complaints in a month or so are quite many. The Government has adopted some noise mitigation measures during night time. May I ask what landing measures there are in addition to the take-off procedures? While Tsing Lung Tau is affected by the take-off of aircraft, the impact of landing is greater on Sha Tin. I fail to see any concrete measures on the part of the Government to reduce the noise caused by the landing of aircraft. Has the Secretary considered these questions?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, I thank Mr LAU for his supplementary question. As I said just now, circumstances permitting, aircraft will land from the southwest as far as possible. Since the aircraft will approach from the sea, the impact should be quite small.

However, this will of course not be possible if the wind speed and direction do not allow. Some residents have suggested that aircraft should approach from the northeast. By maintaining high speed and reducing the use of ailerons, the noise caused by the friction between the body of the aircraft and the air will be reduced. Experts of the CAD have considered many such suggestions. However, the most important thing is that the present landing procedures require all aircraft to maintain a pre-determined airspeed during the last stage of the approach to the airport, to ensure that a proper distance will be maintained between aircraft approaching. This procedure helps air traffic controllers to provide the most efficient air traffic control and ensure flight safety. There would be great difficulty in terms of operation if aircraft were to maintain high speed during the landing stage. As I said just now in answering Mr LEE's supplementary question, I guarantee that the CAD will examine any feasible measures. We will first implement the five or six measures mentioned just now before considering what else we can do.

**MR ANDREW CHENG** (in Cantonese): *Madam President, in terms of the measurement of aircraft noise, it seems to us that there are always different versions. For instance, Mr LEE Cheuk-yan said that a noise level of 82.6 decibels was recorded at Royal Ascot in Sha Tin, while the Government said in its answer that the highest noise level recorded at Sha Tin was 66.9 decibels. We know that the type of aircraft, its climbing, landing and the passengers or cargo that it carries all have a bearing on the noise that it causes. May I ask the Secretary, first, why there is such a discrepancy and second, whether a standard assessment method can be agreed with the district boards or private organizations in order to obtain an objective standard for measuring noise? Otherwise, they will only give different versions. While the residents say the noise level exceeds 80 decibels, the Government will never say that it exceeds 80 decibels. This is a great problem.*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Thank you, Mr CHENG. First, Mr CHENG is very welcome to measure the aircraft noise together with CAD staff. Certain standards are of course applied in measuring aircraft noise levels. It must also be done at a suitable place. Most

importantly, the results of measurement must not be affected by other sources of noise. The CAD uses highly sophisticated instruments to make the measurements. They will be calibrated before being used to measure noise levels to avoid interference by other activities. I can tell Mr CHENG that the measurement of aircraft noise by the CAD has indeed a very high degree of transparency. I believe Members are aware that there are 12 measuring locations. In the past, the CAD made measurements together with local district board members and representatives of residents and the results were confirmed by them. If Mr CHENG and other Members are interested, they are welcome to measure aircraft noise together with the CAD staff any time.

**DR LUI MING-WAH** (in Cantonese): *Madam President, may I ask whether there is any difference between the decibel readings now supplied by the Government and the forecast when the flight paths were planned? If so, what is the difference?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Thank you, Dr LUI. Actually, the decibel readings now recorded tally with the two assessments made before. In 1992, we made a detailed assessment in accordance with international standards and reported to the Advisory Council on the Environment and the Airport Consultative Committee. In 1998, we compiled a revised assessment report. These two reports made forecasts on the present noise situation. The results of the measurements we now make tally with the forecasts, that is, they are outside the so-called NEF 25 contour.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MISS EMILY LAU** (in Cantonese): *Madam President, may I ask the Secretary how the Administration will deal with the over 200 complaints? Will it make measurement in every case to see if the standard is exceeded? Has the situation been improved already?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Thank you, Miss LAU. Actually, in my answer to Mr CHENG's question, I already said we have 12 measurement points in the five districts because some measurements are not very accurate. District board members or local residents are very welcome to participate in the measurements. We have been following up those complaints to see if the noise levels are really so high. I think the most important thing is to have an objective standard for measurement. We also have a high degree of transparency and the CAD is not making those measurements behind close doors. As I said just now, Miss LAU and Mr CHENG are of course very welcome to participate in the measurements to prove that the noise levels are really outside the NEF 25 contour. Of course, we understand how the residents feel. In answering Mr LEE's question just now, I already said that we have a series of follow-up measures which we hope would be helpful to residents as far as possible.

**MISS EMILY LAU** (in Cantonese): *Madam President, the Secretary has not answered my question. I just want to know if the Government is dealing with these over 200 complaints, that is, whether residents are no longer bothered by noise.*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): I think the question is what an acceptable level is. If residents complain, they are of course dissatisfied with the level and bothered by the noise. However, as I said just now, we have unfortunately very few options. If we have an airport and if there are overflying aircraft, there would inevitably be a certain level of noise in view of the geographical position of Hong Kong. On receipt of complaints, we will measure the noise to find out how high the noise level is, before considering what the Government can do to improve the situation. Actually, I have answered Miss LAU's question. On receipt of complaints, the CAD will consider how to follow up the cases. It will explain the situation to local groups and the respective district boards and measure the noise together with district board members. Actually, we have done what we can. We have done what is within our power, since in the last analysis, it has to depend on the wind direction and speed and the geographical situation. There are some things we cannot change. I guarantee that we will do whatever is feasible.

**PRESIDENT** (in Cantonese): We have spent more than 19 minutes on this question. We will proceed to the fourth question.

### **Exercise of Powers Conferred by the Building Management Ordinance**

4. **MR ALBERT HO** (in Cantonese): *Madam President, section 3A of the Building Management Ordinance (Cap. 344) provides that the Authority, that is, the Secretary for Home Affairs, may, upon application by the owners of not less than 30% of the shares, order that a meeting of owners shall be convened by such owner as the Authority may designate as the convenor, for appointing a management committee. Also, section 4 provides that the Lands Tribunal may, upon application by the owners of not less than 20% of the shares, or by the Authority or a public officer authorized by the Authority, order that a meeting of owners shall be convened by such owner as the Tribunal may direct, for appointing a management committee. In this connection, will the Government inform this Council of:*

- (a) *the number of applications lodged under section 3A received by the Authority; the number of times the Authority has exercised such power; and the circumstances under which the Authority would exercise such power; and*
- (b) *the number of applications lodged under section 4 the Tribunal has received; among them, the number of cases in which the relevant orders were granted by the Tribunal; and whether it knows the criteria adopted by the Tribunal in deciding whether to approve the applications since the enactment of the sections in 1993?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I would like to thank the Honourable Albert HO for raising this question. My reply is as follows:

- (a) Since the implementation of section 3A of the Building Management Ordinance in 1993, a total of eight applications have been received by the Authority. After considering the specific circumstances of the cases, the Authority approved all of these applications, ordering that a meeting of owners be convened to appoint a management committee and to establish an owners' corporation. Up to now, owners' corporations have been successfully established in seven of these cases; for the remaining case, since the owners of not less than 30% of the shares raised objection under section 3A(5) of the Ordinance, the order of the Authority was rendered ineffective.

Regarding the circumstances under which the Authority will exercise such power, as provided by the above Ordinance, an application must be lodged with the Authority by the owners of not less than 30% of the shares of the building concerned.

Under normal circumstances, we would encourage the owners to firstly invoke section 3 of the Ordinance for a meeting of the owners to be convened by one of the following three parties:

- (1) if there is a deed of mutual covenant (the DMC), the person managing the building in accordance with the DMC; or
- (2) if there is a DMC, any other person authorized to convene such a meeting by the DMC; or
- (3) the owners of not less than 5% of the shares.

At the meeting, a management committee may be appointed by a resolution of the owners of not less than 50% of the shares. If the owners are unable to form an owners' corporation because they cannot gather the shares required while the owners of not less than 30% of the shares apply to the Authority for an order under section 3A, the Authority will usually consider the case positively and give approval to the application.

- (b) Concerning the applications to the Lands Tribunal, the Judiciary Administrator advised that a total of six applications lodged under section 4 of the Building Management Ordinance have been

received by the Lands Tribunal since 1993 and orders were made in two of these cases, while three applications were either withdrawn or discontinued by the applicants and the remaining case was dismissed by the Lands Tribunal. When owners of not less than 20% of the shares of a building lodged an application, decision on whether to approve such application is made by the Lands Tribunal under section 4 of the Building Management Ordinance after the Presiding Officer has carefully considered the circumstances of the application.

**MR ALBERT HO** (in Cantonese): *Madam President, I would like to ask the Secretary whether the owners have to firstly comply with section 3 for a meeting of the owners to be convened by the owners of not less than 5% of the shares and then to have a resolution passed by the owners of not less than 50% of the shares before they can invoke section 3A to seek the Authority's approval for a meeting of the owners; is it true that these procedures must be complied with? If not, under what circumstances would the Authority consider allowing the exercise of section 3A powers without first compliance with section 3?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): In accordance with the mechanism provided in section 3 of the Ordinance, a meeting can be convened by the owners in three manners. So, we are of the view that they should apply to the Authority under section 3A only when they have gone through these three procedures and still failed to establish an owners' corporation. It will be fairer to other owners if they do so.

**MR ALBERT HO** (in Cantonese): *The Secretary has not answered my supplementary clearly. Does the Secretary mean that if the owners have not followed the procedures laid down in section 3, they cannot consider invoking section 3A?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, the procedures are not mandatory, but we will encourage the owners to observe them. Under normal circumstances, the owners will usually try to invoke

section 3 in the first place. They will apply for an order if it is proved to be impracticable. Although such an arrangement is not mandatory, it is normally accepted.

**MR HO SAI-CHU** (in Cantonese): *Madam President, I would like to ask a supplementary question concerning part (a) of the main reply. The Authority will usually encourage the owners to convene a meeting under section 3. Is it true that many owners have successfully convened a meeting under section 3? Otherwise, why is that the number of remaining cases which need to lodge applications with the Authority is so few? In other words, is it sufficient to invoke section 3 in normal circumstances?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): The owners can normally achieve their purpose by invoking section 3. For instance, an average of 200 owners' corporations are established under section 3 every year. In our experience, most of the owners can successfully invoke the provisions of section 3. In some individual cases, however, they may have to resort to the mechanism provided by the Home Affairs Bureau or even the Lands Tribunal. Nevertheless, the fact that a total of 10-plus applications in the past three years illustrates that the application of section 3 is relatively effective.

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, in the main reply, the Secretary did not state clearly what factors would be considered by the Government in deciding whether section 3A or section 4 should be invoked in respect of circumstances where 50% of the shares are required in section 3, 30% of the shares are required in section 3A and 20% of the shares are required in section 4. For instance, it may be more difficult for a large housing estate with many households to invoke section 3. Is it true that only under such circumstances or due to other special reasons would the Government invoke section 3A at its discretion?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Of course, the initiative of deciding which sections of the Ordinance should be invoked lies in

the hands of the owners. Of course, we hope that the owners could take the initiative in invoking section 3 in order to convene a meeting. If they fail to do so, they may apply to us under section 3A. Of course, they can also apply to the Lands Tribunal if they do not directly lodge an application with us. It is up to the owners to decide.

**MR AMBROSE CHEUNG** (in Cantonese): *The Secretary has not answered what specific factors will be taken into account when the Authority considers an application. The Secretary only said that when the owners were unable to invoke section 3, they might invoke section 3A, section 2 or section 4. But what other specific factors would be considered by the Authority in deciding whether or not an application should be approved?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I have already mentioned the factors to be considered. As regards cases under the consideration of the Home Affairs Bureau, applications by owners who cannot successfully invoke section 3 will, under normal circumstances, be approved provided that the consent of owners of 30% or more of the shares have been obtained. For instance, all the eight applications received in the past were approved. In these eight cases, large as well as small housing estates were involved. Among them, there are five cases concerning housing estates with the number of flats ranging from 1 400 to 4 000, while the remaining three are housing estates with the number of flats ranging from 20-plus to 100-plus only. So, there is no specific pattern.

**MR ANDREW CHENG** (in Cantonese): *Madam President, I would like to ask a follow-up concerning Mr Ambrose CHEUNG's supplementary. Part (b) of the main question is concerned with the criteria adopted by the Lands Tribunal in deciding whether to approve the applications. The Secretary simply said in the last two lines of the main answer that "after the Presiding Officer has carefully considered the circumstances of the application". Before that, the Secretary mentioned a dismissal under section 4. It is the spirit of the legislation and the wishes of the Authority to help people and the owners to form owners' corporations. If certain criteria will be considered by the Tribunal, I*

*believe the owners would like to know what they are. Otherwise, it is a waste of efforts to lodge an application. So, I would like the Secretary to clarify on what criteria the application concerned was dismissed by the Tribunal. This is what we want to know. Since the application was dismissed even though the consent of owners of not less than 20% of the shares had been obtained, what are the reasons for the dismissal? I believe it is necessary for the Authority to explain it to the owners or the general public so that they would know how to apply for the establishment of an owners' corporation.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, the Lands Tribunal is under the Judiciary and the answer for this question is also prepared on the basis of information provided by the Judiciary. According to its information, no written judgment for the dismissed case has been issued and, as a result, no written record can be provided. Neither do we know the details of the circumstances under which the Presiding Officer decided to dismiss the application. In this respect, we can neither interfere with the administration of the Judiciary nor its judgment. We are, therefore, not in a position to provide further information.

**MR ALBERT HO** (in Cantonese): *Madam President, the Secretary today seems to be unable to state the policy or the criteria as a guideline for the officials of the relevant bureau in exercising such powers. Is the Secretary willing to lay down a set of criteria for the reference of the owners? These criteria may include many factors. For instance, there are situations where the number of flats involved in a housing estate is too large; the principal landlord is holding a large number of shares; or many flats in a housing estate have been rented out and it is difficult to contact the owners of these flats. As a result, the owners concerned are unable to establish an owners' corporation despite numerous attempts. Can the Government lay down certain criteria for the public so that they can consider applying the mechanism provided in section 3A under such circumstances?*

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

fact I have already made it clear that the criteria are very simple. When the owners have failed to establish an owners' corporation by invoking section 3, they can lodge an application with us. We will normally grant an approval without the need of seeing that they have complied with any complicated procedures or other factors.

**PRESIDENT** (in Cantonese): Next question.

### **Native English-speaking Teachers Taking up Part-time Jobs**

5. **MR KENNETH TING** (in Cantonese): *Madam President, it was reported that an expatriate English language teacher employed under the "Native English-speaking Teachers Scheme" (the Scheme) was suspected of breaching the conditions in the employment visa and the service contract by working as a part-time tutor in a private tutorial centre. In this connection, will the Government inform this Council:*

- (a) *whether it has taken any follow-up action on the case; if so, the details of the action; if not, the reasons for that;*
- (b) *whether any investigation has been conducted to find out if the English language teachers employed under the Scheme have taken up any part-time jobs; if so, the findings of the investigation; and*
- (c) *of the measures in place to prevent these teachers from taking up part-time jobs?*

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

- (a) The Education Department (ED) has contacted the school in question. It was understood that the school had looked into the incident and had explained the restrictions on outside employment to the Native English-speaking Teacher (NET). Following discussion with the school authorities, the NET concerned has resigned from the part-time job.
- (b) The ED has no particular plan to investigate into NETs taking

part-time jobs. However, when District Education Offices liaise with schools in their districts and an NET is found to engage in unauthorized outside work, the ED will follow up promptly.

- (c) As with all other persons granted approval by the Director of Immigration to stay in Hong Kong for employment purposes, NETs are not allowed to change employers or to take up part-time jobs without approval from the Director of Immigration, as this would be in breach of section 41 of the Immigration Ordinance. Upon conviction, the maximum penalty is \$50,000 and two years' imprisonment. Employers who have illegally employed such persons will be subject to a maximum fine of \$350,000 and three years' imprisonment. These restrictions are clearly stated in the explanatory notes for visa applications submitted by NETs.

The ED will be briefing incoming NETs on the restrictions on part-time work at the next NET induction course.

**MR KENNETH TING** (in Cantonese): *Madam President, the Secretary said in part (b) of the main reply that the ED has no particular plan to investigate into NETs taking part-time jobs. How many teachers are subject to the restrictions of the Scheme? As the ED will not conduct any investigation into the matter, will a warning be issued to these teachers against any similar breach of the service contract again?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, there are approximately 380 teachers under the Scheme. As I have mentioned in the main reply, firstly, details concerning restrictions on part-time work are listed in the notes to the applicants in the application form for these teachers to apply for the employment visas; secondly, the particular case has been given much coverage by the media; thirdly, I believe the NETs, through a question raised by the Legislative Council, will understand that they are subject to the restrictions on part-time work. Moreover, as I have mentioned in the main reply, the ED will be briefing incoming NETs on the restrictions on part-time work at the next NET induction course. As there is a District Education Office in every district, we will instruct our colleagues in these Offices to drive home the message that these teachers cannot take up part-time work when they liaise with schools in their districts.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, apart from*

*advising these teachers not to take up part-time jobs, has the ED taken any follow-up action, such as instituting prosecution, against the employers who have illegally employed these NETs? If not, why not?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, concerning the employers who have illegally employed these NETs for part-time work, it is outside the purview of the ED. But as far as I know, the Immigration Department is following up on the matter to see whether there is sufficient evidence to institute prosecution against these employers.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary clearly said that the NET concerned did have taken up part-time employment. In fact, the relevant legislation and the penalty mechanism laid down by the Government are clear and lucid. However, when the authority concerned came to know that a teacher had breached the law, it did not take any legal action. How deterrence can be effected against similar conduct? Does it mean that the law exists in name only? When the teacher was found to have breached the law, he could get away simply by resigning from the part-time job, without being subject to any penalty even though he knew that it was illegal. That being the case, how can it act as a deterrent to other people?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in answering Mr YEUNG's supplementary, I made it clear that the Immigration Department is investigating into the matter. On the other hand, the ED has sought information from the school in question and handed over the information received to the Immigration Department to see if further action, including prosecution, is necessary.

**MR HOWARD YOUNG:** *Madam President, I would like to ask whether the Secretary is willing to look at this whole thing, including all the questions asked previously from a different perspective. Since Native English-speaking Teachers, I believe, are in high demand and are brought in for a specific purpose, obviously, there will be opportunities for part-time teaching. Has the Secretary ever considered whether there is a demand and a need to actually approve some of them to legally take up part-time employment under certain conditions?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, in my main reply, I stated very clearly that as these teachers are imported into Hong Kong for a specific purpose, under the Immigration Ordinance, they are not allowed to change employers or take up part-time jobs unless with the specific approval of the Director of Immigration. And in normal circumstances, the Director of Immigration will not approve such applications.

As to the question whether or not, as there may be a demand for these teachers outside the normal work, the Government should consider making it an exception or a deliberate policy to relax this condition so as to enable these teachers to take up outside work or part-time work, I am afraid that this is something which the Government will not consider, because it infringes one of the very basic principles in approving importation of workers into Hong Kong; they are imported for a specific purpose. And on that basis, they should not be allowed to do other work which is not included in the original purpose for which application was approved in the first instance.

**PRESIDENT** (in Cantonese): Mr Howard YOUNG, do you wish to wait for a second turn?

**MR HOWARD YOUNG** (in Cantonese): *Yes.*

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, just now I have been listening to the Secretary's answers to the supplementary questions and found that he has been emphasizing self-discipline. As a matter of fact, a new policy for importing experts from the Mainland has been put in place. May I ask the Secretary how the Government monitors the problem of outside employment by the NETs? Is it being done by the Education and Manpower Bureau (EMB) or the Immigration Department?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in the main reply, I have in fact stated very clearly that, first of all, all these NETs would have already known the particular requirements placed on them when they applied for the employment visas. Secondly, the ED is following up on the particular case and the Immigration Department is also conducting further investigation into it. Thirdly, we have also instructed our colleagues in the District Education Offices to liaise with and require schools to remind the NETs not to take up part-time jobs. I believe these measures will suffice to dispel Miss CHAN's worries.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, the Secretary has not answered whether this work is being done by the EMB or the Immigration Department.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, as regards specific monitoring work, it is not the duties of the EMB. This work can be divided into two parts. Firstly, since these teachers are recruited from outside Hong Kong, their employment is subject to the conditions imposed by the Immigration Ordinance. Hence, if they have breached the law, the Director of Immigration can, under the law, prosecute these teachers as well as the employers who have illegally employed them. Secondly, since these teachers work in our aided schools which are subject to the regulations of the Code of Aid, the ED is also duty-bound to remind the schools concerned to abide by the regulations.

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, may I ask the Secretary whether he would consider setting up a mechanism for deterrence. If not, why not? Through this mechanism, the EMB and the Immigration Department could institute prosecution against those NETs who have breached the law. In that case, would that have an impact on their further application for work in Hong Kong if they are convicted? This is similar to the arrangement for those domestic helpers who have engaged in illegal hawking. If they are convicted, the authorities concerned will have an arrangement with the Immigration Department under which their application for a renewal of contract in the future would be, to a certain extent, adversely affected.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, first of all, as I have mentioned in the main reply, if these teachers have breached the Immigration Ordinance, they may be subject to heavy fines and even imprisonment. This can certainly act as a deterrent. As regards whether we should consider the application for work in Hong Kong by those who have been convicted, I am willing to jot down the Member's suggestion to see if it is necessary to adopt such a measure. In fact these teachers should not defy the law. But I totally agree that if such incident should occur, those who have breached the law may just not be suitable for any teaching job at all.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, the Secretary mentioned fines in part (c) of the main reply. A NET who has breached the law is subject to a fine which is less than that of his employer as the latter will be subject to a maximum fine of \$350,000. I would like to ask the Secretary whether that is a case of putting the cart before the horse by imposing a heavier fine on the employers. Would the Government consider increasing the fines for the NETs who have breached the law?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I think it is reasonable to impose a heavier fine and imprisonment term on the employers who have illegally employed these people. Basically, an employer has the responsibility to check his employees' documents, especially when he is hiring foreign workers, to see if they are employable in Hong Kong. This measure in fact acts as a very effective deterrent in discouraging employers from hiring these people, and the problem can thus be solved.

**PRESIDENT** (in Cantonese): We have spent over 15 minutes on this question. We will move on to the sixth question now.

**Indoor Air Quality Management Programme**

6. **MISS EMILY LAU** (in Cantonese): *Madam President, the Planning, Environment and Lands Bureau advised the Panel on Environmental Affairs of this Council in December last year that it would formulate a comprehensive indoor air quality (IAQ) management programme within this year and consult the public on the proposed regulatory framework, statutory provisions and the draft Code of Practice. In this connection, will the executive authorities inform this Council:*

- (a) of the progress in the formulation of the management programme and when the public consultation will be conducted;*
- (b) whether there are different views among various government departments and bureaux on the detailed arrangements of the management programme; if so, how such differences will be resolved; and*
- (c) of the division of responsibilities between the Planning, Environment and Lands Bureau and other bureaux in relation to environmental protection matters?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President,

- (a) To improve the issue of IAQ, the Government commissioned a consultancy study on "Indoor Air Pollution in Offices and Public Places" in October 1995. This was completed at the end of 1997. The study aimed to characterize and quantify IAQ in office premises and selected public places in Hong Kong; assess the causes of the pollution and recommend suitable control strategies. An inter-departmental IAQ Management Group, chaired by my Bureau, has been set up in September 1998 to take forward the recommendations of the study. The Management Group is now finalizing the technical details of the proposed programme. We expect to commence consultation in August.

- (b) The approach adopted so far to control IAQ in Hong Kong is through implementing a series of ordinances and regulations which spread over a number of government departments and bureaux. The inter-departmental Management Group which was formed to co-ordinate the effort in formulating a comprehensive IAQ management programme comprises 10 departments and four bureaux. They cover a variety of disciplines, such as public health, occupational hygiene, engineering standards and building management, and so on. Members of the Management Group have thoroughly discussed a number of issues such as the scope of the IAQ programme, how the programme should be implemented, parameters to be adopted under different objectives and the levels in each parameter, and the timing and resources required for implementation. At the end, the Management Group agreed to propose the following approach to implement the IAQ programme:
- (i) launch a public education and publicity campaign to promote public awareness of IAQ;
  - (ii) adopt a three-level IAQ objectives as a common benchmark for evaluating and assessing IAQ;
  - (iii) publish a set of Guidance Notes for the better management of IAQ in offices and public places;
  - (iv) develop a voluntary IAQ certification system and invites owners and management of premises including the government premises to participate in the scheme;
  - (v) set up an IAQ information center to disseminate information and reference materials on IAQ; and
  - (vi) conduct a comprehensive review of the effectiveness of the voluntary IAQ programme three years after its implementation to determine if more stringent measures are required.

- (c) Within the Administration, the Planning, Environment and Lands Bureau is leading in the co-ordination and formulation of policies on issues concerning environmental protection. But not all environmental initiatives and programmes are implemented by the Bureau or the departments that come under it. Individual departments or bureaux have been actively pursuing environmental objectives through their policies and programmes. In such cases, my Bureau will provide all necessary guidance and input to ensure that these objectives are met.

To encourage departments to review and improve their environmental performance, with effect from 1999-2000, all Controlling Officers will be required to publish annual reports on their environmental policies and actions. Controlling Officers are encouraged to take this opportunity to demonstrate both their environmental initiatives and their commitment to working for a cleaner, healthier future.

**MISS EMILY LAU** (in Cantonese): *Madam President, the Government has dragged on for a long time in addressing the problem of IAQ. The Government began a study in end 1995 and it lasted for two years before the Government tried to do something else. The issue dragged on until mid-1999 and we do not see any specific work done. Madam President, my question is concerned with the Government's pledge last year that it would formulate a comprehensive IAQ management programme including a regulatory framework, statutory provisions and a Code of Practice. However, Madam President, the Secretary said in the main reply that a Management Group is now finalizing the technical details. This is very different from what I have just said. I would like to ask the Secretary whether we have some misunderstanding in this matter and whether the Government cannot complete so many tasks save the small feat of finalizing some technical details. Also, is it because of the failure on the part of these 10 departments and four bureaux to reach a compromise that has led to so much delay?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, the internal co-ordination and organization which we set off to carry out is now completed. Over the past few months, we put together an unpublished leaflet on the relationship between IAQ and people working indoors. The leaflet is very simple in content. When carrying out the public consultation in August, the Government will widely promote the message conveyed in the leaflet. In the leaflet, it mentions each area, be it in office or at home, which each and every citizen, including those in the decoration trade, should pay attention to. It also states what we should pay attention to when we are in public places and different kind of situations. The leaflet will be issued during the public consultation. The guidelines just mentioned by Miss LAU have also been completed. She is one step ahead of us. The guidelines are also very detailed. We intend to promote it to all the Hong Kong people so as to let them, be it individuals and corporations, know what to focus on, where the problems lie, how to resolve and prevent the problems in order to fulfil the requirements of the IAQ programme for offices and public places.

**MRS SOPHIE LEUNG** (in Cantonese): *Madam President, in the second paragraph of part (c) of the main reply, the Secretary said that with effect from 1999-2000, all Controlling Officers will be required to publish annual reports on their environmental policies and actions. I would like to know whether these Controlling Officers or departments, before the release of their annual reports, will let the public know in advance if there are any prior direction and objectives laid down by them so that the public can assess to what extent they have met their policies and objectives after reading their annual reports.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, as regards the target or objective in relation to environmental protection laid down by each policy bureau and the level of achievement, we of course have to consider its scope of work. The enforcing department which is responsible for industrial safety, for instance, will certainly have its own target. If it is related to traffic and transport, the relevant bureau will also lay down the targets it wishes to achieve. It will then report to us its achievement per annuity. Turning to the issue of the IAQ programme we

discuss today, it is a voluntary project for the time being. I believe all government departments, especially those which have extra office space or are accessible to the public, will have a plan to measure the air quality of their offices against the details set out in our guidelines. After having implemented the programme for some time and after having really measured the air quality in their offices, they may tell the public the level of air quality they wish to attain in their offices or public places as well as their actual achievement.

**MISS CYD HO** (in Cantonese): *Madam President, consensus usually means the lowest attainable standard. I do not know how low the standard agreed by these 10 government departments and four bureaux is. But in part (b) of the main reply, the Secretary said that at the end, the Management Group agreed to propose the respective approach. I hope the Secretary can tell us how much compromise is made behind this agreed proposal. Why does the Government not consider appointing a Policy Bureau to assume an active, positive and leading role in the entire work in order to formulate an effective programme for improving the IAQ?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, we have already reached a consensus on the following issues. These include the adoption of the three-level IAQ objectives; the level of IAQ for the best environment; the level of air quality for ordinary offices, public places and industry-related premises; the details, types of gases or substances we should pay attention to when measuring the air quality. In making the respective announcement in the future, the Government will make it clear that its objective is to encourage all offices or public places to attain the highest IAQ. As for the factories, they are required to comply with the level prescribed by existing legislation. So, we can say that the Government would like to see an improvement in the IAQ of Hong Kong and we will continue to head for the higher standard. As regards how much effect the programme can achieve, which areas we should improve, whether there is a need for legislation and whether we can enforce certain requirements through legislation, we will conduct a review after the programme has been implemented for three years.

**PRESIDENT** (in Cantonese): Miss Cyd HO, which part of your supplementary question has not been answered?

**MISS CYD HO** (in Cantonese): *Madam President, the Secretary has not answered why the Government does not consider appointing a Policy Bureau to assume a positive and active role in implementing the programme.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): I seem to have mentioned that the Planning, Environment and Lands Bureau is in charge of the programme. But I simply do not want to mention the same fact for the second time. *(Laughter)*

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in part (b)(ii) of the main reply, the Government said that a three-level IAQ objectives will be adopted as a common benchmark for evaluating and assessing IAQ. It also mentioned a voluntary IAQ certification system. Will the Government impose immediate control by way of legislation if the IAQ of some places is found to be very poor after the implementation of the three-level system?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, in fact, situations which will cause concerns about the poorest air quality is mainly related to industrial premises. At present, this is subject to statutory control. Now the Government hopes that the IAQ in non-industrial premises can be further improved. In other words, we hope that the air quality in non-industrial public places or offices can attain a higher level. At the present stage, we do not see a need to impose regulation through legislation. We have also made references to many overseas countries and found that apart from Japan, many advanced countries refrain from using the legislative approach. Instead, they bring the air quality in non-industrial premises to a desirable standard by means of issuing guidelines.

**DR RAYMOND HO** (in Cantonese): *Madam President, I would like to ask the Secretary whether public places and private offices will be treated differently in the programme. It is because these two types of places are often subject to different approaches. For instance, can we consider imposing mandatory*

*banning of smoking in public places earlier? Smoking is now banned even in trains. In respect of private places, the doors of many offices and places are not often left open. On the other hand, the doors of public places are frequently closed and then opened. As a result, the level of radon gas accumulated in private offices may be higher. Under such circumstances, can we lay down two different criteria for these two different kinds of places?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, I am going to give my reply in two aspects. As for smoking, it is now being regulated by another system which I am not going to elaborate further. However, the policy remains the same and we will follow the current direction. As for the other aspect, the so-called second-level objective applies to all public places and offices, which are not differentiated policy-wise since we consider this an attainable objective. The air quality in both offices and public places should reach that level. The level-one objective represents the best environment and the best standard. As I said earlier, for the time being, we do not see the need at this stage to use methods other than voluntary participation to force any particular organization or institution to head for level-two or level-one objectives in relation to some particular gases in the air (radon gas is only one of these gases). In future, if we find it necessary or difficult to control certain gases or substances, we do not rule out that appropriate regulation will be imposed in respect of these substances or gases.

**PRESIDENT** (in Cantonese): We have spent almost 16 minutes on this question. Although many Members are still waiting for their turn, I cannot give every Member a chance to raise question and I believe Members will have an opportunity to discuss the issue again in the future.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Breaches of Industrial Safety Legislation**

7. **MR RONALD ARCULLI:** *Regarding matters about breaches of industrial safety legislation, will the Executive Authorities inform this Council, in tabular form (as illustrated below), of the details relating to offences committed by employers and employees respectively in the past five years:*

- (a) *the number of prosecutions instituted in respect of each offence in each year;*
- (b) *among them, the numbers of convictions; and*
- (c) *among the convicted cases, the maximum and minimum penalties imposed on the convicted persons?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, the number of summonses heard, convictions and the maximum and minimum penalties imposed by the courts against employers and employees for breaches of the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance and their subsidiary legislation over the past five years, which are broken down by construction sites and by other workplaces, are tabulated in the Appendix.

#### Appendix

(A) Offences committed by employers (including contractors, proprietors and so on)

	<i>Offences in relation to</i>	<i>No. of summonses heard</i>	<i>No. of summonses convicted</i>	<i>Penalty Imposed (\$)</i>	
				<i>Maximum</i>	<i>Minimum</i>
1994	Construction Sites	1 276	1 201	50,000	200
	Other Workplaces	1 373	1 306	60,000	200
	Total	2 649	2 507	60,000	200
1995	Construction Sites	1 909	1 815	100,000	400
	Other Workplaces	1 452	1 416	50,000	1,000
	Total	3 361	3 231	100,000	400
1996	Construction Sites	1 718	1 615	75,000	1,000
	Other Workplaces	978	931	50,000	800
	Total	2 696	2 546	75,000	800
1997	Construction Sites	770	671	120,000	2,000
	Other Workplaces	288	258	50,000	1,000
	Total	1 058	929	120,000	1,000
1998	Construction Sites	2 380	2 160	150,000	500

Other Workplaces	796	748	100,000	500
Total	3 176	2 908	150,000	500

B Offences committed by employees

	<i>Offences in relation to</i>	<i>No. of summonses heard</i>	<i>No. of convicted cases</i>	<i>Penalty Imposed (\$)</i>	
				<i>Maximum</i>	<i>Minimum</i>
1994	Construction Sites	5	4	750	300
	Other Workplaces	8	8	1,000	250
	Total	13	12	1,000	250
1995	Construction Sites	7	7	2,000	500
	Other Workplaces	14	13	1,500	400
	Total	21	20	2,000	400
1996	Construction Sites	6	6	1,000	600
	Other Workplaces	5	5	5,000	600
	Total	11	11	5,000	600
1997	Construction Sites	5	3	2,000	500
	Other Workplaces	1	1	4,000	4,000
	Total	6	4	4,000	500
1998	Construction Sites	4	4	500	500
	Other Workplaces	1	-	-	-
	Total	5	4	500	500

### Effectiveness of Mother-Tongue Teaching

8. **MR AMBROSE LAU** (in Chinese): *Will the Government inform this Council:*

- (a) *of the respective percentages of secondary and primary schools adopting mother-tongue teaching in the total numbers of secondary and primary schools in Hong Kong in each of the past three years; and*
- (b) *whether it has assessed the effectiveness of mother-tongue teaching, including its impacts on the learning ability and the English standard of students; if so, the findings of such assessments?*

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

- (a) For the past three school years, the numbers of public sector secondary schools adopting mother-tongue teaching are as follows:

<i>School Year</i>	<i>Number of schools adopting mother-tongue teaching</i>	<i>Percentage</i>
1996-97	74	18.5%
1997-98	77	19.1%
1998-99	307	72.9%

As for primary schools, a great majority of public sector primary schools adopt mother-tongue teaching. The numbers are as follows:

<i>School Year</i>	<i>Number of schools adopting mother-tongue teaching</i>	<i>Percentage</i>
1996-97	755	99.5%
1997-98	744	99.5%
1998-99	729	99.5%

- (b) The Education Department (ED) has conducted several studies to assess the effectiveness of "mother-tongue teaching". The most comprehensive one was a triennium (1994-95 to 1996-97) longitudinal evaluation study on the implementation of medium of instruction (MOI) grouping in secondary schools. The findings indicated that for students of similar ability, those learning in the mother-tongue were in a better position to benefit from a more sophisticated mode of learning (that is, one that develops inquisitiveness and critical thinking) than their counterparts using

English as MOI.

Since the implementation of mother-tongue education in most secondary schools from September 1998, ED staff have inspected schools practising mother-tongue teaching and observed that students were generally more ready to absorb what was taught, analyse problems and express views; students' cognitive and academic abilities were thus enhanced. Feedback from some of the schools switching to mother-tongue education in the 1998-99 academic year revealed that the internal assessment results (including English Language results) of Secondary One students learning in their mother-tongue had not been affected, and some had shown indications of improvement.

In order to more fully and thoroughly assess the effectiveness of mother-tongue education, the ED will continue to conduct the necessary studies. In order to analyse the experience in the 1998-99 school year, the ED is currently planning a sample survey of secondary schools adopting mother-tongue education, and their students' results in the Hong Kong Attainment Tests will also be analysed. In addition, the ED has called for tender to conduct a triennium longitudinal research study aimed at monitoring and assessing the effects of the MOI on students' learning ability and personal growth.

### **Statistics on Public Hospitals**

9. **DR LUI MING-WAH** (in Chinese): *Will the Government inform this Council:*

- (a) *whether it knows the basis on which the Hospital Authority (HA) determines the amount of financial resources allocated to each hospital cluster;*
- (b) *how the average respective ratios of population to beds in public hospitals with Accident and Emergency (A&E) Departments and other public hospitals compare with those in advanced countries in*

*America and Europe; and*

- (c) *of the average ratio of public hospitals in-patients to doctors in the past year, and how this figure compares with those in advanced countries in America and Europe; and whether it plans to take measures to reduce the ratio; if so, of the specific timetable; if not, the reasons for that?*

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

- (a) The resource allocation mechanism of the HA is to allocate funding to individual hospitals according to their needs. The HA has currently established a mechanism which links resource allocation to annual planning. With a hospital's budget of previous year as baseline, the HA will request each hospital to formulate an annual plan, setting out the major scope and volume of services, as well as the performance and quality targets, for the coming year. The HA will determine the amount of funding for the hospital, including whether to provide new resources for introducing or strengthening services, with reference to the hospital's annual plan. Moreover, the HA will co-ordinate the service plans of different hospitals of the same cluster, and also of different clusters, to ensure that there will be no duplication of services and that resources will be well utilized.
- (b) At present, the HA has divided the territory into eight hospital clusters. In each cluster, there are hospitals with A&E Departments and also those without such Departments to cater for different needs of the residents within the cluster. Apart from providing urgent treatment for patients, public hospitals with A&E Departments usually have more acute beds and more different clinical specialities to provide acute and general medical services. Hospitals without A&E Departments usually have more non-acute beds and focus on providing other services, such as infirmary and rehabilitation services. There are currently about 4.1 public hospital beds per 1 000 population in Hong Kong. To take into

account the total number of hospital beds in Hong Kong, that is, to include private hospital beds, there are about 4.7 hospital beds per 1 000 population. In the United Kingdom and United States, the corresponding ratio is 4.5 and 4.1 hospital beds per 1 000 population respectively. Since there are hospitals with A&E Departments and also other public hospitals in every cluster, and these hospitals serve all residents within the cluster, the number of hospital beds of each hospital should not be linked to the population to derive a bed-to-population ratio.

- (c) Since the health care systems of different countries vary, for example, there is no clear distinction between public and private medical institutions in countries implementing medical insurance system, the HA does not have information on the ratio of public hospitals inpatients to doctors of other countries. To take into account the total number of doctors in Hong Kong, in 1997, each doctor managed about 127 discharged patients. In the United Kingdom, the corresponding figure for 1994 was 135 discharged patients per doctor per year, while in the United States, each doctor managed 47.7 discharged patients per year in 1995. The ratio of in-patients to doctors is not a reliable indicator to assess the quality of health care services. The higher ratio of in-patients to doctors, that is, each doctor manages more patients, could be due to different disease profiles and occurrence rates of different countries' population, which gives rise to different needs for hospital services; or could be due to higher population density and different modes of doctor consultation. The HA has already implemented various measures, such as introducing clinical audit and risk management systems; strengthening clinical supervision and professional training of health care professionals and so on to continuously enhance the quality of health care services. The HA will continue to review its medical manpower planning and to adjust the medical staffing level according to changes in service needs.

### **Single-parent Families in Receipt of CSSA**

10. **MR LAW CHI-KWONG** (in Chinese): *Regarding single-parent families in receipt of Comprehensive Social Security Assistance (CSSA), will the*

*Government inform this Council:*

- (a) of the number of such families caused by divorce;*
- (b) of the number of such families which should receive maintenance, and the average amount of maintenance they receive each month; and*
- (c) whether it knows the number of families which did not receive full payment of maintenance on schedule in the past year? Please give a breakdown by the following percentages of the maintenance received:*
  - (i) below 24%;*
  - (ii) 25% - 49%;*
  - (iii) 50% - 74%; and*
  - (iv) above 75%.*

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

- (a) Based on an internal study conducted by the Social Welfare Department (SWD), it is estimated that 6 100 single-parent families in receipt of CSSA are divorced cases. Furthermore, 7 800 single-parent families in receipt of CSSA are separated cases. These two groups represent 24.4% and 31.2% of all single-parent cases receiving CSSA payments.
- (b) The SWD does not have any record of the number of such families who have been ruled by the Court to be eligible for maintenance payment.
- (c) The SWD does not have a record of the number of families who are

receiving only partial maintenance payment. On the basis of the internal study, we estimate that about 1 500 single-parent CSSA recipients are now receiving some maintenance payments. The average monthly payment per family is about \$1,400.

**Unauthorized Sale of Air Tickets to Visitors**

11. **MR HOWARD YOUNG:** *I have received a complaint that there is unauthorized sale of air tickets for Taipei to visitors at various places such as the Hong Kong International Airport, China Hong Kong City and Kowloon Railway Station. In this connection, will the Government inform this Council whether:*

- (a) *it is aware of such activities;*
- (b) *such activities are in breach of the Travel Agents Ordinance (Cap. 218); and*
- (c) *it has received similar complaints from the tourism sector; if so, the action that it has taken?*

**SECRETARY FOR TRADE AND INDUSTRY:** Madam President,

- (a) In the last two months, the Travel Industry Council of Hong Kong had referred to the Travel Agents Registry (TAR) two complaints about touting air tickets. One of these was about touting activities at the Hong Kong International Airport. The other was about such activities at the Hong Kong International Airport, China Hong Kong City and the Kowloon Railway Station, and other points of departure from and entry into Hong Kong.
- (b) Under the Travel Agents Ordinance (Cap. 218), carrying on the business of a travel agent (such as selling of air tickets, and so on) without a valid Travel Agents Licence, or carrying on such business by a licensee at a place other than the premises specified in that licence, is an offence.

A person carries on business as a travel agent if he holds himself out as carrying on the business of, and carries on the business of, obtaining for another person, *inter alia*, carriage, by any means of

conveyance, on a journey which is to commence in Hong Kong and which thereafter is to take place mainly outside Hong Kong.

Further, any publication of advertisement for the service referred to above will also contravene Cap. 218.

- (c) In response to the two complaints mentioned in (a) above, the TAR has conducted inquiries, and issued an advisory letter to the person against whom one of the complaints was directed, advising him that he should obtain a travel agents licence under the law to carry on business as a travel agent, or otherwise he may be prosecuted. In the other case, as the Registry was unable to establish contact with the responsible person at the correspondence address as shown in the complaint, it has informed the police to follow up.

### **Aviation Arrangements between Hong Kong and the Mainland**

12. **MR FRED LI** (in Chinese): *Regarding the air routes between Hong Kong and the Mainland and the provision of air services between the two places, will the Government inform this Council:*

- (a) *of the respective numbers of air routes between Hong Kong and the Mainland operated by mainland airlines and the Hong Kong Dragon Airlines;*
- (b) *of the routes between Hong Kong and the Mainland which are operated by mainland airlines only; and*
- (c) *whether it has discussed with the Central People's Government the formulating of an air services agreement; if so,*
- (i) *of the progress;*
- (ii) *of the expected date for signing such an agreement; and*
- (iii) *whether it has assessed if the agreement will effectively and equitably allocate the flights between Hong Kong and the*

*Mainland to Hong Kong airlines and their counterparts in the Mainland?*

**SECRETARY FOR ECONOMIC SERVICES** (in Chinese): Madam President, our reply to Mr LI's question is as follows:

- (a) Currently, airlines of the Mainland operate on a total of 39 regular routes (including regular charter routes) between Hong Kong and the Mainland, whereas Dragonair operates on 16 routes.
- (b) Currently, services on 23 routes between Hong Kong and the Mainland are provided by airlines of the Mainland only. They include Ningbo, Tianjin, Shantou, Shenyang, Guangzhou, Beihai, Changchun, Guiyang, Harbin, Hefei, Jinan, Meixian, Nanchang, Nanning, Sanya, Shijiazhuang, Tunxi, Wenzhou, Wuyishan, Yantai, Zhangjiang, Zhengzhou and Dayong.
- (c) We are currently discussing with the concerned authorities of the Mainland the arrangements for air services between Hong Kong and the Mainland. Good progress is being made. It is hoped that the two sides could reach a consensus on the arrangements later this year. We expect that the arrangements would more effectively and equitably allocate the capacity between Hong Kong and mainland airlines.

**Impact of Polluted Environment on Schools**

13. **DR RAYMOND HO** (in Chinese): *Will the Government inform this Council:*

- (a) *whether it knows the number of schools which are located in the vicinity of construction sites, refuse collection points (RCPs), food establishments and busy streets;*
- (b) *of the respective numbers of complaints and requests for assistance made by schools which are adversely affected by their polluted environment in the past year; and*

- (c) *whether it has assessed the impact of the polluted environment on the health of the staff and students of these schools; and the remedial measures it will take?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Chinese): Madam president,

- (a) Based on the available information and local knowledge of its District Education Offices, the Education Department has come up with the following estimated figures:

<i>Types of Schools*</i>	<i>Near Construction sites</i>	<i>Near RCPs</i>	<i>Near Food Establishments</i>	<i>Near busy streets</i>
Secondary	20	14	7	45
Primary	15	21	15	36
Kindergarten	11	14	16	21

\* In Hong Kong, there are altogether 471 secondary schools, 533 primary schools and 728 kindergartens

- (b) Between January 1998 and May 1999, we received a total of 35 complaints or requests for assistance concerning schools being affected by dust from construction sites (14), odour from RCPs (14), cooking fumes from restaurants (3), and idling vehicle emissions (4);

All complaints or requests for assistance were promptly investigated by the Environmental Protection Department (EPD) and relevant departments concerned. Contravention of the Air Pollution Control Ordinance and the Construction Dust Regulation was observed in five and two cases respectively. Enforcement and prosecution action has been or is being taken by the EPD. For the remaining cases, no breaches of the law were observed but follow-up actions have been taken to tackle the problem through administrative means. The parties causing or suspected of causing the nuisances were asked to take steps to minimize their emissions. In most cases, follow-up inspections were made to ensure that the problems were put under control. All complaints were informed

of the findings and actions taken in respect of their complaints.

- (c) Dust from construction sites, odour from RCPs and cooking fumes from food establishments have a localized nuisance effect on the nearby public. Based on the results of our air monitoring, none of these emissions would contribute to a breach of the health-related Air Quality Objectives in Hong Kong. As regards the health impact of vehicle emissions, prolonged exposure to elevated levels of certain pollutants emitted from vehicles such as respirable suspended particulates and nitrogen dioxide may cause breathing and respiratory symptoms and aggravation of existing respiratory diseases. Individuals with chronic lung and heart disease, elderly people and children are more susceptible.

A number of preventive and control measures to reduce nuisance and air pollution emissions affecting schools have been undertaken. For preventive measures, proposals for new schools are scrutinized to ensure that the surrounding existing and committed land uses are compatible with the selected sites. Mitigation measures such as adequate setback from the emission sources may be required to meet air quality standards. Any new major development in the vicinity of a school is subject to a detailed air quality assessment under the environmental impact assessment process, with the school being included as an air sensitive receiver in the assessment.

For control measures, dust from construction sites, odour from RCPs and cooking fumes from food establishments are controlled under the Air Pollution Control Ordinance. If air pollution is confirmed, the operators concerned are required to abate the pollution within a specified period and failure to comply will lead to prosecution by the EPD. Generally, dust emissions from construction sites can be mitigated through dust control measures such as covering or wetting dusty materials and good site practice. Odour from RCPs and cooking fumes from food establishments can be controlled through proper ventilation, installation of emission control equipment and good house-keeping practices. Apart from the EPD's enforcement actions, regular inspection of construction

sites, RCPs and food establishments are also made by the staff of the Urban Services Department (USD) and Regional Services Department (RSD). In addition, the USD and RSD undertake regular cleansing of RCPs to prevent odour from the facilities.

As regards air pollution from vehicles, we have announced a package of measures aimed to reduce street level pollution. As part of this package, we intend to put forward proposals to control idling vehicles for public consultation within this year. In the short term, our priority is to introduce further mitigation measures to reduce smoke and control emissions from the existing vehicle fleet. For the medium term, new fuels and emission standards will be required for new vehicles. For the longer term, new approaches to transport planning are being developed to promote more environmentally efficient transport systems.

### **Youth and Family Camps**

14. **MRS SOPHIE LEUNG** (in Chinese): *Will the Government inform this Council whether it knows:*

- (a) *the number and geographical distribution of youth and family camps in Hong Kong, broken down by the types of managing organizations (that is, public or voluntary ones);*
- (b) *the number of lodging places in each camp, and the average occupancy rate of each camp in each of the past three years; and*
- (c) *the average fees that the camps charge the lodgers, and whether the camps' income and expenditure could break even in the past three years?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President, my reply to the question raised by the Honourable Member is as follows:

- (a) we have records relating to a total of 46 youth hostels and family camps in Hong Kong. A breakdown by geographical distribution

and by type of managing organization is at Annex I;

- (b) a table showing the number of lodging places and the average occupancy rate for each camp, where this information is available, is at Annex II; and
- (c) the average fees charged by the camps and the relevant financial information is shown in the table at Annex III.

## Annex I

- (a) Number and geographical distribution of youth and family camps in Hong Kong, broken down by types of managing organization

<i>Location</i>	<i>Number of camps</i>					<i>Total</i>
	<i>Hong Kong</i>		<i>New Territories</i>	<i>New Territories</i>	<i>Outlying Island</i>	
	<i>Island</i>	<i>Kowloon</i>	<i>East</i>	<i>West</i>		
(i) Family camps operated by Provisional Municipal Council	1	0	3	1	0	5
(ii) Family camps operated by NGOs and subvented by Government	4	0	13	0	8	25
(iii) Family camps operated by NGOs and subvented by Government	1	0	5	0	3	9
(iv) Youth hostels run by the Youth Hostels	1	0	3	1	2	7

## Association

Total	7	0	24	2	13	46
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Note: NGOs: Non-government organizations

## Annex II

(b) Number of lodging places and average occupancy rate in each of the past three years for each camp

(i) Family camps operated by Provisional Municipal Councils

<i>Name of camp</i>	<i>Number of lodging places</i>	<i>Average Occupancy rate (%)</i>		
		<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
1. Lei Yue Mun Park and Holiday Village	282	65	55	58
2. Lady MacLehose Holiday Village	280	72	61	64
3. Sai Kung Outdoor Recreation Centre	248	85	83	85
4. Tso Kung Tam Outdoor Recreation Centre	240	76	72	74
5. Chong Hing Water Sports Centre	30	55	52	61

## (ii) Family camps operated by NGOs and subvented by Government

	<i>Name of camp</i>	<i>Number of lodging places</i>	<i>Average Occupancy rate (%)</i>		
			<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
1.	Lady MacLehose Pokfulam PHAB Centre	100	77	72	67
2.	Bradbury Camp	112	74	68	70
3.	Caritas - Oi Fai Camp	84	62	65	70
4.	Caritas - Ming Fai Camp	180	52	53	67
5.	Caritas - Siu Tong Camp	60	51	45	51
6.	YWCA Youth Camp	120	78	71	79
7.	Cheung Chau Bradbury Camp	108	76	63	71
8.	Ma Wan Youth Camp	40	49	43	54
9.	Lion's — YMCA Junk Bay Youth Centre	112	55	42	46
10.	Wu Kwai Sha Youth Village	464	56	56	78
11.	YWCA Wong Yi Chau Youth Camp	120	56	52	60

<i>Name of camp</i>	<i>Number of lodging places</i>	<i>Average Occupancy rate (%)</i>		
		<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
12. Duke of Edinburgh Training Centre	84	48	47	47
13. Silvermine Bay Outdoor Activities Centre	120	61	55	56
14. Shek Pik Youth Camp	50	42	43	45
15. Beas River Holiday House	22	( closed for renovation )		
16. Yuen Long Recreation Centre	48	53	49	43
17. New Sandilands Training Centre	30	34	29	30
18. Leung Shing Tak Sea Activities Centre	30	26	17	15
19. Lamma Island Youth Hostel	30	42	38	30
20. Tai Mong Tsai Outdoor Training Centre	60	72	83	56
21. Tai Mei Tuk Outdoor Activities Centre	45	47	42	42
22. Stanley Outdoor Activities Centre	45	29	23	27
23. Tai Tam Scout Centre	80	85	83	84

<i>Name of camp</i>	<i>Number of lodging places</i>	<i>Average Occupancy rate (%)</i>		
		<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
24. Tung Tsz Scout Centre	100	74	49	61
25. Pak Sha Wan Sea Activities Centre	60	57	60	72

(iii) Family camps operated by NGOs and not subvented by Government

<i>Name of camp</i>	<i>Number of lodging places</i>	<i>Average Occupancy rate (%)</i>		
		<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
1. Wesley Village Hostel	74	20	17	24
2. Methodist Conference Centre	120	51	40	41
3. Po Leung Kuk Pak Tam Chung Holiday Camp	388	81	73	77
4. Po Leung Kuk Jockey Club Tai Tong Holiday Camp	262	69	70	73
5. Breakthrough Youth Village	120	90	76	80
6. Baptist Assembly	350	83	76	86
7. High Rock Christian Camp	100	76	78	70
8. Jockey Club	120-140	61	59	52

<i>Name of camp</i>	<i>Number of lodging places</i>	<i>Average Occupancy rate (%)</i>		
		<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
Cheung Chau Don Bosco Youth Centre				
9. Bradbury Retreat Centre	22	20	20	20

## (iv) Youth hostels run by the Youth Hostels Association

<i>Name of camp</i>	<i>Number of lodging places</i>	<i>Average Occupancy rate (%)</i>		
		<i>1996</i>	<i>1997</i>	<i>1998</i>
		<i>Calendar year</i>		
1. Bradbury Hall	100	23	25	22
2. Bardbury Lodge	110	31	39	25
3. Jockey Club Mong Tung Wan Hostel	88	20	15	7
4. Ma Wui Hall	118	66	54	37
5. Pak Sha O Youth Hostel	112	19	18	24
6. Sze Lok Yuen	92	17	20	21
7. The S. G. Davis	52	18	25	27

Hostel

## Annex III

(c) Average fees charged and whether the camps could break even in the past three years

(i) Family camps operated by Provisional Municipal Council

	<i>Name of Camp</i>	<i>Range of fees charged (\$)</i>	<i>Operating surplus (+)/deficit (-)</i>		
			<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
1.	Lei Yue Mun Park and Holiday Village	42-90	(-)	(-)	(-)
2.	Lady MacLehose Holiday Village	60-65	(-)	(-)	(-)
3.	Sai Kung Outdoor Recreation Centre	76-82	(-)	(-)	(-)
4.	Tso Kung Tam Outdoor Recreation Centre	38-59	(-)	(-)	(-)
5.	Chong Hing Water Sports Centre	12-23	(-)	(-)	(-)

## (ii) Family camps operated by NGOs and subvented by Government

	<i>Name of Camp</i>	<i>Range of fees charged (\$)</i>	<i>Operating surplus (+)/deficit (-)</i>		
			<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
1.	Lady MacLehose Pokfulam PHAB Centre	40-75	(-)	(-)	} }Audited }accounts }would
2.	Bradbury Camp	44-73	+	(-)	}normally }be
3.	Caritas - Oi Fai Camp	56-76	(-)	(-)	}available }in }August
4.	Caritas - Ming Fai Camp	56	(-)	(-)	}
5.	Caritas - Siu Tong Camp	56-72	(-)	(-)	}
6.	YWCA Youth Camp	48-72	(-)	+	}
7.	Cheung Chau Bradbury Camp	20-80	(-)	(-)	}
8.	Ma Wan Youth Camp	20-80	(-)	(-)	}
9.	Lion's — YWCA Junk Bay Youth Centre	38-58	(-)	(-)	}
10.	Wu Kwai Sha Youth Village	55-80	(-)	(-)	}
11.	YWCA Wong Yi Chau Youth Camp	40-65	(-)	(-)	}
12.	Duke of Edinburgh Training Centre	48-70	(-)	(-)	}

	<i>Name of Camp</i>	<i>Range of fees charged (\$)</i>	<i>Operating surplus (+)/deficit (-)</i>		
			<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
13.	Silvermine Bay Outdoor Activities Centre	60-70	(-)	(-)	}
14.	Shek Pik Youth Camp	25-40	(-)	(-)	}
15.	Beas River Holiday House	35-55	(closed for renovation)		
16.	Yuen Long Recreation Centre	35-55	(-)	(-)	}
17.	New Sandilands Training Centre	35-55	(-)	(-)	}
18.	Leung Shing Tak Sea Activities Centre	10-15	(-)	(-)	}
19.	Lamma Island Youth Hostel	45	+	(-)	}
20.	Tai Mong Tsai Outdoor Training Centre	45	+	(-)	}
21.	Tai Mei Tuk Outdoor Activities Centre	12	(-)	(-)	}
22.	Stanley Outdoor Activities Centre	12	(-)	(-)	}
23.	Tai Tam Scout Centre	90-100	+	+	}
24.	Tung Tsz Scout Centre	90-100	+	+	}
25.	Pak Sha Wan Sea Activities Centre	90-100	+	+	}

## (iii) Family camps operated by NGOs and not subvented by Government

	<i>Name of camp</i>	<i>Range of fees charged (\$)</i>	<i>Operating surplus (+)/deficit(-)</i>		
			<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
1.	Wesley Village Hostel	53-210	(-)	(-)	(-)
2.	Methodist Conference Centre	62-110	+	+	+
3.	Po Leung Kuk Pak Tam Chung Holiday Camp	52-157	(-)	(-)	(-)
4.	Po Leung Kuk Jockey Club Tai Tong Holiday Camp	52-157	(-)	(-)	(-)
5.	Breakthrough Youth Village	115-167	(-)	(-)	(-)
6.	Baptist Assembly	65	+	+	(-)
7.	High Rock Christian Camp	50-55	(-)	(-)	(-)
8.	Jockey Club Cheung Chau Don Bosco Youth Centre	100-120	(-)	(-)	(-)
9.	Bradbury Retreat Centre	50-68	(-)	(-)	(-)

## (iv) Youth hostels run by the Youth Hostels Association

	<i>Name of camp</i>	<i>Range of fees charged (\$)</i>	<i>Operating surplus (+)/deficit(-)</i>		
			<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>
1.	Bradbury Hall	16-35	}	}	}
					Not
2.	Bradbury Lodge	30-100	}	}	}available
					because
3.	Jockey Club Mong Tung Wan Hostel	16-35	}	}	}financial
					year ends
					on 30
4.	Ma Wui Hall	40-110	}	+	}
				+	}September
5.	Pak Sha O Youth Hostel	16-35	}	}	}
6.	Sze Lok Yuen	16-35	}	}	}
7.	The S. G. Davis Hostel	16-35	}	}	}

**Securities Trading on the Internet**

15. **MR CHEUNG MAN-KWONG** (in Chinese): *With regard to the regulation of companies providing securities trading on the Internet, will the Government inform this Council:*

- (a) *whether it knows the number of such companies which are securities dealers registered with the Securities and Futures Commission at present; among them, the number of companies which are also members of the Stock Exchange Hong Kong Limited (SEHK);*
- (b) *whether investors transacting securities through such companies are protected under the Listing Rules and the compensation fund of the SEHK; if not, whether it has plans to revise the relevant stipulations so as to safeguard the interests of these investors; and*

- (c) *of the number of complaints relating to securities trading on the Internet lodged so far by investors, with a breakdown by the nature of the complaints; and the follow-up action it has taken?*

**SECRETARY FOR FINANCIAL SERVICES** (in Chinese): Madam President,

- (a) With rapid advance in information technology, the Internet has become increasingly popular among the general members of the public as a means to acquire information, products and services. This has spurred the development of a diversified range of financial services offered through the Internet in major financial markets around the world. Some companies are facilitating securities trading through proprietary trading systems while others provide a service through which their clients may, through the Internet, give instructions to deal. Other trade related services available on the Internet include market information, trading statistics and commentators' analysis.

In Hong Kong, Internet trading services for securities and futures trading were first introduced by locally registered intermediaries in 1997 for the trading of United States listed securities. In 1998, such services were extended to local stocks. As at 31 May 1999, 16 registered securities dealers have used or proposed to use the Internet for securities dealing activities. Details are as follows:

	<i>Internet Trading Commenced</i>	<i>Internet Trading Proposed</i>	<i>Total</i>
SEHK member	6	6	12
Registered dealer but not member of SEHK	4	0	4
	10	6	16

- (b) From the regulatory perspective, regulated activities should be uniformly regulated irrespective of whether such activities are conducted via paper-based media or electronic media. The Securities and Futures Commission (SFC) will need to ensure that businesses, which provide or intend to provide securities dealing services over the Internet have in place the necessary, additional operational safeguards and risk disclosure. These safeguards would include the presence of prompt and fair order handling and execution procedures; a high level of system integrity and security; qualified personnel and resources to handle Internet transactions; adequate record keeping; sufficient audit trail and sufficient risk disclosures in client agreements.

Registered persons and financial services providers who intend to use Internet technology to carry on securities dealing, commodity futures trading or leveraged foreign exchange trading business should closely observe requirements of the relevant ordinances and the SFC's codes and guidelines including, *inter alia*, the Securities Ordinance (Cap. 333), the Commodities Trading Ordinance (Cap. 250), the Leveraged Foreign Exchange Trading Ordinance (Cap. 451), the Protection of Investors Ordinance (Cap. 335), the Fit and Proper Criteria, Code of Conduct for Persons Registered with the Securities and Futures Commission. Failure to comply with these codes and guidelines will be subject to disciplinary actions by the SFC.

In addition, the SFC issued a "Guidance Note on Internet Regulation" in March 1999 to provide guidelines on the regulation of Internet trading in securities, futures and leverage foreign exchange trading in Hong Kong. In developing the Guideline, the SFC has adopted the following regulatory principles:

- to promote confidence in the efficiency and fairness of Hong Kong's securities and futures markets;
- to support the continued development of Hong Kong's market;

and

- to strike an appropriate balance between measures that maintain market integrity, provide protection for investors, and encourage market development and innovation.

The Compensation Fund arrangements in Part X of the Securities Ordinance also cover the provision of dealing services through the Internet by SEHK members.

The SEHK also has a set of conduct rules to govern the behaviour of its members which also apply to services provided over the Internet. The conduct rules relate to compensation fund arrangements, disciplinary and conduct requirements and so on. The Listing Rules of the SEHK, however, do not directly apply to the conduct of broking activities.

- (c) The SFC has so far not received any complaints from investors relating to the provision of services (including securities trading) through the Internet by securities dealers.

### **Purchase of Goods through the Internet**

16. **MR YEUNG YIU-CHUNG** (in Chinese): *With the popularity of the Internet, it will become increasingly common for the public to purchase goods from shops overseas. In this connection, will the Government inform this Council:*

- (a) *of the number of cases in which the goods that the public ordered from overseas were found by the Customs and Excise Department to be prohibited goods when they were dispatched to Hong Kong by mail in the past three years; and whether it knows the number of such cases in which the goods involved were purchased through the Internet;*
- (b) *whether a person will be regarded as breaching the law if he has ordered goods from overseas for personal use which, upon their*

*delivery to Hong Kong, are found to be not in compliance with the product safety requirements in Hong Kong; and*

- (c) *of the means for the public to ascertain if the goods they intend to order from overseas violate the laws of Hong Kong, and the measures in place to facilitate the public's awareness of such stipulations; and whether it will consider uploading onto the Government's websites information regarding the types of prohibited goods as well as goods which must satisfy the local product safety requirements, for easy checking by the public?*

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

- (a) The figures of prohibited articles seized by the Customs and Excise Department from mail or parcel in the past three years are as follows:

<i>Year</i>	<i>No. of cases</i>	<i>Value (HK\$)</i>
1996	182	1,314,571
1997	99	8,193,363
1998	84	2,350,711

The Department does not have separate figures for seizures of prohibited articles purchased through the Internet.

- (b) There are a number of ordinances which set out safety requirements for different products. The major ones are as follows:
- Under the Consumer Goods Safety Ordinance, it is an offence to import into Hong Kong consumer goods not complying with the Ordinance. However, the Ordinance does not cover those goods the safety of which is controlled by specific legislation, such as toys, children's products, pharmaceutical products, motor vehicles and electrical products.

- The Toys and Children's Products Safety Ordinance stipulates that it is an offence to import toys and children's products not complying with the statutory safety standards.
  - Under the Pharmacy and Poisons Ordinance, it is an offence to possess or use pharmaceutical products not yet registered with the Department of Health.
  - In order to ensure that vehicles meet the safety requirements, the Road Traffic Ordinance stipulates that all vehicles driven on roads shall be examined by the Transport Department before they are first registered and licensed. As for vehicle accessories purchased overseas, vehicle owners must ensure that the vehicles installed with such accessories are roadworthy before the vehicles are driven on roads. Failure to comply with this requirement is an offence.
  - Under the Electrical Products (Safety) Regulation, ordering from overseas, for personal use, an electrical product which does not comply with the safety requirements of the Electrical Products (Safety) Regulation is not an offence. The voltage of such a product, or the plug attached to it, may however not be compatible with the local electricity supply system. The potential dangers associated with using such products have been well publicized by the Electrical and Mechanical Services Department. It is an offence under the Electricity Ordinance for any person to connect to his electrical installation (which includes his electrical supply system) an electrical product that he knows or ought reasonably to know is likely to cause an electrical accident.
- (c) Information concerning product safety is available from the relevant departments. The Government carries out promotional activities such as seminars and talks, as well as through other means of publicity (for example, leaflets and the media) to disseminate information to the public.

A number of government departments have already uploaded relevant information onto their websites. For example,

information regarding prohibited goods and a brief introduction of the Consumer Goods Safety Ordinance and Toys and Children's Products Safety Ordinance are available in the Customs and Excise Department's web page < <http://www.info.gov.hk/customs/> > . Detailed information on electrical products not complying with the safety requirements under the Electricity Ordinance can be found in the Electrical and Mechanical Services Department's web page < <http://www.info.gov.hk/emsd> > , whereas requirements concerning Pharmacy and Poisons Ordinance can be found in the Department of Health's web page < <http://www.info.gov.hk/dh/> > .

### **Implementation of the Animals (Control of Experiments) Ordinance**

17. **MISS CHRISTINE LOH:** *In relation to the implementation of the Animals (Control of Experiments) Ordinance (the Ordinance) (Cap. 340) in 1998, will the Administration inform this Council of :*

- (a) the respective numbers of licences granted and renewed under the Ordinance for performing experiments on living vertebrate animals;*
- (b) the number of researchers who were granted more than one licence;*
- (c) the species and the number in each species of animals used in experiments; and*
- (d) the reasons for limiting the purview of the Ordinance only to those experiments performed on animals and calculated to give pain?*

**SECRETARY FOR HEALTH AND WELFARE:** Madam President,

- (a) According to the Ordinance, only persons licensed under section 7 of the Ordinance may perform experiments on living vertebrate animals.

In accordance with sections 8, 9 and 10 of the Ordinance, a licensee is required to obtain an additional endorsement or permit from the

Department of Health if he/she is to perform experiments:

- (i) for the purpose of attaining manual skill;
- (ii) for teaching purpose; or
- (iii) without administering any anaesthetics to the animal or without killing the animal before it recovers from the influence of such anaesthetics.

In 1998, a total of 583 licences/endorsements/permits were granted by the Department of Health. Among them, 301 were newly granted and 282 were renewals.

- (b) In 1998, a total of 18 licensees held endorsements or permits in addition to the licences already granted to them.
- (c) According to the returns provided by the licensees, the species and number of animals used in experiments in 1998 were :

Rats	10 550
Mice	9 906
Guinea Pigs	1 110
Hamsters	2 207
Rabbits	454
Goats	18
Fishes	2 373
Chicken	124
Geese	22

- (d) The Ordinance was enacted in 1963 to provide for the control of experiments on living vertebrate animals. The objective of the Ordinance is to minimize the potential pain on animals used in experiments in the course of research designed to save or prolong life or to combat disease. Following the principle of humane treatment which underlines the Ordinance, licensees are required,

unless specifically exempted, to administer anaesthetic to the animals used in the experiments.

### **Members of the Hong Kong Research Grants Council**

18. **MISS EMILY LAU** (in Chinese): *It is reported that among the members of the Hong Kong Research Grants Council (RGC), those who teach in the Hong Kong University of Science and Technology (HKUST) outnumber their counterparts in other tertiary institutions. In this connection, will the executive authorities inform this Council:*

- (a) *of the criteria adopted by the Chief Executive in appointing members of the RGC;*
- (b) *of the current number of persons who concurrently teach in the HKUST and sit on the RGC; and*
- (c) *how the success rate of the HKUST's research grant applications to the RGC compares with that of other tertiary institutions in the past three years?*

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

- (a) The RGC of Hong Kong consists of three types of members, namely, local academics, non-local academics and local lay members. At present, about one third of members come from each of these three categories. All members are appointed in their personal capacity, taking into account their individual merits and academic/professional/industrial expertise. As such, the academic members do not represent the interests of the institutions they serve and are advised clearly of this when they are appointed.

In considering the appointment of members, we aim to ensure that there is a sufficient pool of talents and a reasonable mix of expertise

in various subject disciplines, so as to handle the increasing volume and complexity of the RGC's work.

- (b) There are currently six local academic members on the RGC, of whom one teaches in the HKUST.
- (c) The success rates of the HKUST in the annual Competitive Earmarked Research Grants Exercise, when compared with the University Grants Committee (UGC) sector as a whole, are shown in the following table:

*Success rate in terms of  
number of applications supported*

<i>Year</i>	<i>HKUST</i>	<i>All UGC-funded institutions</i>
1997-1998	58%	43%
1998-1999	64%	40%
1999-2000	57%	39%

It should be pointed out that research proposals submitted to the RGC are subject to a rigorous peer-review process. They are examined by specialized subject panels, comprising in total some 80 members with expertise in the relevant discipline areas. These panels are assisted by external reviewers who are renowned international academic/professional experts in the subject areas concerned. Funding for research proposals is decided entirely on the merits of the individual proposals, based on the assessments and recommendations from external reviewers and subject panel members. Furthermore, to avoid any conflict of interest, no panel members are permitted to evaluate or comment upon proposals submitted by their own institutions. The final funding decisions are taken by the full Council based on recommendations by subject panels, not by individual members. The success rate of individual institutions depend on the availability of funds and the quality of their research proposals submitted for assessment.

### **Purchase of New Buses by KMB**

19. **MR LAU KONG-WAH** (in Chinese): *It was reported that the Kowloon Motor Bus Company (1933) Limited (KMB) will be spending \$600 million to purchase 200 to 300 new buses. In this connection, will the Government inform this Council whether it knows:*

- (a) *if the KMB will consider purchasing buses with environmentally-friendly engines; if so, of the details; if not, the reasons for that; and*
- (b) *if the KMB plans to install Octopus processors on the new buses before putting them into operation; if so, whether it will consider installing Octopus processors on the boarding and alighting gates of the new buses, with a view to implementing a distance-based fare structure; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, at present, about 45% of the bus fleet of the KMB are equipped with Euro-compliant engines. The KMB plans to purchase 440 new buses in the next 18 months. These new buses will have environmentally-friendly engines of the latest model, that is, Euro-II engines. By end 2000, all of these new buses will also be equipped with Octopus processors.

The KMB has made a preliminary assessment on the feasibility of providing distance-based section fares using the Octopus technology. The idea of providing an "exit" Octopus processor at the alighting gate has been considered. The KMB's preliminary assessment is that since the exit processor would be installed at a location away from the bus captain, this would give rise to a number of operational and technical difficulties in connection with the fare collection process. For example, there are the questions of how to deal with cases where a passenger is charged an incorrect fare if he hits his Octopus card against the exit processor earlier than actual alighting, and cases where a passenger disputes the amount of fare deducted from the value of his Octopus card. There would also be difficulties in handling cases involving breakdowns in the exit processors. The KMB is considering ways to overcome these problems.

**Kennedy Town "Five Streets" and Tsuen Wan "Seven Streets" Redevelopment Projects**

20. **DR YEUNG SUM** (in Chinese): *Regarding the Kennedy Town "Five Streets" and Tsuen Wan "Seven Streets" Redevelopment Projects undertaken by the Land Development Corporation (LDC), will the Government inform this Council:*

- (a) *whether the tenants who have been rehoused have all been allocated refurbished Hong Kong Housing Society (HS) flats, arising from casual vacancies; and, among such tenants, of the number of households rehoused within the original districts;*
- (b) *whether the Hong Kong Housing Authority (HA) has assisted in rehousing the affected occupants by exchanging units or directly providing the HS with public rental flats in the vicinity of the redevelopment;*
- (c) *whether the affected rooftop occupants may be rehoused and given cash compensation;*
- (d) *whether it has assessed if, in the course of acquisition, the LDC has taken all reasonable steps in accordance with the Land Development Corporation Ordinance (Cap. 15), including offering fair and reasonable terms in purchasing the properties concerned; whether it knows of cases in which the surveyors engaged by the LDC came up with wrong assessments of the areas of the properties, underestimated the value of the whole block of properties for redevelopment, rejected the professional valuations determined by surveyors appointed by the owners, and refused to respond to queries raised by those surveyors on their valuations; and*
- (e) *whether it has engaged an independent authorized person to evaluate the properties concerned; if so, whether such valuations can be revealed for comparison to be made to the LDC's acquisition offers; whether it will direct the LDC to continue to negotiate with other owners over the purchase of the remaining properties before invoking the Lands Resumption Ordinance (Cap. 124)?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Chinese): Madam President,

- (a) Since 1997, the HS has reserved causal vacant units in its rental housing estates to help rehouse tenants affected by the Kennedy Town "Five Streets" and Tsuen Wan "Seven Streets" Redevelopment Projects of the LDC. These units have been repaired/renovated and handed over to the LDC for allocation to eligible households. So far, more than 1 400 rehousing units have been reserved by the HS for the above redevelopment projects. A total of 115 households in Kennedy Town "Five Streets" have been allocated HS rehousing units on Hong Kong Island, while 440 households in Tsuen Wan "Seven Streets" have been allocated units in Kowloon and the New Territories. Although it is not practicable to arrange local rehousing for affected tenants in all cases, the LDC will, as far as possible, provide some local rehousing units to the tenants, with priority given to those who have difficulties moving away from the district. Of the tenants who have been allocated rehousing units, 58 have been rehoused in the original district.
- (b) Under the existing policy, the LDC is obliged to rehouse tenants affected by its redevelopment projects. The HS assists by providing rehousing units. However, if an affected tenant has been on the general waiting list of the HA and is expected to be allocated a public rental unit within 12 months, the HA will provide advance housing arrangements for him.
- (c) Affected rooftop tenants who have become LDC's tenants, either as a result of the acquisition of their owners' properties by the LDC or land resumption by the Government, can opt for either cash compensation or rehousing by HS. Tenants who are not eligible for the HS's rental housing can still receive cash compensation.
- (d) Section 15 of the Land Development Corporation Ordinance stipulates that unless the Secretary for Planning, Environment and Lands is satisfied that the LDC has taken all reasonable steps to otherwise acquire the land including negotiating for the purchase thereof on terms that are fair and reasonable, he shall not

recommend to the Chief Executive in Council the resumption of the land in question. For the purpose of this provision, the Government has engaged independent surveyors to advise whether or not the LDC has negotiated for the purchase of the properties on fair and reasonable terms in the above two redevelopment projects.

Since the LDC has no statutory power to enter private properties to measure the area of the property, the surveyors employed by the LDC have based their measurement on the building plans approved by the Buildings Department and the records of the Land Registry. An owner who disagrees with the LDC's measurement can raise the matter with the LDC. In the above two redevelopment projects, four affected owners have discussed with the LDC and obtained its agreement to adjust the property areas, on which basis the acquisition prices are calculated.

According to available information, the LDC and the owners concerned have, during the course of negotiation, exchanged valuation reports compiled by their respective surveyors. At the owners' request, the LDC has also held meetings with the owners and the surveyors appointed by both sides to discuss the property valuations in detail. The Government is still collecting views related to the acquisition process as expressed by both sides, with a view to ascertaining whether the LDC has negotiated to purchase the land concerned on terms that are fair and reasonable.

- (e) According to the independent surveyor appointed by the Planning, Environment and Lands Bureau, the acquisition prices offered by the LDC in eight cases in the two redevelopment projects were on the low side. In this regard, the LDC has now made new acquisition offers to the owners in seven cases. In the remaining case, since the independent surveyor is of the opinion that the LDC has underestimated the joint redevelopment value of the adjoining lots, the LDC is now conducting a re-valuation of the lots.

The LDC will continue to negotiate with owners over the purchase of the remaining properties before a recommendation for resumption is made by the Government under the Lands Resumption Ordinance (Cap. 124).

## **BILLS**

### **First Reading of Bills**

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

### **EVIDENCE (AMENDMENT) BILL 1999**

### **ARBITRATION (AMENDMENT) BILL 1999**

### **HOUSING MANAGERS REGISTRATION BILL**

### **ADAPTATION OF LAWS (NO. 19) BILL 1999**

### **HONG KONG ARTS DEVELOPMENT COUNCIL (AMENDMENT) BILL 1999**

### **HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1999**

**CLERK** (in Cantonese): Evidence (Amendment) Bill 1999  
Arbitration (Amendment) Bill 1999  
Housing Managers Registration Bill  
Adaptation of Laws (No. 19) Bill 1999  
Hong Kong Arts Development Council (Amendment)  
Bill 1999

Hong Kong Sports Development Board (Amendment)  
Bill 1999.

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

**Second Reading of Bills**

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

**EVIDENCE (AMENDMENT) BILL 1999**

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I move that the Evidence (Amendment) Bill 1999 be read the Second time.

The purpose of the Bill is to abolish the formal rules of evidence requiring corroboration (or a warning by the judge of the dangers of convicting on the uncorroborated evidence of a single witness) in sexual offence cases, which is the last category of cases to which the rules still apply. Similar rules were abolished in relation to the evidence of accomplices and children in 1994 and 1995 respectively.

Let me first explain the background and the problem we seek to resolve. "Corroboration" is evidence which confirms the accuracy of other evidence in a material particular. In criminal cases, it must confirm or tend to confirm the guilt of the accused.

There are two aspects to the corroboration requirement under current law. Firstly, in sexual offences cases, the judge is, as a matter of practice, required to warn the jury of the danger of conviction on the uncorroborated evidence of a single witness, and to explain what can (and what cannot) amount to corroborative evidence. Secondly, there are seven specific sexual offences under the Crimes Ordinance in respect of which the prosecution's evidence must, as a matter of law, be corroborated.

The requirement for a warning to be administered by the judge has been criticized as inflexible as the requirement means that a direction from the trial judge is mandatory regardless of his assessment of the reliability of the evidence, or of the assistance that the jury need to be given in assessing that evidence.

The warning has been criticized for its complexity as what can and cannot amount to corroboration are difficult and complex and have given rise to errors and appeals.

The requirement for corroboration in the seven specific offences is an exception to the general principle that it is the quality, rather than the quantity, of evidence which should count in a criminal trial.

A further criticism of the requirement for corroboration is that it applies according to the definitions of the offence, rather than according to the circumstances of the particular case before the Court.

I have taken into account concerns that have been expressed by the legal profession regarding the need to protect the rights of defendants. It has been suggested, for example, that a warning is an essential safeguard for the defendant against allegations that may be based on jealousy, fantasy or spite. However, I am of the view that the existing law provides defendants with ample protection against such dangers even without the corroboration rules.

Trial judges have a general obligation to use their experience and judgment to assist the jury to assess and to make sense of the evidence. This include putting defences not raised in the accused's own submissions to the jury. Where items of the prosecution evidence are actually or potentially unreliable or open to criticism, the judge must guide the jury on those matters.

The Court of Appeal can and will correct the position where the judge has misdirected the jury (or failed to give a direction where one was required) concerning the credibility of a witness. This control applies as much in sexual offence cases as in any other criminal case.

The corroboration rules in respect of sexual offences have already been abolished in England, Canada, most of the Australian States and New Zealand. Judges of the Court of Appeal in Hong Kong have also stated in June 1998 that the continued existence of the rules in respect of sexual offences in Hong Kong

is inexplicable. [*HKSAR v Kwok Wai-chau (Cr. App. 502/97. dated 5.6.1998)*]

I now turn to the provisions of the Bill.

Clause 2 of the Bill adds a new section 4B to the Evidence Ordinance to effect the proposed abrogation.

Clause 3 of the Bill provides for repeal of the seven subsections in the Crimes Ordinance which require corroborative evidence in respect of specified sexual offences.

Madam President, by abolishing the corroboration rules in sexual offence cases, the Bill remove the inconsistency between the treatment of the evidence of witnesses in sexual offence cases and that in other cases. Since most victims in sexual offence cases are female, the Bill will also be a positive move towards removing indirect discrimination against women in relation to giving evidence in court. This I believe will also encourage victims of sexual offences to come forward to report such crimes and to give evidence in court.

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

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Evidence (Amendment) Bill 1999 be read the Second time.

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

### **ARBITRATION (AMENDMENT) BILL 1999**

**SECRETARY FOR JUSTICE** (in Cantonese): Mr Deputy, I move the Second Reading of the Arbitration (Amendment) Bill 1999.

The existence of an efficient arrangement for enforcing, in one

jurisdiction, arbitral awards made in another jurisdiction helps to ensure fair business dealings and makes it less likely that business people will renege on their contracts. Prior to the reunification, the recognition and enforcement in Hong Kong of arbitral awards made in other jurisdictions, including the Mainland, was governed by the New York Convention. The Convention continues to apply to Hong Kong after the reunification. However, since the Convention is an international agreement, it is no longer applicable to the enforcement of arbitral awards between the Mainland and the Special Administrative Region (SAR). A new arrangement needs to be put in place.

The Administration has now reached a consensus with the Mainland in this aspect. The new arrangement is made in accordance with the spirit of the New York Convention. In addition, to meet present day's needs, it will allow awards made by over 100 mainland arbitral authorities with relevant experience to be enforced in the SAR.

The Arbitration (Amendment) Bill seeks to implement the above arrangement. It defines clearly the type of mainland awards that can be enforced in Hong Kong and sets out relevant procedures and grounds for refusal of enforcement. In addition, the Bill adapts the Ordinance to bring it into conformity with the Basic Law and Hong Kong's status as a SAR of the People's Republic of China.

Mr Deputy, this Bill is important to make all-embracing the arrangement for enforcement of arbitral awards in Hong Kong. I commend it to this Council for early passage into law. Thank you.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Arbitration (Amendment) Bill 1999 be read the Second time.

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

## **HOUSING MANAGERS REGISTRATION BILL**

**SECRETARY FOR HOUSING** (in Cantonese): Mr Deputy, I move the Second Reading of the Housing Managers Registration Bill.

The purpose of the Bill is to raise the professional standards of housing managers, improve the service quality of building management, and ensure that those who claim to be qualified professionals have indeed received proper training and acquired the relevant professional qualification and observed a code of conduct during practice. We believe the proposed registration system will raise property management standards and facilitate self-regulation among the housing manager profession.

The Bill provides for the registration of professional housing managers and their disciplinary control. Mr Deputy, I would like to take this opportunity to outline the main points of the Bill.

First, we propose to set up a registration board responsible for registration matters.

Second, the registration board has the power to set and review qualification standards. The Bill provides that to be registered as a professional housing manager, the applicant should be a member of the Hong Kong Institute of Housing, or member of a housing management association of a similar standard, or has attained professional qualifications recognized by the board, and with at least one year's relevant working experience in Hong Kong.

Third, the Bill also empowers the board to inquire into complaints and take disciplinary sanctions against professional misconduct or negligence.

Fourth, the Bill prohibits persons who are not registered from using the title of "registered professional housing manager".

It should be noted that due to the voluntary nature of the registration system, registration is not a statutory requirement for employment as housing managers. Therefore if the Bill is passed, it will not create a "close-shop" situation and should not have any impact on the recruitment or employment of housing managers in public or private organizations.

Mr Deputy, due to the continued development of housing projects, private

and public, promoting professional building management is a must. The proposed registration system will not only serve to raise the professional standards of housing managers but also help to promote better property management. So, our proposal has received wide support from the profession. It should also be welcome by the public as well. I commend this Bill to Members for passage into law.

Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

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

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

### **ADAPTATION OF LAWS (NO. 19) BILL 1999**

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I move that the Adaptation of Laws (No. 19) Bill 1999 be read the Second time.

The Bill seeks to effect necessary adaptations to nine ordinances and their subsidiary legislation on matters relating to labour to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region (SAR) of the People's Republic of China.

Some of the references contained in these nine ordinances, such as "the Governor", "the Governor in Council" and "the Crown" are inconsistent with the status of Hong Kong as a SAR of the People's Republic of China, and need to be amended as appropriate. Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have already set out how terminologies inconsistent with the Basic Law or with the status of Hong Kong as a SAR of the People's Republic of China are to be construed, it is considered inappropriate to retain such terminologies in our laws. Accordingly, we now need to introduce the Bill to effect the necessary textual amendments.

The proposed amendments are mainly terminological changes. The adaptations in this Bill, when passed into law, shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region.

The Bill obviates the need to make cross references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance. I ask Members to support the passage of this Bill.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 19) Bill 1999 be read the Second time.

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

## **HONG KONG ARTS DEVELOPMENT COUNCIL (AMENDMENT) BILL 1999**

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I move the Second Reading of the Hong Kong Arts Development Council (Amendment) Bill 1999.

The purpose of the Bill is two-fold. First, it expands the membership of the Hong Kong Arts Development Council (ADC) from 22 at present to a maximum of 27. Second, it adds the art of Chinese opera (Xiqu) to the Ordinance so that the ADC includes a representative nominated by Xiqu organizations to the ADC.

In the Consultant's Report on Culture, the Arts, Recreation and Sports Service released in March this year, it was recommended that the membership of the ADC should be expanded to allow more experts and people from other sectors to advise the ADC, thereby creating a closer link between the ADC and the community.

Including Chinese opera in the list of 10 approved art categories so as to allow the relevant organizations to nominate a representative to the ADC will standardize the practice which have been adopted since 1995. The ADC also agrees to this proposal.

The proposed amendment when passed into law will take effect from a date to be specified by the Secretary for Home Affairs, which is expected to be 1 January 2000, that is, the date on which the new structure for provision of cultural, arts and recreational services is established.

The amendment is simple and straightforward. I hope Members will support it.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Hong Kong Arts Development Council (Amendment) Bill 1999 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.

## **HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1999**

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I move the Second Reading of the Hong Kong Sports Development Board (Amendment) Bill 1999.

The purpose of the Bill is to expand the membership of the Hong Kong Sports Development Board (SDB) from 13 at present to a maximum of 17 to allow experts and other people from the community to advise the SDB. The Bill also proposes to change the name of the Amateur Sports Federation and Olympic Committee of Hong Kong to the Sports Federation and Olympic Committee of Hong Kong, China (SFOC) on the recommendation of the SFOC.

Another purpose of the Bill is to allow a representative of the SFOC to join the SDB to enhance the representativeness of the SFOC on the SDB.

This amendment, being simple and straightforward, is consistent with the recommendations contained in the Consultant's Report on Culture, the Arts, Recreation and Sports Service released in March this year. The amendment when passed into law will take effect from a date to be specified by the Secretary for Home Affairs, which is expected to be 1 January 2000, that is, the date on which the new structure for the provision of cultural, arts and recreational services is established. I hope Members will support it. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Hong Kong Sports Development Board (Amendment) Bill 1999 be read the Second time.

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

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 12) Bill 1998.

Under the Rules of Procedure, I have permitted Miss Margaret NG, Chairman of Bills Committee on Adaptation of Laws (No. 12) Bill 1998, to address the Council on the Committee's Report.

### **ADAPTATION OF LAWS (NO. 12) BILL 1998**

#### **Resumption of debate on Second Reading which was moved on 6 January 1999**

**MISS MARGARET NG:** Madam President, as Chairman of the Bills Committee on the Adaptation of Laws (No. 12) Bill 1998, I wish to report on the main deliberations of the Bills Committee.

The Bill seeks to adapt references in seven Ordinances and their

subsidiary legislation to bring them into conformity with the status of Hong Kong as a Special Administrative Region of the People's Republic of China and with the Basic Law.

The Bills Committee notes that the majority of the adaptations proposed in the Bill are straightforward technical amendments. The exceptions were some proposed adaptations in Schedule 2 to the Bill relating to the Criminal Procedure Ordinance (Cap. 221) and its subsidiary legislation. These were deliberated at some length by the Bills Committee.

In regard to the proposed adaptation of references to "Crown/Queen" as "Government" in sections 9M(1) and 102(4) of Cap. 221 and Forms II, III, XVI and XVII of the Criminal Appeal Rules, the Administration has explained that the proposed adaptation is in accordance with the adaptation guidelines incorporated in section 2 of Schedule 8 of the Interpretation and General Clauses Ordinance (Cap. 1), which stipulates that any reference in any provision to Her Majesty, the Crown, the British Government or the Secretary of State (or to similar names, terms or expressions) in contexts other than titles to land in the Hong Kong Special Administrative Region (SAR), affairs for which the Central People's Government has responsibility or the relationship between the Central Authorities and the SAR, shall be construed as reference to the Government of the SAR. The Bills Committee considers the Administration's explanation acceptable.

The proposed adaptation of reference to "Crown" as "Government" in sections 56(2)(a), 59, 83S of Cap. 221, rule 64(2) of the Criminal Appeal Rules and rule 2 of the Criminal Procedure (Representation) Rules was a different matter. The Administration has pointed out that the reference to "Crown" in section 56(2)(a) of Cap. 221 is in the context of the Crown being a party at the trial of an offence and the Secretary for Justice or the Solicitor General appears for the Crown. Since the Secretary for Justice and the Solicitor General are both law officers of the Government who act as the Government's chief legal advisers and have important responsibilities in relation to the law and its enforcement, it was right that the "Government" is the party prosecuting. The Administration takes the view that the idea that the executive is a party to most criminal proceedings is reinforced by Article 63 of the Basic Law which provides that the Department of Justice of the SAR shall control criminal prosecutions, free from any interference. The Administration has further

advised that the references to "Crown" in sections 59 and 83S of Cap. 221, rule 64(2) of the Criminal Appeal Rules and rule 2 of the Criminal Procedure (Representation) Rules are in the context of the Crown being a party to criminal proceedings. In the view of the Administration, the references to "Crown" in the legislation concerned should be adopted as "Government" in accordance with the adaptation guidelines set out in section 2 of Schedule 8 of Cap. 1.

The Bills Committee has reservations about the Administration's explanations. The Bills Committee points out that there is no express provision in either Article 59 or 63 of the Basic Law which states that the Department of Justice represents the Government in prosecuting an accused person. Indeed, prosecutors have never represented the Government in the conduct of criminal cases in the past. The Bills Committee considers that to adapt the reference to "Crown" as "Government" in the legislation concerned will have the effect of changing the substance of the existing provisions, which is contrary to the principle of the adaptation exercise. Further, such adaptation will have the wrong connotation that prosecutors act in the interest of the Government rather than the public.

The Bills Committee accepts the Legal Adviser's opinion that in the context of section 56(2)(a) of Cap. 221 and other provisions on criminal procedure where the role of the Secretary for Justice in the prosecution of criminal proceedings is referred to, the term "Crown" should be adapted to "HKSAR" and not to "Government" to reflect the constitutional reality. In the Legal Adviser's opinion, such adaptation would be in conformity with past convention under British rule and the provisions in the Basic Law and the Hong Kong Reunification Ordinance, as well as consistent with other Ordinances and other proposed adaptations in the Bill.

The Administration has accepted the views put forward by the Bills Committee and agreed to propose Committee stage amendments to change the proposed adaptation of the reference to "Crown" to "HKSAR", instead of "Government", in sections 56(2)(a), 59, 83S of Cap. 221, rule 64(2) of the Criminal Appeal Rules and rule 2 of the Criminal Procedure (Representation) Rules.

The Bills Committee accepts the Administration's explanations for adapting the reference to "imperial enactment" to "national law applying in Hong Kong" in Rules 4 and 5 of Indictment Rules in Cap. 221 (the Rules).

According to the Administration, the Rules should cover any national laws applying to the SAR so long as they create criminal offences triable in Hong Kong courts. This will ensure that the same protection is available to all defendants regardless of whether they are charged under an ordinance or a national law. The Administration has pointed out that Article 18 of the Basic Law provides that national laws listed in Annex III to the Basic Law shall be applied locally by way of promulgation or legislation by the SAR. If a national law which creates an offence is applied to the SAR by way of legislation, the situation will be covered by the word "Ordinance" in the Rules. However, a problem may arise if a national law is applied to the SAR by way of promulgation as that will not be covered by the Rules unless the reference to "imperial enactment" in the Rules is adapted to "national law" applying in Hong Kong.

The Administration has also pointed out that section 9(3) of Cap. 221 relating to trials for treason or misprision of treason by Basic Law Article 23 implications and its adaptation will be dealt with in a separate exercise. The Administration considers it inappropriate to repeal section 9(3) as such repeal may create a lacuna in law. In the Administration's view, if a national law which applies to Hong Kong does create an offence triable in Hong Kong courts, section 9(3) and the Indictment Rules (as a matter of adaptation) should apply to that offence, in the same way as they previously applied to British laws that applied in Hong Kong before 1 July 1997.

On the proposal to repeal the reference to "in the peace of the Queen" in section 19 of Cap. 221 and substituting it by "within the jurisdiction of Hong Kong courts", the Administration has explained that the expression "in the peace of the Queen" was formerly used to allege jurisdiction of the Court in an indictment by the victim of an offence committed on the high seas or in any place outside Hong Kong. The Administration has further pointed out that jurisdiction of Hong Kong courts to try offences committed on the high seas and in foreign parts is conferred by section 23B of the Crimes Ordinance (Cap. 200). The term "in the peace of the Queen" is wider than "within the jurisdiction of Hong Kong courts". Section 19 of Cap. 221 does not confer a wider jurisdiction than section 23B of Cap. 200, but must be read subject to it. Therefore, to adapt the term "in the peace of the Queen" in section 19 of Cap. 221 to "within the jurisdiction of Hong Kong courts" will not narrow the jurisdiction which is already in section 23B of Cap. 200 which will remain

unchanged.

The Bills Committee accepts the Administration's explanation and supports the proposed adaptation of the reference to "in the peace of the Queen" in section 19 of Cap. 221 to "within the jurisdiction of Hong Kong courts".

Madam President, subject to the Committee stage amendments to be moved by the Secretary for Justice, the Bills Committee supports the Bill.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

**SECRETARY FOR JUSTICE:** Madam President, on 6 January 1999, I introduced the Adaptation of Laws (No. 12) Bill 1998 into this Council. The main purpose of the Bill is to adapt the provisions of seven Ordinances to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

I am grateful to the Honourable Miss Margaret NG, the Chairman of the Bills Committee, and to the members of the Committee, for their thorough consideration of the Bill. We have carefully considered the views of the members and incorporated their helpful suggestions into the Committee stage amendments which I shall move later this afternoon.

I shall move certain amendments to Schedule 2 under clause 3 of the Bill by deleting "Government" and substituting "HKSAR" in the adaptation of the term "Crown" in the context of the Crown being a party in criminal proceedings. Given that the Department of Justice, and not the SAR Government, controls prosecutions, free from any interference, it is considered that "HKSAR" is a more appropriate term than "Government" in the context.

Although the Criminal Procedure Ordinance is one of the Ordinances covered by this Bill, it was decided not to adapt section 9(3) of that Ordinance. This was because section 9(3) contains a reference to "treason or misprision of treason". As this has implications for Article 23 of the Basic Law, the Administration proposes to deal with this adaptation in a separate exercise. This was explained to the Bills Committee, which agreed with this approach.

Madam President, subject to the amendments that I shall move, I commend this Bill to Honourable Members for passage into law. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 12) Bill 1998 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 12) Bill 1998.

Council went into Committee.

### **Committee Stage**

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

**ADAPTATION OF LAWS (NO. 12) BILL 1998**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 12) Bill 1998.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**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): Schedules 1, 3 to 7.

**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): Schedule 2.

**SECRETARY FOR JUSTICE** (in Cantonese): Madam Chairman, for the reasons I explained earlier this afternoon, I move that Schedule 2 under clause 3 be amended as set out under my name in the paper circularized to Members.

*Proposed amendment*

**Schedule 2 (see Annex I)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Justice, do you wish to reply?

(The Secretary for Justice indicated that she did not wish to reply)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedule 2 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 will now resume.

Council then resumed.

### **Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **ADAPTATION OF LAWS (NO. 12) BILL 1998**

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, the

Adaptation of Laws (No. 12) Bill 1998

has passed through Committee with 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 Adaptation of Laws (No. 12) Bill 1998 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 12) Bill 1998.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Theft (Amendment) Bill 1998.

Under the Rules of Procedure, I have permitted Mrs Miriam LAU, Chairman of Bills Committee on Theft (Amendment) Bill 1998, to address the Council on the Committee's Report.

### **THEFT (AMENDMENT) BILL 1998**

#### **Resumption of debate on Second Reading which was moved on 2 December 1998**

**MRS MIRIAM LAU**: Madam President, in my capacity as the Chairman of the

Bills Committee on the Theft (Amendment) Bill 1998, I would like to give a brief report on the deliberations of the Bills Committee.

From the outset, members of the Bills Committee had serious reservations about the proposals of the Bill which departed from the recommendations of the Law Reform Commission in the following areas. Firstly, the offence of fraud as proposed was not restricted to cases involving financial or proprietary gain or loss. The Law Reform Commission recommended otherwise. Secondly, the common law offence of conspiracy to defraud was proposed to be retained. The Law Reform Commission recommended abolition.

On its proposal to remove the restriction of financial or proprietary gain or loss, the Administration argued that this would enable action to be taken on cases involving no financial benefit or prejudice, such as public officers being induced by false representations to breach their public duty or act in a way in which they would not have acted had they known of the true facts. In addition, the views of prosecuting officers were that the Bill as drafted was necessary to ensure that there would be no areas of fraud left uncovered and that prosecutions could be brought against some cases of substantive commercial crimes which could not be prosecuted under the current law. The Bills Committee was concerned that the scope of the new offence might be too wide such that even trivial occurrences not originally contemplated by the Administration would be caught. Although the Administration assured members that according to the prosecution guidelines, criminal prosecution against conduct of a trivial nature will not be initiated, members felt that protection of the general public should not rest ultimately with the prosecutorial discretion of the prosecuting authorities. The law must be certain and if the scope of the offence is extended to non-financial or non-proprietary loss or gain, clearly there is a risk that the limits of the offence may be uncertain. In any event there are only relatively few cases of "breach of public duty" which could not be prosecuted under other offences so that there is no real justification to expand the scope of the offence to cater for these cases, even if they should come up.

After discussion and in order to meet the concerns of members, the Administration agreed to restrict the new offence of fraud to circumstances in which there is financial or proprietary loss or gain only, and will move an amendment to the definitions of "benefit" and "prejudice" in clause 3 of the Bill. The Secretary for Justice will address Members on this when moving the relevant amendments.

However, the Administration is of the firm view that there is a need to retain the common law offence of fraud. After much discussion and debate, the Bills Committee finally agreed to accept the Administration's proposal. In arriving at this decision, the Bills Committee took into account further justifications provided by the Administration.

Firstly, the Administration pointed out that it is essential for the commission of the new statutory offence that the act or omission of the person deceived must have been induced by deceit, and that the act or omission must result in a benefit to some other person, or prejudice or a substantial risk of prejudice to some other person. In order to prove the offence, it is necessary to prove the presence of all elements and a connection between these elements. These technical limitations may result in the inability to prosecute some offenders.

Secondly, if conspiracy to defraud at common law is not retained, the effect of the Bill in its present form will mean that Hong Kong may not be able to provide mutual legal assistance to other jurisdictions including many common law jurisdictions, which maintain a wider notion of fraud under their respective laws, because the principle of double criminality will not be met. The result is that Hong Kong may become a "haven" for international fraudsters.

Thirdly, the usefulness of the offence of conspiracy to defraud has been proven over the years and many common law jurisdictions have retained it. In England, conspiracies at common law were abolished in 1977 and a statutory offence of conspiracy was created. However considerable difficulties were experienced in applying the statutory conspiracy to cases of conspiracy to defraud. As a result, the Criminal Justice Act was amended in 1987 to restore the full usefulness of the offence of conspiracy to defraud. The English Law Commission has been reviewing all offences involving dishonesty and has deferred making a final recommendation on conspiracy to defraud until that review has been completed. As the fraud legislation in Hong Kong is virtually identical to the English Act, it would be sensible for Hong Kong to preserve the common law offence of conspiracy to defraud until the Administration has had a chance to examine the conclusions of the review being undertaken by the English Law Commission. The Bills Committee has requested the Administration to report the final recommendations of the English Law Commission to the Panel on Administration of Justice and Legal Services in due

course.

There is however one area where the Bills Committee and the Administration have not been able to reach consensus, that is, in relation to the inclusion of the word "opinions" in the definition of the term "deceit". The Administration insisted that the word "opinions" should remain in the definition so that people (for example, retailer or experts in a particular field) will be left in no doubt that if they falsely or recklessly express an opinion, such conduct will not be tolerated. Members however considered it undesirable to criminalize mere expressions of opinion or commercial exaggerations. In any event, the Administration has not been able to cite any precedents or otherwise demonstrate to the satisfaction of members as to how it would be handicapped in taking prosecution action without the word "opinions" in the definition. The Bills Committee has therefore resolved to introduce a Committee stage amendment to delete the word "opinions" from the definition of "deceit". I shall elaborate further on this when I move the amendment at the Committee stage.

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

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

(No Member indicated a wish to speak)

**SECRETARY FOR JUSTICE:** Madam President, on 2 December 1998, I introduced the Theft (Amendment) Bill 1998 into this Council. The Bill aims to improve the existing law in respect of fraud-related crimes by creating a new statutory offence of fraud. The Bill also provides for the retention of the existing common law offence of conspiracy to defraud.

The new offence to be created will be committed when a person by deceit induces another to act or to make an omission resulting either in prejudice or a substantial risk of prejudice to another, or benefit to the fraudster or another. The sentence for the new offence of fraud is 14 years' imprisonment, which is the same as that for the existing common law offence of conspiracy to defraud.

I am most grateful to members of the Bills Committee and its Chairman—the Honourable Mrs Miriam LAU—for studying the Bill with expedition and care.

Before I deal with certain questions arising out of the Bill, I would like to reiterate the Administration's position in relation to the Legislative Council Rules of Procedure. The Administration has reservations on the Legislative Council Rules of Procedure with regard to the application of certain Basic Law provisions in the operation of this Council. Without prejudice to the Administration's position on this issue, we have decided to resume the Second Reading and debate of this Bill in order not to delay the implementation of the proposals made under the Bill.

Let me now turn to the major concerns addressed in the meetings of the Bills Committee. As proposed under the Bill, the new offence will cover both proprietary or financial gain or loss and non-proprietary or non-financial gain or loss. After detailed deliberations, the Bills Committee has suggested that the new offence of fraud be restricted to proprietary or financial gain or loss. The Bills Committee holds strongly the view that it would be rare that a deceit under the new offence of fraud would not involve a proprietary or financial gain or loss. It would therefore not be necessary to create an offence which would cover proprietary or financial gain or loss as well as non-proprietary or non-financial gain or loss. We accept that the views of the Bills Committee and agree with the proposal to restrict the new offence of fraud to proprietary or financial gain or loss only. I shall move an amendment to clause 3 of the Bill accordingly.

The Bills Committee has also expressed concern about the proposed retention of the common law offence of conspiracy to defraud. The Administration is of the view that the law of fraud would be defective if the common law offence of conspiracy to defraud were repealed since the new offence of fraud would not cover cases where no deceit is involved, for example, directors of a company put the company funds at risk by making a loan other than on a commercial basis and hence prejudicing the company's interest. After careful consideration, the Bills Committee has accepted that the common law offence of conspiracy to defraud should be retained as proposed under the

Bill.

One of the principal elements of the new offence is that the offending act is committed by deceit which is defined in the Bill. The Bills Committee holds a different view on the definition of "deceit" as proposed in the Bill. While the Bills Committee agrees that the words "relating to the past, the present or the future" should be included in the definition of "deceit" under the Bill, it disagrees with the Administration that the words "or opinions" should also be included, notwithstanding the fact that the same are provided for in a similar definition of "deception" under section 17 of the Theft Ordinance. Members of the Bills Committee do not see the need or merit of covering those situations in which a person expresses an opinion merely as "traders puff". The Bills Committee also notes the view of the Law Reform Commission that opinions expressed in the context of commercial activities are matters better left to consumer protection measures.

As explained in the Bills Committee meetings, the Administration holds the view that the words "or opinions" should be retained in the definition of "deceit". In an international commercial centre such as Hong Kong, opinions of experts in a particular field are essential for the satisfactory transaction of business. It is considered that persons making such opinions knowing that they were false should be criminally liable.

Furthermore, the Theft Ordinance contains offences of deception, under which "deception" covers deception relating to opinions. These offences have operated most effectively since their inception. The proposed new offence of fraud essentially shares the same elements as other deception offences in the Theft Ordinance and it is important to ensure consistency between the definition of "deceit" and the definition of "deception" within the same Ordinance.

Regarding mere "traders puff" or casual opinions about which the Bills Committee expresses concern, the Administration considers that if they are made in good faith, they would not be caught by the new offence of fraud since the onus would be on the Prosecution to prove beyond reasonable doubt that the erroneous opinion was intentionally made in the knowledge that it was false.

We consider that it is necessary to criminalize false opinions made knowingly and it is important to ensure consistency between the definition of "deceit" and the definition of "deception" within the Theft Ordinance. For these reasons, the Administration remains opposed to the deletion of the words "or opinions" which will be the subject matter of a Committee stage amendment to be moved by Mrs Miriam LAU.

As I said in my speech introducing the Bill into this Council, we would be able to deal more effectively with all types of fraud and hence to help enhance Hong Kong's position as the leading financial centre in the region once the new offence is created.

Madam President, with these remarks and subject to the amendments which I shall move, I commend the Bill to Honourable Members. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Theft (Amendment) Bill 1998 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Theft (Amendment) Bill 1998.

Council went into Committee.

**Committee Stage**

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

**THEFT (AMENDMENT) BILL 1998**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Theft (Amendment) Bill 1998.

**CLERK** (in Cantonese): Clauses 1, 2 and 4 to 11.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3.

**SECRETARY FOR JUSTICE**: Madam Chairman, I move that clause 3 be amended as set out in the paper circularized to Members.

For the reasons I explained earlier this afternoon, I move to amend the definition of "benefit" and the definition of "prejudice" in the proposed section 16A(3) under clause 3 of the Bill so that they would be restricted to financial or proprietary gain or loss, whether temporary or permanent.

Thank you, Madam Chairman.

*Proposed amendment***Clause 3 (see Annex III)**

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

**MR JASPER TSANG** (in Cantonese): Madam Chairman, the Democratic Alliance for the Betterment of Hong Kong (DAB) supports the amendment proposed by the Secretary for Justice. As the Chairman of the Bills Committee said in her report, at the initial stage of scrutinizing the Bill, the Administration insisted that "benefit" and "prejudice" should not be restricted to financial or proprietary gain or loss. As a result, members of the Bills Committee cited many ridiculous situations to show that if the Bill as drafted was passed, all those situations would be caught by the Bill and constituted offences. But the Administration was unable to give us a definite answer to dispel our worries. In the end, we were satisfied that the Administration had agreed to accept the Bills Committee's suggestion to move the amendment. Therefore, the DAB considers that the scope of the new offence should be restricted to cases involving financial or proprietary loss or gain only.

**CHAIRMAN** (in Cantonese): Secretary for Justice, do you wish to reply?

(The Secretary for Justice indicated that she did not wish to reply)

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

(Members raised their hands)

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

(No hands raised)

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

**MRS MIRIAM LAU:** Madam Chairman, on behalf of the Bills Committee on the Theft (Amendment) Bill 1998, I move that clause 3 of the Bill be further amended to delete the words "or opinions" in the definition of "deceit".

Under the Bill, "deceit" is defined as including "a deceit as to the intentions or opinions of the person practising the deceit or any other person".

The Bills Committee noted that the definition of "deceit" proposed by the Law Reform Commission in its Report made no reference to the word "opinions". According to the Law Reform Commission, it is clear from the case law in Scotland and South Africa that deceit which forms the basis of the fraud offence does not extend to mere expressions of opinion or commercial exaggerations. It is the view of the Law Reform Commission that commercial claims that a particular product is "the best" are matters best left to consumer protection measures and that such conduct should not fall within the proposed offence of fraud.

The Administration insisted that the word "opinions" should be retained in the definition of "deceit", so that persons such as retailers of electrical and luxury items are left in no doubt and if they falsely or recklessly express an opinion as to the value or quality of their merchandise, such conduct will not be tolerated. The Administration claims that this aspect is particularly important to the tourist industry. The law, however, is not confined to dealing with retailers selling goods to tourists. Under the present definition, even "trader's puff" may be caught, though whether or not a prosecution for the offence of fraud will be brought depends on the facts and circumstances of each particular case. The Administration admits that it is difficult to "draw the line" as to what may be the subject of prosecution but assured members that offences of a trivial nature will not be prosecuted.

Members of the Bills Committee agree with the Law Reform Commission and consider it undesirable to criminalize mere expressions of opinion or commercial exaggerations. Members are of the view that since we are dealing

with criminal law, the law must be clear as to what the new offence of fraud is intended to cover. They have reservation about the Administration's advice that prosecution of cases of trivial nature could be left to the prosecutorial discretion of the prosecution authorities. They also question the necessity to include the word "opinions" in the definition of "deceit", especially when the Administration has failed to demonstrate to the satisfaction of members how it would be handicapped in taking prosecution action if the word is taken out from the definition. Although the Administration has advised that the proposed definition of "deceit" mirrors that of "deception" under section 17 of the existing Theft Ordinance, it has not been able to provide any examples of cases which would not have proceeded with if the word "opinions" was omitted from the definition of "deception". After detailed discussion and having regard to the Administration's refusal to budge on the issue, members agreed that the Bills Committee should move an amendment to delete the words "or opinions" from the definition of "deceit" in clause 3 of the Bill. As regards the definition of "deception" in section 17 of the Theft Ordinance, which would still contain the word "opinions", the Bills Committee recommended that the Panel on Administration of Justice and Legal Services to look into whether or not amendments are required to make that definition consistent with the definition of "deceit".

I urge Members to support the proposed amendment.

Madam Chairman, I beg to move.

*Proposed amendment*

**Clause 3 (see Annex II)**

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

**MISS MARGARET NG:** Madam Chairman, just a few words in support of what the Honourable Mrs Miriam LAU has just said. The Bills Committee took the view that there should be no criminalization without full justification from the Administration whether it is a matter of curing a mischief or whether it is a necessary limitation, particularly when it concerns the freedom of expression.

The Bills Committee tried very hard and gave the Administration every chance to justify the inclusion of the words "or opinions" in the clause, but the Administration has failed to justify the necessity. In view of that fact, the Bills Committee had come to the view that those words ought to be deleted.

So, Madam Chairman, I would recommend the amendment to Members. Thank you.

**MR MARTIN LEE:** Madam Chairman, I have the advantage of reading the draft speech of the Honourable Mrs Miriam LAU and I agree with the contents of it. But because the Secretary for Justice is taking a different view, I think that it would be better for me to say something on behalf of the Democratic Party.

Logically, I can see a case as to why the words "or opinions" be included in the definition, but I do not think that we should legislate just for the sake of logic alone.

Again on consistency, there is an argument today that the words "or opinions" are included in the existing section 17 of the Theft Ordinance for the definition of deception, so why should we take these words out in the definition in clause 3 of the Bill? That is a good question indeed. But when we look at this matter very closely indeed, we have given every opportunity to the representative of the Secretary for Justice to show one single case in the past, in England for example, where the words "or opinions" have been contained in the definition of "deception" as in our section 17 of the Theft Ordinance. We asked them to give us one example where the prosecution failed if opinions had not been included, and of course, no example was forthcoming.

Thus, in the end, we are compelled to come to the conclusion that since no case of necessity has been made out by the Administration, it would not be proper for us to support it, or the inclusion of these words in this clause. But if in future, a case is then made out by the Administration that we do need these words in the law, let them come before us and we will favourably consider an amendment.

Hence, the Democratic Party supports this amendment.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, just now, the Honourable Martin LEE began his speech by saying that it is logical to include the words "or opinions" in the clause. However, he went on to say that we should not legislate just for the sake of logic, without giving any detailed explanation for this. Nevertheless, I agree with the last part of Mr Martin LEE's speech. In this Bill, we are defining a crime. We know very well that the relevant scope should not be broader than what was originally intended in making the legislation. Therefore, during the course of deliberations, members of the Bills Committee repeatedly asked the Government to cite actual cases or even hypothetical situations, that is, situations where a certain act which to the community should be governed or punished by existing law cannot be prosecuted, if the words "or opinions" were not included in the Ordinance. After repeated discussions, still no actual example was forthcoming.

Madam Chairman, during the discussions, we examined the case of opinions given by some professionals, such as lawyers and doctors, which may exert a great influence on their clients. If there is an intention of fraud, they might lead to serious financial losses or losses in terms of ownership. However, in this course, some colleagues pointed out that when those professionals give professional advice, they are bound by rather stringent guidelines or codes of practice, as well as the discipline of their respective professions. Should we also criminalize such acts? That is another question. Therefore, I agree with what Mr Martin LEE said just now, that is, unless there is a new case to convince us that only by including deceit in terms of "opinions" in the legislation could we reflect the public's view of the crime of deceit, we do not think that the words "or opinions" should be included at this stage. Therefore, the DAB supports the amendment moved by Mrs Miriam LAU.

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

**SECRETARY FOR JUSTICE**: Madam Chairman, for the reasons I explained

earlier this afternoon, the Administration does not support the amendment moved by the Honourable Mrs Miriam LAU. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mrs LAU, do you wish to reply?

**MRS MIRIAM LAU:** Madam Chairman, I actually have very little to add over and above what I have stated in my principal speech. I just wish to reiterate that if the Administration attaches so much importance to the words "or opinions" in the definition, why is the Administration not able to come forth with one example, even just one example or illustration of circumstances under which the prosecution would be handicapped without those words in the definition? Ample opportunities have been given to the Administration at the Bills Committee and even at this particular sitting, at this particular Committee stage, and the Administration has not been able to persuade Members that there is a necessity to include those words in the definition.

We are, of course, very concerned about the opinions of experts in Hong Kong, and we believe that those experts should give truthful advice or opinions. But as pointed out by the Honourable Jasper TSANG, the conduct of those experts is actually, in most of the cases, regulated by their own professional bodies.

The problem with the present definition is that it covers not only the opinions of experts, but also the opinions of non-experts and even traders puff. Thus, everybody is included under the definition, everybody may be caught. And even the Administration agrees that it is difficult to draw the line. So, in such circumstances, the Bills Committee is of the view that it would not be safe to include those words under the definition until such time that the Administration comes forth and again proves to us why it is necessary to do so.

The Bills Committee, of course, is aware that if the words "or opinions" are not included in the definition, the definition of "deceit" would be inconsistent with the definition of "deception" under section 17. I mentioned that in my earlier speech. But two wrongs do not make one right. If the words "or opinions" included under the definition of "deception" in section 17 is

wrong, it does not mean that we need to compound that error by including the words "or opinions" in the definition of "deceit", two wrongs do not make one right. If there is any inconsistency that would arise as a result of the difference between the two definitions, the Bills Committee recommends that the Panel on Administration of Justice and Legal Services to look into how that inconsistency may be addressed.

With these remarks, Madam Chairman, I urge Members to support my Committee stage amendment.

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

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by the functional constituencies and those returned by the geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**CLERK** (in Cantonese): Clause 3 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 will now resume.

Council then resumed.

### **Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **THEFT (AMENDMENT) BILL 1998**

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, the

Theft (Amendment) Bill 1998

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 Theft (Amendment) Bill 1998 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Theft (Amendment) Bill 1998.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 8) Bill 1998.

### **ADAPTATION OF LAWS (NO. 8) BILL 1998**

#### **Resumption of debate on Second Reading which was moved on 18 November 1998**

**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 Adaptation of Laws (No. 8) Bill 1998 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 8) Bill 1998.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 8) BILL 1998**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 8) Bill 1998.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**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): Schedules 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 will now resume.

Council then resumed.

### **Third Reading of Bill**

**CHAIRMAN** (in Cantonese): Bill: Third Reading.

### **ADAPTATION OF LAWS (NO. 8) BILL 1998**

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in

Cantonese): Madam President, the

Adaptation of Laws (No. 8) Bill 1998

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 Adaptation of Laws (No. 8) Bill 1998 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 8) Bill 1998.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws Bill 1999.

### **ADAPTATION OF LAWS BILL 1999**

**Resumption of debate on Second Reading which was moved on 27 January 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Secretary for Health and Welfare, do you wish to reply?

(The Secretary for Health and Welfare indicated that she did not wish to reply)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**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): Schedule 14.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 13, 15, 16 and 17.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam Chairman, I move that section 2 in Schedule 1, section 4 in Schedule 2, section 3 in Schedule 3, section 1 in Schedule 4, section 3 in Schedule 5, section 3 in Schedule 6, section 4 in Schedule 7, section 2 in Schedule 8, section 3 in Schedule 9, section 3 in Schedule 10, section 3 in Schedule 11, section 3 in Schedule 12, section 3 in Schedule 13, section 1 in Schedule 15, section 1 in Schedule 16, and section 1 in Schedule 17 be amended. The amendments aim at making the wording of the savings provisions the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws. According to the Decision of the Standing Committee of the National People's Congress on the Treatment of Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, the term "Central Authorities" has a broader meaning than "Central People's Government" because the National People's Congress or other national authorities are not included in the definition of "Central People's Government". The adaptation retains what was previously referred to as the rights of Her Majesty. Therefore the Government agrees to the amendments appropriately made in the Chinese text of the said Schedules by replacing the "Central People's Government" with "Central Authorities". Identical amendments were given support and passed by Members in the resumed Second Reading debate of the Adaptation of Laws (Amendment) Bill 1998 on 28 April. Thank you, Madam Chairman.

*Proposed amendments*

**Schedule 1 (see Annex IV)**

**Schedule 2 (see Annex IV)**

**Schedule 3 (see Annex IV)**

**Schedule 4 (see Annex IV)**

**Schedule 5 (see Annex IV)**

**Schedule 6 (see Annex IV)**

**Schedule 7 (see Annex IV)**

**Schedule 8 (see Annex IV)**

**Schedule 9 (see Annex IV)**

**Schedule 10 (see Annex IV)**

**Schedule 11 (see Annex IV)**

**Schedule 12 (see Annex IV)**

**Schedule 13 (see Annex IV)**

**Schedule 15 (see Annex IV)**

**Schedule 16 (see Annex IV)**

**Schedule 17 (see Annex IV)**

**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 Health and Welfare be passed. Will those in favour please raise their hands?

(Members raised the 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): Schedules 1 to 13, 15, 16 and 17 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 will now resume.

Council then resumed.

### **Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **ADAPTATION OF LAWS BILL 1999**

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

**Adaptation of Laws Bill 1999**

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 Adaptation of Laws Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading of the Hong Kong War Memorial Pensions (Amendment) Bill 1999.

**HONG KONG WAR MEMORIAL PENSIONS (AMENDMENT) BILL 1999****Resumption of debate on Second Reading which was moved on 21 April**

**1999****PRESIDENT** (in Cantonese): Does any Member wish to speak?

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, today is 7 July. How interesting history is! On 7 July 1937, the Marco Polo Bridge Incident broke out, and Japan launched its full-scale invasion of China, marking the beginning of our nation-wide ordeal. All Chinese people will never forget the Marco Polo Bridge Incident on 7 July 1937. But today, 7 July 1999, things are entirely different.

Today should be a day of jubilation and pride for the people of Hong Kong. The people of Hong Kong should be jubilant, because the Legislative Council is right now examining the Hong Kong War Memorial Pensions (Amendment) Bill 1999, which, if passed, will bring the war veterans of the Hong Kong Independent Battalion of the Dongjiang Column under its ambit, making them eligible beneficiaries who may be entitled to a pension. This shows the Special Administrative Region Government's recognition of the contributions made by the Hong Kong Independent Battalion of the Dongjiang Column during the war of resistance. With such a recognition, the inequity left over by history is finally removed, and justice finally done. We the people of Hong Kong should be proud of ourselves, because we, not anyone else, are the very ones who are going to restore the true historical facts about the war of resistance in Hong Kong. This is certainly an achievement of "Hong Kong people ruling Hong" in the Special Administrative Region (SAR), a victory of democracy and the rule of law in Hong Kong!

As we all know, the Japanese invaders started to attack Hong Kong on 8 December 1941. It was not long before the British Governor, Mark YOUNG, surrendered to the Japanese, following a brief resistance of only 18 days put up by the British garrison and the Hong Kong regiment. In marked contrast, the Hong Kong Independent Battalion of the Dongjiang Column put up a sustained struggle against the Japanese forces throughout the entire occupation period lasting for three years and eight months, sustaining heavy casualties, but making very unique contributions. In the end, 115 members of the Hong Kong Independent Battalion died in defence of Hong Kong.

However, the British Hong Kong Administration simply turned a blind

eye to the three years and eight months of struggle put up by the Hong Kong Independent Battalion, and refused altogether to recognize its sacrifices and unique contributions during the war of resistance. In the past, when annual commemorative activities were held at the cenotaph in Central, the British Hong Kong Administration would only invite the attendance of those British veterans who surrendered to the Japanese and others. The members of the Hong Kong Independent Battalion were never given any recognition, let alone having their names included in the list of martyrs kept inside the City Hall memorial shrine.

Madam President, fortunately enough, though, history is written by the people. So, the historical facts which were once obliterated are now eventually given their due recognition, and, that part of our history which was once distorted is also corrected. The people will never forget the bravery and glorious acts of the Hong Kong Independent Battalion during the war of resistance. The action of the SAR Government shows that it is prepared to respond to the people's aspirations, to respect history, to promote justice and to give formal recognition to the status and contributions of the Hong Kong Independent Battalion. In brief, its action is highly commendable, as it represents an achievement which will benefit not only the present generation but also the thousands yet to come.

Now that the SAR Government has confirmed the war-time role of the Hong Kong Independent Battalion, it is now making an effort to amend the Hong Kong War Memorial Pensions Ordinance, so as to make the war veterans of the Hong Kong Independent Battalion eligible beneficiaries who may be entitled to pension under the Ordinance. If the amendment is passed, the same eligibility criteria applicable to other war veterans will also be applied to the members of the Hong Kong Independent Battalion, and the latter may thus be able to receive pensions and medical benefits. This is only natural, and as it should be. And, following the amendment, the number of Hong Kong Independent Battalion members eligible for pension payments will just be about 20 persons. This number is not big, but the significance is certainly immense.

The Democratic Alliance for the Betterment of Hong Kong supports this

Amendment Bill. We also urge the Government to revise the history curriculums of our schools and incorporate the valiant acts of the Hong Kong Independent Battalion during the war of resistance against Japan.

Madam President, I so submit.

**MR ALBERT HO** (in Cantonese): Madam President, the Democratic Party also supports this Amendment Bill. I have only one regret, though, and that is: we have to wait some 50 years after the war before such a Bill is finally put before us for enactment. For those members of the Hong Kong Independent Battalion of the Dongjiang Column who sacrificed their valuable lives in the course of defending Hong Kong against Japanese invasion years back, and, no less significantly, for their surviving families as well, a formal recognition of their contributions and some kind of pension arrangements are in fact long overdue. So with the establishment of the SAR Government our enactment of the Bill on this very day, 7 July, does indeed carry a great symbolic significance. Although not too many people will benefit from the enactment of this Bill because many members of the Hong Kong Independent Battalion have already passed away, the enactment of this Bill can at least enable us to pay tribute to them, to show that we do care about them. But I must still point out that many Hong Kong people born during the post-war decades do not actually quite know how people suffered during the war, because neither the school nor the community at large has provided any adequate education on this. Over the past few decades, how many of us have spoken anything for all those unsung heroes who died for our country? How much has been done to fight for the benefits of these unsung heroes? When we think about all these questions, we should all be ashamed of ourselves. Actually, many problems left over by the war are still unresolved. By enacting the Bill today, we are doing no more than just doing what we should do within our limited ability.

I learn that some Hong Kong residents have recently been to Tokyo to voice their demands to the Japanese Government. Years back, the Japanese Government forced them to surrender their Hong Kong dollars and convert them into military vouchers, but all these military vouchers subsequently became entirely worthless after the war. Many people thus suffered immensely and others were even tortured by this for the rest of the lives. And, many people

also suffered immensely during the war. After the war, it was once considered whether some laws of compensation should be enacted, but after several years, the matter was gradually brushed aside. In the past, probably because the colonial administration could not feel the pains suffered by the people, it did not make any attempts to fight for any compensation for our compatriots. As a result, without the consent of the people of Hong Kong, it signed the San Francisco Treaty under which it gave up all claims for compensation on behalf of Hong Kong.

Many of these problems are still unresolved. That is why we sincerely support the enactment of the Bill today. But I also think that people of our generation should still consider and study these problems further, so as to see what more we can still do for all those who died for our country and their surviving families. This Bill is a good start. I hope that we can make more efforts in this direction in the future. Thank you.

**PRESIDENT** (in Cantonese): Secretary for Health and Welfare, do you wish to reply?

(The Secretary for Health and Welfare indicated that she did not wish to reply)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Hong Kong War Memorial Pensions (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Hong Kong War Memorial Pensions (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **HONG KONG WAR MEMORIAL PENSIONS (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Hong Kong War Memorial Pensions (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 3, 4 and 5.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 2.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam Chairman, I move that clause 2(d) of the Chinese text of the Bill be amended to match the amendment proposed in clause 2(b) of the Bill. Under the existing law, to be eligible for the pension, an applicant or the spouse must have served as a member of any service specified, and during such service was killed, or sustained injury, or was captured. Since the operating methods of the Independent Battalion is different from that of the other services specified in the Ordinance, the terms "service" or "during service" do not apply. We therefore suggest to use the words "屬附表 2 指明的隊伍的成員，並在從事該等隊伍行動期間" in the provisions relating to the Independent Battalion to avoid a discrepancy in the wording in the same ordinance. Thank you, Madam Chairman.

*Proposed amendment*

**Clause 2 (see Annex V)**

**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 amendment moved by the Secretary for Health and Welfare be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the

Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clause 2 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 will now resume.

Council then resumed.

### **Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

## **HONG KONG WAR MEMORIAL PENSIONS (AMENDMENT) BILL 1999**

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

Hong Kong War Memorial Pensions (Amendment) Bill 1999

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 Hong Kong War Memorial Pensions (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Hong Kong War Memorial Pensions (Amendment) Bill 1999.

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

**PRESIDENT** (in Cantonese): This Council now resumes the Second Reading debate on the Banking (Amendment) Bill 1999.

### **BANKING (AMENDMENT) BILL 1999**

### **Resumption of debate on Second Reading which was moved on 26 May 1999**

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

**DR DAVID LI:** Madam President, I rise to voice the full and enthusiastic support of the Finance Functional Constituency for this Bill. The Finance Functional Constituency has spent a great deal of time examining and discussing this Bill, and we have no hesitation in endorsing it.

Our system of banking supervision is already second to none in this region. For that, the Hong Kong Monetary Authority and the Financial Services Bureau deserve full recognition. They also deserve our praise for their determination that Hong Kong retains and enhances its position by bringing us fully in line with the Basel Committee's core principle. This Bill does exactly that. This Bill therefore makes an important contribution to our banking industry and to our economy as a whole.

Madam President, the Finance Functional Constituency warmly welcomes this Bill and has no hesitation in giving it its full support.

**PRESIDENT** (in Cantonese): Secretary for Financial Services, do you wish to reply?

(The Secretary for Financial Services indicated that he did not wish to reply)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Banking (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Banking (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **BANKING (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Banking (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2, 3, 5 to 9, 11, 12, 13, 15, 16 and 18.

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

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the

Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clause 4.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam Chairman, I move the deletion of clause 4, as set out in the paper circularized to Members.

Clause 4 of the Bill proposes to add a new section 51B to require a locally registered authorized institution to seek approval from the Monetary Authority before conducting major acquisition or investment, equalling or exceeding 5% of its capital base.

To eliminate the possibility of an authorized institution conducting acquisitions or investments through its subsidiaries, thereby circumventing the requirement of the new provision, we suggest deleting clause 4 and renumbering the proposed section 51B as 87A, and incorporating it into Part XV of the Banking Ordinance. If the amendment is passed, the Commissioner may invoke section 79A of the Ordinance to implement on a consolidated or non-consolidated basis the requirement for approval of the Commissioner for acquisition or investment reaching 5% or more of the capital base of an authorized institution.

Now, I propose deleting clause 4 of the Bill. Later, I will propose a new clause 11A and consequential amendments to clauses 14 and 17 of the Bill.

Madam Chairman, I beg to move.

*Proposed amendment*

**Clause 4 (see Annex VI)**

**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 amendment moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): As the amendment to delete clause 4 has been passed, clause 4 will therefore be deleted from the Bill.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam Chairman, since the Rules of Procedure stipulate that any proposed new clause shall be considered after the clauses of a bill have been disposed of, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) of the Rules of Procedure be suspended in order that new clause 11A may be considered ahead of the remaining clauses of the Bill.

**CHAIRMAN** (in Cantonese): Secretary for Financial Services, as only the President may give consent for a motion to be moved, without notice, to suspend

the Rules of Procedure, I order that Council do now resume.

Council then resumed.

**PRESIDENT** (in Cantonese): Secretary for Financial Services, you have my consent.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider my proposed new clause 11A ahead of the remaining clauses of the Bill.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider the Secretary for Financial Services' proposed new clause 11A ahead of the remaining clauses of the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

Council went into Committee.

**Committee Stage**

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

**CLERK** (in Cantonese): New clause 11A Section added.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam Chairman, I move that new clause 11A, as set out in the paper circularized to Members, be read the Second time.

Members have just approved the amendment deleting section 51B proposed in clause 4 of the Bill. The new clause 11A seeks to renumber section 51B as section 87A and incorporate section 87A into Part XV of the Banking Ordinance.

Madam Chairman, I beg to move.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 11A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): New clause 11A.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam Chairman, I move that new clause 11A be added to the Bill.

*Proposed addition*

**Clause 11A (see Annex VI)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 11A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 10, 14 and 17.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam

Chairman, I move that clauses 10, 14 and 17 be amended, as set out in the paper circularized to Members.

Members have just approved the deletion of clause 4 and the addition of clause 11A. Therefore the relevant provisions in clauses 14 and 17 have to be accordingly amended. Clause 17 adds the number of the reference section in Schedule 3 to the Schedule. The amendment to clause 10C of the Bill seeks to clarify that the word "it" in section 81 (kb) of the Banking Ordinance refers to the Housing Authority, not the authorized institutions mentioned in the Chinese text.

Madam Chairman, I beg to move.

*Proposed amendments*

**Clause 10 (see Annex VI)**

**Clause 14 (see Annex VI)**

**Clause 17 (see Annex VI)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 10, 14 and 17 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 will now resume.

Council then resumed.

### **Third Reading of Bill**

**CHAIRMAN** (in Cantonese): Bill: Third Reading.

**BANKING (AMENDMENT) BILL 1999**

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

Banking (Amendment) Bill 1999

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 Banking (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Banking (Amendment) Bill 1999.

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

**PRESIDENT** (in Cantonese): We will now resumes the Second Reading debate on the Merchant Shipping (Local Vessels) Bill.

Under Rule 21(4) of the Rules of Procedure, I have permitted Mr CHAN Kam-lam, Chairman of Bills Committee on the Merchant Shipping (Local

Vessels) Bill, to address this Council on the Committee's Report.

## **MERCHANT SHIPPING (LOCAL VESSELS) BILL**

### **Resumption of debate on Second Reading which was moved on 31 March 1999**

**MR CHAN KAM-LAM** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on the Merchant Shipping (Local Vessels) Bill, I shall report on the main deliberations of the Bills Committee.

The Bill seeks to consolidate and amend the law relating to local vessels, in particular to improve their safety, control and regulation. The Bill applies to all local vessels, including local licensed vessels and mainland coastal and river-trade vessels that are permitted to enter and remain in Hong Kong waters.

The Administration proposes to consolidate the present 11 classes of local vessels into four classes in accordance with their use, namely, passenger vessels, cargo vessels, fishing vessels and pleasure vessels.

One of the major concerns of the Bills Committee is the new regulatory control on pleasure vessels. The Committee is concerned whether the Bill would permit the current practice of using pleasure vessels for commercial purposes. The Committee considers that the new requirements for pleasure vessels under the Bill should be clearly made known to the trade concerned.

The Administration has pointed out that the present practice of using pleasure vessels for commercial purposes is illegal. In the Bill, pleasure vessels will be more clearly defined as vessels used solely for pleasure purposes and are not for hire or lease for reward other than under the terms of a charter agreement or hire-purchase agreement. The lease of pleasure vessels to a party or organization, other than the family or relatives, will only be allowed under a charter agreement. Under the proposed arrangement, a charter agreement must be entered before the owner executes the service and it must be kept on board together with a valid third party risks insurance policy for ready inspection by law enforcement officers. Failure to meet these requirements will be liable to prosecution. The implementation details of this proposal would be worked out by the Local Vessels Advisory Committee in consultation with the trade.

The Administration stresses that the primary objective of the legislative proposal in respect of pleasure vessels is to ensure that passengers are suitably protected by being covered under third party risks insurance when an accident occurs. Should owners of these vessels wish to use their vessels for commercial purposes, such as carrying fare-paying passengers, they should apply for an appropriate licence, comply with the safety standards on par with those adopted for launches and ferry vessels, as well as take out a third party risks insurance policy. It is an offence to use a licensed pleasure vessel for purposes other than pleasure. The Administration would step up enforcement actions and prosecutions to ensure that these vessels are solely used for this particular purpose.

According to the Administration, pleasure vessels are not subject to mandatory periodic inspection or any survey standards. The Bills Committee expressed concern about the monitoring of the safety requirements of these vessels, particularly those for hire under a charter agreement. The Administration has advised that the safety standards for each of the four new classes of vessels would be published in the form of regulations and codes of practice for guidance of the industry and the public. The Administration has assured Members that in formulating these regulations and codes of practice, the trade and the Local Vessels Advisory Committee would be consulted.

Madam President, the Bills Committee is also concerned as regards how to ensure that other types of vessels are used for their specified purposes, for example, P4 vessels are used for fish pond culturing within specified areas. The Committee points out that very often, P4 vessels are overloaded with passengers. The Administration has advised that owners of these are liable to prosecution if they use these vessels for other non-specified purposes, such as letting for commercial purpose. Prosecution in this regard would be stepped up.

On the proposal to extend the requirement of compulsory third party risks insurance currently applicable to local ferries, launches and pleasure vessels to all local vessels permitted to operate in Hong Kong waters, the Administration has advised the Bills Committee that the minimum insurance cover for third party risks insurance for passenger vessels and non-passenger vessels is proposed to be \$10 million and \$5 million respectively. The minimum

insurance cover will be laid down in the subsidiary legislation after consultation with the trade concerned.

The Bills Committee questions whether the amount of insurance cover is sufficient. The Administration has advised that the trade has expressed the view that there should be unlimited cover in respect of the third party risks insurance. However, the insurance sector has reservations over an unlimited insurance cover given that most of the insurance companies do not have operational experience in third party risks insurance in respect of local vessels. In the light of the concerns of the insurance sector, the Administration therefore proposes to set a minimum amount. The Administration has assured the Committee that the level of insurance cover would be kept under review.

Madam President, subject to the Committee stage amendments to be moved by the Administration, the Bills Committee supports the Bill.

Thank you, Madam President.

**MRS MIRIAM LAU** (in Cantonese): Madam President, the regulations for the control of local vessels came under different laws in the past. The Merchant Shipping (Local Vessels) Bill seeks to consolidate these regulations under one single piece of comprehensive legislation solely for regulating and providing a new statutory framework for local vessels, so as to improve their safety, control and regulation. I strongly support the objective of this policy. However, this Bill is only a piece of primary legislation. As regards the specific measures to improve the safety standard of the various classes of vessels, and to enhance the regulation on their operation, they will only be implemented after the regulations and codes of practice are made. I hope that the Government will consult the Local Vessels Advisory Committee on the regulations and table them to this Council for examination and endorsement as soon as possible.

I am glad that the Bill has resolved a problem that has troubled local vessels for years. Previously, when mainland vessels that had not taken out third party risks insurance collided with local vessels in Hong Kong waters, there was no way that local vessels could claim compensation. Now under the Bill, the definition of local vessels also covers mainland vessels that have been

issued with a permit by the Director of Marine to enter and remain in Hong Kong waters, and all local vessels are required to take out insurance. So, this problem should be settled. Nevertheless, I still hope that the Marine Department will take note of the following: first, the Director of Marine must enforce the regulation strictly and ensure that all vessels entering or remaining in Hong Kong waters must obtain a permit before entering or remaining legally in Hong Kong waters; second, mainland vessels have to take out insurance from authorized insurance companies in the Mainland to make sure that both the Hong Kong and mainland insurance companies will work out together a compensation arrangement after an accident.

Moreover, the Bill also empowers the Secretary for Economic Services to make regulations for the classification of local vessels. The Government proposes to simplify the classification by consolidating the present 11 classes of local vessels defined under three sets of regulations into four new classes defined under one set of regulations. I consider this should merit our support. For years, a great deal of confusion and conflicts have existed between passenger vessels, the proposed Class I, and pleasure vessels, the proposed Class IV, which are somehow created by the Government. Because of the lack of a clear definition of the use of the various classes of vessels and slackness of law enforcement by the Government, much confusion has been created in relation to the use of the two classes of vessels. Passenger vessels are under very strict regulation where the structure and specification of the hull have to comply with specified standards and surveys must also be carried out regularly. On the other hand, pleasure vessels are subject to much less stringent requirements in regard to licence application and regulation, making it possible for pleasure vessels owners to take advantage of this grey area to carry fare-paying passengers. While passenger vessels and pleasure vessels both provide transportation services to fare-paying passengers, the former are subject to stringent government regulation but the latter are not. It is no wonder why operators of the former would feel that the Government is unfair to them.

Under the present definition, passenger vessels are used as a means of transportation for carrying passengers to and from different places. At the same time, they can also be used for carrying passengers for sight-seeing and pleasure purposes, meaning that they can carry passengers for sight-seeing in different places and for pleasure, and a fare is chargeable to each individual

passenger. Pleasure vessels are used exclusively for pleasure purposes. Letting of these vessels by a party other than the family or relatives of the owner will only be allowed under a charter agreement solely for pleasure purposes, and fares cannot be charged on individual passengers. Operators of passenger vessels consider that since pleasure vessels are allowed to carry passengers for pleasure purposes, and since they are carrying passengers, they should be subject to the same regulations on passenger vessels such as those concerning structure and survey standards for the sake of passenger safety. Yet, operators of pleasure vessels opine that to require all pleasure vessels for hire to comply with the same standards in regard to the specifications of structure as those required of passenger vessels, most of these vessels will not be able to meet the requirements and thus unable to survive since the Government has never required them to comply with any specifications. Even so, operators of pleasure vessels insist that their vessels are safe. For example, they have even more stringent requirements concerning equipment such as life jackets and the number of passengers than passenger vessels.

Let him who tied the bell on the tiger take it off. As the Government is somewhat the one causing the conflicts and contention between the pleasure vessels and passenger vessels operators, it should look for a way to balance the interests of both parties. In relation to the regulation on the two classes of vessels, passenger safety, as well as settling the conflicts between the two classes, I have the following suggestions for the Government's reference:

First, the system adopted by the Government to regulate the two classes of vessels must comply with the internationally recognized standards. The Hong Kong & Kowloon Motor Boats and Tug Boats Association has pointed out to the Bills Committee that Singapore, New Zealand and mainland China require every passenger vessel or pleasure vessel to undergo survey on the safety of the vessel itself and its equipment. I hope that the Government would explain to us clearly in its reply the difference between the proposed system of Hong Kong and that of the above countries, and whether the Hong Kong system meets the internationally recognized standards.

Second, the safety of passengers is of utmost importance. No matter what regulations the Government imposes on the various classes of vessels, the most important thing is the Government must ensure that all classes of vessels comply with the basic safety requirements and are seaworthy, concerning which the Government cannot shirk its responsibility. In this respect, the

Government has indicated that it will stipulate in the future subsidiary legislation the safety requirements for all classes of vessels. I hope that the Government will draw up the regulations concerned to be observed by the trade in order to better protect the safety of the passengers of these vessels.

Third, to be fair to the operators of both classes of vessels, the Government must lay down clearly the scope of operation of the two and strictly enforce the relevant law. The Government points out that it is against the law to use pleasure vessels for commercial purposes, that is, to carry fare-paying passengers, but on the other hand, these vessels are allowed to be let out under a charter agreement. Therefore, the Government should explain the term "for commercial purpose" more clearly to make the trade understand what business mode is considered illegal. Moreover, as regards the form of charter agreement, the Government should draw up a simple but stringent monitoring regime to prevent anyone using the charter agreement to take advantage of the loophole and obtain an unlawful share of the market of vessels of other classes. To ensure that all vessels operate in their specified domain, the Marine Department and the police have to step up law enforcement and inspect all vessels regularly. This will surely achieve the greatest deterrent effect on the law-breakers.

Madam President, I so submit.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the purpose of the Merchant Shipping (Local Vessels) Bill is to consolidate and amend the law relating to local vessels, to improve the management of local vessels and simplify the classification and monitoring procedures to enhance port safety and marine safety. I would like to thank Mr CHAN Kam-lam, Chairman of the Bills Committee, and other members. In the course of scrutiny, Mr CHAN and other members discussed the Bill in detail and made suggestions to improve the Bill. The Bills Committee is especially concerned with the suggestions of the Bill concerning the regulation of pleasure vessels and securing third party insurance for local vessels. I would also like to thank Mr CHAN and Mrs LAU for their invaluable opinions.

Firstly, I would respond to Mrs LAU's remarks concerning the regulation of pleasure vessels. Our policies for regulating pleasure vessels are actually very similar to those of most places such as Singapore and New Zealand

mentioned earlier, that is, we do not require vessels used exclusively for pleasure purposes to undergo regular mandatory inspection. Although it has been specified in the law that private pleasure vessels cannot be used for commercial purposes, as the law does not contain an explicit definition of pleasure vessels, the Marine Department has encountered difficulties in enforcement and prosecution. The Bill will clearly define pleasure vessels as vessels used exclusively for pleasure purposes. If owners of pleasure vessels intend to use their vessels for commercial purposes such as carrying fare-paying passengers, they must apply for suitable licences for passenger vessels, conform to safety standards and take out suitable third party insurance cover. Licensed pleasure vessels can only be leased for private purposes after the execution of charter agreements and provision of third party insurance. Under all circumstances, private pleasure vessels shall not be used for carrying fare-paying passengers. To protect the safety of people leasing such vessels, the Marine Department has considered the inclusion of safety requirements applicable to pleasure vessels for leasing in the subsidiary legislation after consultation with the Local Vessels Advisory Committee and the trade.

Another major improvement is that the Bill ensures that people injured in marine accidents will be given suitable compensation. The Bill proposes to extend the provision concerning compulsory third party insurance now applicable to local ferries, launches and pleasure vessels to all local vessels permitted to operate in the waters of Hong Kong. To balance the basic protection given to people affected by accidents and the additional costs to be borne by the trade, the minimum cover will be specified in the subsidiary legislation after consultation with the trade and the insurance industry, and the Government will conduct a review regularly.

The amendments proposed are all technical in nature and they have been discussed by the Bills Committee. Madam President, I hope that Members will support the Merchant Shipping (Local Vessels) Bill. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Merchant Shipping (Local Vessels) Bill.

Council went into Committee.

### **Committee Stage**

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

### **MERCHANT SHIPPING (LOCAL VESSELS) BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Merchant Shipping (Local Vessels) Bill.

**CLERK** (in Cantonese): Clauses 1, 3, 5, 7, 9, 11 to 20, 22 to 26, 28 to 39, 41 to 47, 49, 50, 53 to 59, 61 to 69, 71 to 76, 78 to 84, 87, 88, 89 and 91.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2, 4, 6, 8, 10, 21, 27, 40, 48 and 51, heading to part X, clauses 52, 60, 70, 77, 85, 86 and 90.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move that clauses 2, 4, 6, 8, 10, 21, 27, 40, 48 and 51, heading to part X, clauses 52, 60, 70, 77, 85, 86 and 90 be amended, as set out in the paper circularized to Members. These technical amendments have been supported and approved by the Bills Committee. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 2 (see Annex VII)**

**Clause 4 (see Annex VII)**

**Clause 6 (see Annex VII)**

**Clause 8 (see Annex VII)**

**Clause 10 (see Annex VII)**

**Clause 21 (see Annex VII)**

**Clause 27 (see Annex VII)**

**Clause 40 (see Annex VII)**

**Clause 48 (see Annex VII)**

**Clause 51 (see Annex VII)**

**Heading to part X (see Annex VII)**

**Clause 52 (see Annex VII)**

**Clause 60 (see Annex VII)**

**Clause 70 (see Annex VII)**

**Clause 77 (see Annex VII)**

**Clause 85 (see Annex VII)**

**Clause 86 (see Annex VII)**

**Clause 90 (see Annex VII)**

**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 Economic Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2, 4, 6, 8, 10, 21, 27, 40, 48 and 51, heading to part X, clauses 52, 60, 70, 77, 85, 86 and 90 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedule..

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam Chairman, I move that the Schedule be amended, as set out in the paper circularized to Members.

*Proposed amendment*

**Schedule (see Annex VII)**

**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 amendment moved by the Secretary for Economic Services be passed. Will

those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedule as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

**Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

**MERCHANT SHIPPING (LOCAL VESSELS) BILL**

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

Merchant Shipping (Local Vessels) Bill

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 Merchant Shipping (Local Vessels) Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Merchant Shipping (Local Vessels) Bill.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will now resume the Second Reading debate on the Import and Export (Amendment) Bill 1999.

## **IMPORT AND EXPORT (AMENDMENT) BILL 1999**

### **Resumption of debate on Second Reading which was moved on 16 June 1999**

**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 Import and Export (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Import and Export (Amendment) Bill 1999.

Council went into Committee.

**Committee Stage**

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

**IMPORT AND EXPORT (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Import and Export (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 1 to 8.

**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.

**PRESIDENT** (in Cantonese): Council will now resume.

Council then resumed.

**Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

**IMPORT AND EXPORT (AMENDMENT) BILL 1999**

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, the

Import and Export (Amendment) Bill 1999

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 Import and Export (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Import and Export (Amendment) Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Protection of Non-Government Certificates of Origin (Amendment) Bill 1999.

**PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN  
(AMENDMENT) BILL 1999**

**Resumption of debate on Second Reading which was moved on 16 June 1999**

**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 Protection of Non-Government Certificates of Origin (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Protection of Non-Government Certificates of Origin (Amendment) Bill 1999.

Council went into Committee.

**Committee Stage**

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

**PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN  
(AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Protection of Non-Government Certificates of Origin (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 1 to 9.

**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.

**PRESIDENT** (in Cantonese): Council will now resume.

Council then resumed.

**Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

**PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN  
(AMENDMENT) BILL 1999**

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, the

Protection of Non-Government Certificates of Origin (Amendment) Bill 1999

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 Protection of Non-Government Certificates of Origin (Amendment) Bill 1999 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 raises their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Protection of Non-Government Certificates of Origin (Amendment) Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): This Council will resume the Second Reading on the Revenue Bill 1999.

Under the Rules of Procedure, I have permitted Miss Margaret NG, Chairman of Bills Committee on the Revenue Bill 1999, to address the Council on the Committee's Report.

## **REVENUE BILL 1999**

### **Resumption of debate on Second Reading which was moved on 21 April 1999**

**MISS MARGARET NG:** Madam President, in my capacity as the Chairman of the Bills Committee on the Revenue Bill 1999, I would like to speak on the work of the Committee.

As Members are aware, the Revenue Bill 1999 seeks to amend a number of ordinances to give legislative effect to the revenue proposals in the 1999-2000 Budget. During its two-month deliberations, the Bills Committee has held seven meetings and received a record number of written submissions. People from all walks of life sent submissions to express their views on the Bill. The majority of 2 256 submissions we received were related to the fine for smoky vehicles. In view of the interest shown by the community on the issue of smoky vehicles, the Bills Committee has dedicated one special meeting to this subject. Representatives from the transport trade, environmental bodies, medical associations, chambers of commerce, schools and concerned persons were invited to attend the meeting to voice their views before the Bills Committee.

The Bills Committee supports the various revenue concession measures to help business. These measures cover different fields, including merchant shipping, finance, re-export, transport and insurance. Views are, however, divided on the revenue raising proposals. The sheer number of amendments to the Bill to be moved by Members at the Committee stage speaks for itself. I will not go into the details of our discussion on each and every revenue raising proposal, or reflect the views of individual members of the Bills Committee on these measures. As I understand it, members will be speaking on their own

views in this debate as well as during the Committee stage when individual amendments are considered. As Chairman of the Bills Committee, I wish to draw this Council's attention to the outcome of discussions on some of the proposals of the Bill.

The proposal on adjusting the level of fixed penalties for traffic offences is one of the subject matters which excited a great deal of heated debate between members of the Bills Committee and the Administration. According to the Administration, the deterrent effect of the existing fixed penalties has been eroded by inflation. There is thus a need to increase the fines by 26.5% in line with the cumulative inflation since the last adjustment in 1994. The Bills Committee, however, took note of the fact that the total number of fixed penalty tickets issued has been declining in the past few years. In 1994, the total number of fixed penalty tickets issued was over 2.67 million. The figure decreased year by year to less than 1.75 million in 1998. In the face of declining prosecution figures, a majority of members of the Bills Committee do not see a need for an increase in the fixed penalties. Some members were concerned about the impact of the proposed increase on professional drivers and car retailers, who are already hard hit by the present economic recession. In this respect, I am happy to note that the Administration has finally decided to repeal the proposed increase by moving amendments to the Bill.

On the proposal of allowing deferred payment of stamp duty for property transactions, the Bills Committee supports deferment until the execution of the assignment or upon sub-sale of the property. This will make it easier for genuine home buyers to cope with the initial outlay when purchasing a property. Some members have reservations about the proposal to require a corporate purchaser to submit a banker's guarantee before deferment can be considered. We are aware that the reason for this undertaking or this guarantee is to protect public revenue. But the Administration could not provide conclusive evidence that corporate purchasers are more likely to avoid paying stamp duty than individual purchasers. Moreover, some members have pointed out to the Administration that conveyancing solicitors have invariably insisted on the stamping of all interim sub-sale agreements before proceeding to conveyancing. Therefore, the chance of a purchaser not settling the stamp duty before sub-sale is slim. After considerable discussion, the Administration has accepted the view raised by members, and will move amendments to the Bill to delete the proposed requirement.

Members of this Council may also wish to note that the Bills Committee has made two suggestions which have been taken aboard by the Administration. The Administration has agreed to make an express provision to stipulate the acceptance of copied instruments chargeable with stamp duty for stamping to reflect the existing practice. The Inland Revenue Department will be required to give reasons for refusing an application for deferred payment of stamp duty in the notice of decision to the applicant. The Administration will later on move amendments to the Bill to achieve the effect.

Finally, I wish to draw this Council's attention to the inclusion of an empowering provision in the Bill. This provision empowers the Secretary for Transport to make regulations consequent to the repeal of the Cross-Harbour Tunnel Ordinance and the Cross-Harbour Tunnel (Passage Tax) Ordinance. Although members recognized the need to make regulations to facilitate the vesting of the Cross-Harbour Tunnel, an empowering provision of such a nature is rather unusual. For this reason, members have carefully scrutinized the intended regulations supplied by the Administration. They are satisfied that both the contents and the drafting of the regulations could achieve the intended purpose.

Madam President, the Bills Committee supports the Second Reading of the Bill.

**PRESIDENT** (in Cantonese): Will those Members who wish to speak please press the "Request-to-Speak" button. This way, I can see the names of those who wish to speak on the computer screen here.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I believe that colleagues in this Chamber still remember clearly that a month ago, the Government proposed to thaw the freeze on the charges of its services. But no sooner had the proposal been put forward than it was immediately met with unanimous objection from the whole community and Members of this Council. In the end, the Financial Secretary had to withdraw the proposal hastily.

Today, the public view is also very clear. While the economy is still slow and the employment rate standing high, the Government should ride out the difficulties together with the public and freeze the charges of all government services. It should by no means add extra loads to the already heavy burden of the people by increasing the charges. A month ago, the Government was forced to withdraw the proposal to increase charges in the face of strong public opposition. But today's Bill is actually asking for increases in charges. I have this question for the Secretary for the Treasury. Why should the Government insist on increasing a number of charges today given that it has agreed not to increase any charges before the economy recovers? Is this not "speaking of one thing but doing another"?

I have to reiterate that before the economy fully recovers and the unemployment rate shows a definite drop, the Government should never take the lead in raising charges and setting off an unnecessary trend of increases. Moreover, I also hope that colleagues in this Chamber will give serious thoughts to this: Since Members of this Council gave the Government a very clear message a month ago by unanimously demanding a freeze on all government charges, what justifications do we have today to support the Government's proposal to increase charges?

The Government has invoked the Basic Law provision that the Government should ensure a fiscal balance to back up its insistence on raising the charges. But I find this a lame argument. The Government also admits that even if all the three contentious charge increases proposed in the Bill are passed, they will only bring in an additional \$1.6 billion of revenue and there will still be a budget deficit of \$36.5 billion this year. So, whether the Government makes this additional revenue of \$1 billion or \$2 billion or not, it will have but a minimal impact on the overall deficit. Hence, how would the Government breach the Basic Law merely by not getting a billion dollars or so? If we agree to the Government's argument, would it not be tantamount to an endorsement of a substantial increase in charges and taxes to attain a fiscal balance? I believe that none of the Honourable colleagues in this Council would accept that.

The topic that arouses the greatest controversy today is the increase in the tolls of the Cross-Harbour Tunnel (CHT). But up till today, I still do not see any reason for the increase.

Someone points out that the CHT has not raised its tolls for 15 years. But that does not make an increase today reasonable. During the franchised period, the operating consortia of the tunnel charged a toll of \$5, excluding tax for every private vehicle and still brought in hundreds of millions of dollars of profits annually. From the financial point of view, the Government has no reason whatsoever to increase the tolls, unless its purpose is to profiteer! In fact, bearing in mind that there has not been such a need to raise the tolls over the past 15 years, why should there be one during the economic recession?

With regard to the claim that the CHT tolls are raised for the purpose of ameliorating the congestion, frankly, this is, first of all, an issue of traffic policy rather than a fiscal policy of the Government. It is out of the question to use budgeting to alter a significant traffic policy. More importantly, I believe that the toll increase will have very limited effect on reducing the traffic flow at the CHT. Its only effect is to greatly increase government revenue.

Our past experience has clearly shown that after the toll for private cars using the CHT had been raised from \$5 to \$10, tax included, in 1984, the traffic flow there was reduced only for more than a year. From this we can see that the crux of the matter lies not in the CHT toll increase; rather, to resolve the problem, the Government should conduct a comprehensive review on the tolls of the three cross-harbour tunnels altogether, and, in particular, substantially lower the tolls of the Western Harbour Crossing.

It is neither necessary nor reasonable to increase the tolls of the CHT. I am also worried that this increase will bring about another negative effect, that is, the Eastern Harbour Crossing may soon apply for a toll increase or request for arbitration on the same. By that time, the three cross-harbour tunnels will go into a vicious cycle of "envying the other's toll increase, I want one too". This is what I feel strongly against.

Madam President, lastly I would like to speak on the Government's circumventing this Council's endorsement of the bill which seeks to adjust government revenue by making the Public Revenue Protection (Revenue) Order 1999 to raise the parking meter charges. For example, the Government

doubled the on-street parking meter charge on as early as 1 April. Even if the proposal to increase the charge is negated today, owing to the technical difficulties of returning the extra charges received in the past three months to users, I believe that in the end this Council will be forced to pass the amendment of not returning the extra charges. The users were made to pay a doubled parking charge in the past three months for no reason at all, which is extremely unfair.

Therefore, I urge the Government to conduct a comprehensive review on the scope covered by the Order to avoid the situation of "win-take, lose-also-take".

Madam President, I so submit. Thank you.

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

**MR BERNARD CHAN:** Mr Deputy, I rise to speak for the Honourable Miss Christine LOH's amendment to increase fines for smoky vehicles as well as the Government's proposal to raise tunnel tolls and parking meter charges. I hope that these measures will be conducive to our environment and be able to ease traffic strain.

I understand that many colleagues seek to amend these measures in order to alleviate public grief. But these charges have nothing to do with welfare. Only those who use the facilities or those who fail to fix their vehicles are required to pay. I am a supporter of this user pays system, which I think would be a more equitable way of achieving a balanced public account. If we oppose these charges, in the end, the fees will probably be paid by taxpayers. I am also a supporter of green policies and am most ready to pursue a cleaner environment, even at great pains.

Our environment will benefit a lot if the vehicles cease to emit poisonous smoke. The damage of vehicle emission is so apparent that I do not need to prove it with figures. The question is whether we are determined to combat smoky emission by all means. Heavy penalties are not only deterrents. They

are also loud and clear messages about our disapproval of the crime. If a fine of \$5,000 is not heavy enough to enable compliance, I am prepared to support a fine of up to even \$10,000.

Our society has been too lenient to air pollution agents. It was not until the business sector joined forces to air their fury that the Government resorted to more comprehensive measures. The Government's proposal is still no hold until October. I have doubts about whether the proposed measures would be strong enough to curb air pollution if a mindset change is not introduced. Only if we alert the public of the seriousness of air pollution offences can we achieve effective control. Car owners may need some help to fix their vehicles. But how can we motivate them to do so? Surely a heavy penalty will do.

As regards the tunnel tolls, one major reason for the all-time congestion around the Cross-Harbour Tunnel is the lower rate that it offers. Even after fee increases, the \$20 toll will still stand between those of the Western and Eastern tunnels. Drivers still have a choice among these crossings or to switch to public transport. I envisage that the environment and the traffic conditions will improve to some extent after this toll rise.

Many meter parking lots are now exclusively occupied for car maintenance and restaurant use. Whereas I agree a low parking fee is generally good for drivers, I wonder how many of them have the luck to enjoy meter parking in the downtown when the fee was set at \$8 per hour. A fee rise will deter prolonged occupation, increase the availability of meter car parks and hence reduce the number of wandering vehicles in search of car parks.

Mr Deputy, with these remarks, I support the motion. Thank you.

**MR CHAN KAM-LAM** (in Cantonese): Mr Deputy, we accept that a responsible government indeed needs to maintain fiscal balance, which requires a high degree of skill particularly in years of economic downturn or recession. The Democratic Alliance for the Betterment of Hong Kong (DAB) welcomes the various measures proposed by the Government in this year's Budget to relieve the hardships of the people and to reduce taxes. But we have big reservations regarding the many proposals to "selectively increase revenue" in the Bill.

A number of proposals in the Bill have been targeted at the transport industry and motorists, including the increases in the fixed penalties for traffic-related offences, in the charges of on-street parking meters and the tolls for the Cross-Harbour Tunnel (CHT) at Hung Hom and the Lion Rock Tunnel. Such proposed increases, apart from increasing revenue, also involve changes of policies and traffic management objectives. Therefore, we think that to put forward these proposals in the Revenue Bill 1999 is not appropriate.

The DAB welcomes the Government's voluntary withdrawal of the proposals to increase the fixed penalties for traffic-related offences and that relating to the penalty on smoky vehicles in a bid to relieve public hardships. However, we also agree that the issue of smoky diesel vehicles is really a very serious one, and has aroused extensive concern in society. The DAB has attached great importance to the protection of the environment. But it needs more than penalties to ameliorate the problem of vehicle emission. Therefore we hope that the Planning, Environment and Lands Bureau will consider the various proposals of the transport industry, including lowering the sulphur content in imported diesel fuel, tightening the emission control standards on new vehicles, raising the standard of mechanics in automobile servicing, and come up with positive and effective recommendations after the conclusion of the related review so as to improve air quality.

As the Government is going to propose a series of measures to improve the problem of motor vehicle emission by the end of this year, the DAB does not think it opportune to increase the relevant penalty at the present stage. Therefore, we will oppose the amendments to be moved by the Democratic Party and Miss Christine LOH.

The DAB also does not accept the Government's proposal to increase the charge of on-street parking meters. As our economic situation is still in bad shape, we think that the Government should impose an overall freeze on all fees and charges, including parking meter charge. At the same time, we also do not accept the Government's claim that the present charge of \$16 per hour is relatively low. According to the information given by the Government to Members, except for those in busy places such as Central, Tsim Sha Tsui, Yau Ma Tei and Mong Kok, government multi-storey car parks in urban areas charge

between \$12 to \$18 per hour. Therefore, it is excessively high to increase the meter charge to \$16 per hour, for this will inevitably lead to increases by other car parks.

Mr Deputy, I shall move an amendment at the Committee stage to freeze the on-street parking meter charge at the present level of \$2 every 15 minutes.

The DAB does not consider the increase in the CHT tolls justifiable. It is because the purpose of the Government's proposals to increase the tolls for private cars and motorcycles respectively from \$10 and \$4 to \$20 and \$8 as set out in the Bill, while bringing in an extra revenue of \$390 million, is to force some of the vehicles to use the Eastern and Western harbour crossings so as to achieve traffic management objectives. This we do not accept.

The DAB thinks that the present volume of traffic passing the three cross-harbour tunnels is uneven mainly because of their geographical positions. The CHT is the focal point of traffic flow because it connects the two busy areas in Kowloon Peninsula and on Hong Kong Island. On top of this fact, the excessively high toll of \$30 charged by the Western Harbour Crossing (WHC) makes drivers reluctant to go its way. More importantly, the CHT is congested mainly during rush hours, traffic flows smoothly in off-peak hours. Therefore, a practicable way to encourage drivers to use the WHC is to improve the networks of connecting roads to all the tunnels and to try to make the WHC lower its tolls. It would be putting the cart before the horse to increase the Hung Hom tunnel tolls to penalize those motorists who use that tunnel.

As we do not think that the increase in the tolls of the CHT can achieve any effect in traffic diversion other than adding to the burden of motorists, the DAB opposes the proposal of the Government. We shall move an amendment at the Committee stage to freeze the tolls for private cars and motorcycles using the CHT at the present level. At the same time, the DAB will oppose the amendment of the Democratic Party.

The Bill also includes a proposal to adjust the stamp duty, increasing it for property over \$3 million. The DAB supports the proposal of the Government because the prices of property have come down considerably and even with an increase in stamp duty, the actual duty paid by property buyers is still lower than that in the past. Therefore, the DAB will oppose the amendment by Mr Ronald ARCULLI.

With these remarks, Mr Deputy, I support the Second Reading of the Bill.

**MR ANDREW CHENG** (in Cantonese): Mr Deputy, in the face of an economic downturn and high unemployment, it is inevitable that the Government will collect less revenue. The Financial Secretary forecast that there would be a deficit of \$36.5 billion in government finances for the fiscal year of 1999-2000. To find extra income to make up for the deficit, the Government has proposed to drastically increase traffic-related charges, including the 100% increase of the tolls for private cars and motorcycles using the CHT at Hung Hom respectively from \$10 and \$4 to \$20 and \$8, that for the Lion Rock Tunnel from \$6 to \$8, and the on-street parking meter charge from \$2 to \$4 every 15 minutes, also a 100% hike.

Mr Deputy, adjustments to the tolls and charges of tunnels and parking meters, which are traffic facilities, should be considered in the context of traffic policies and transport management; the reasonableness of the level of the tolls and charges and the affordability of users should also be taken into account, particularly at a time of recession. A 100% increase is utterly unacceptable.

It is shocking to double the tolls of the CHT. While it is unfair to the users, the traffic diverting effect of such an increase is doubtful. In fact the uneven traffic flow in the three existing cross-harbour tunnels, that is, the CHT, the Eastern Harbour Crossing (EHC) and the WHC, and the ineffective utilization of resources are the result of the unreasonably high tolls charged by the WHC. To impose a hefty raise on the CHT tolls to suit the WHC is putting the cart before the horse, a practice that should not be encouraged.

The Democratic Party is concerned about the burden on the users, and also hopes that traffic using the CHT could be diverted to the EHC and the WHC so as to reduce the congestion at the CHT. For this reason, we have proposed an amendment to relatively mildly increase the CHT tolls for private cars and motorcycles to the level now charged by the EHC, that is, respectively to \$15 and \$6. I shall speak in more details on behalf of the Democratic Party at the Committee stage later.

Mr Deputy, the Government has also proposed to increase the maximum charge of on-street parking meters from \$2 to \$4 every 15 minutes, another 100% increase. The hike in parking meter charge has an enormous impact on

the transport industry because the resultant increase in operational cost constitutes a great burden to the operators. The Democratic Party thinks that it is most unreasonable for the increased meter charge of \$16 to exceed the level of \$14 to \$18 charged by private car parks in urban areas. If the Government insists on comparing the meter charges with the charges by private car parks in Causeway Bay, Central or Tsim Sha Tsui, the former are still low. But to use the charges by car parks in those busy areas as the benchmark is unacceptable to the Democratic Party.

The Democratic Party has also proposed an amendment to lower the proposed maximum charge to \$3 every 15 minutes which is a milder raise and will still be lower than what are generally charged by urban private car parks. I shall speak in more detail the views of the Democratic Party when I move the amendment later.

In respect of the Revenue Bill 1999, the Democratic Party has proposed a total of four amendments. I would earnestly urge Members to consider the burdens to the motorists, especially those in the transport industry, and support the amendments of the Democratic Party to reduce the proposed increases.

With these remarks, Mr Deputy, I support the resumption of the Second Reading of the Revenue Bill 1999.

**MISS CHRISTINE LOH:** Mr Deputy, in general I accept the Administration's Revenue Bill which proposes relatively modest increases in various areas. The only area which I wish to comment upon is on the fixed penalties for traffic-related offences.

What has surprised me is that the Administration only decided to withdraw the relevant sections at the last minute. If it was so inclined, it could have given Members more notice rather than to submit amendments to withdraw the relevant sections just prior to expiry of time for submission of Committee stage amendments.

The one area amongst fixed penalty fines I take in principle in issue with the Administration is over smoky vehicles. Firstly, I believe the current fine of \$450 is far, far too low. A smoky vehicle spreads pollution wherever it goes. It is a chronic and repeated offender. The effect is that members of the public,

as users of roads, suffer the unhealthy effects.

Secondly, the unhealthy effects are truly nasty. Badly maintained vehicles and those using low grade, illegal diesel spill out poisonous particulates. These very fine particles enter deep into our lungs. These particles are coated with toxic materials like lead and mercury or toxic organics like polycyclic-aromatic hydrocarbons which ooze into our blood stream.

Why should we treat polluters so leniently by fining them only \$450, or even \$570, or indeed even \$1,000? The Administration argues that its original proposal was purely based on the cumulative inflation since 1994 when the penalty was last revised.

But why not do the right thing at the first possible opportunity? During the Bills Committee's deliberation Treasury had no real meaningful response. The Administration then argued that the Secretary for Planning, Environment and Lands has plans to raise the penalty in the autumn. I then suggested to the Administration at the Bills Committee it could withdraw the relevant parts from the Bill so that we could consider and debate the amount for the penalty in the autumn in one go. Treasury's answer was that it did not want that either because its objective was only to realize the amount of cumulative inflation.

The cumulative effect of the Administration's vacillations and contradictions is that if Members accept the Administration's withdrawal of the sections relating to other fixed penalty fines, as I believe Members will, neither the Honourable Albert HO nor I are able to raise our respective amendments today. We have lost the earliest opportunity to penalize polluters who compromise public health.

Perhaps it would be more appropriate for me to address the issue of the amount of the penalty under my amendment at Committee stage. I only wish to add at this stage by saying that it is neither inappropriate nor premature, as the Administration claims, to propose now a substantial increase. People are sick and tired of the many smoky vehicles on our roads. They have become the symbol of the Government's failure to deal with air pollution effectively over the years.

I thank the Honourable Bernard Chan for his support. I urge more

Members to speak for the record on increasing the fine.

**MR CHAN WING-CHAN** (in Cantonese): Mr Deputy, the measures in the Revenue Bill 1999 which include the tax rebate and a 50% reduction in rates charged help relieve the hardships of the people and have been received favourably. At least in April, there was an obvious increase in consumer spending because of the tax rebate. However, the community has found it difficult to accept the various increases in transport-related fees and charges as many people in various strata and sectors are still facing reduced income in the present economic environment. The proposed increases in cross-harbour tunnel tolls and parking meter charge, at 100%, are particularly inopportune.

On the other hand, Members from the Federation of Trade Unions (FTU) welcome the withdrawal by the Administration of the various clauses regarding the penalties for traffic-related offences. It has been said that drivers will not have to pay any penalty as long as they commit no offence. But it is utterly impossible not to break some of the rules and laws when you are in the driver's seat all day long. Therefore we must make objective and fair remarks about professional drivers.

Since the economy of Hong Kong turned sour towards the end of 1997, professional drivers in various trades have seen their income plummeted, among them taxi drivers have been the hardest hit because the removal of the airport to Chek Lap Kok has brought about a sharp drop in business.

When professional drivers face reduced income and difficult operation, hanging onto their business by their fingernails, the FTU thinks that their request for a freeze on the various fees and charges is not at all unjustified. It is in fact a reasonable one. The Administration should not increase the penalties for traffic-related offences, and we welcome the decision of the Secretary for the Treasury to delete the clauses concerned.

The FTU also opposes the increase in cross-harbour tunnel tolls. The increase in the CHT tolls will not reduce the volume of traffic, nor will it solve the problem of congestion. The CHT in the first place is convenient, and its island exit, being close to Central, Wan Chai and Causeway Bay, is right in the middle of a traffic hub. Motorists crossing the harbour all find the CHT most convenient. Even if the tolls are increased, the traffic congestion is likely to

stay. If the toll increase will not remove the traffic jam, we naturally do not wish to see any increase. The FTU supports Mr CHAN Kam-lam's amendment to maintain the tolls for private cars and motorcycles at the present level of \$10 and \$4 respectively. In fact, a more effective way to tackle the congestion problem at the CHT should be a downward adjustment of the tolls of the EHC and the WHC, as Mr CHAN Kam-lam just said, so as to induce motorists away from the CHT. Only thus will the perpetual jam at the CHT be eliminated.

With these remarks, Mr Deputy, I support the amendment of Mr CHAN Kam-lam.

**DR TANG SIU-TONG** (in Cantonese): Mr Deputy, I shall speak on the three proposals in the Bill to increase fees and charges by the Government.

Firstly, the penalties for traffic-related offences. The Bill originally proposes to adjust a number of penalties for traffic-related offences in line with cumulative inflation, the objective being to maintain their deterrent effect. Members of the Bills Committee however generally thought that at their existing levels, the various penalties were posing adequate deterrence in the present unfavourable economic situation and the reduced income of professional drivers. The Government has eventually decided to withdraw the relevant proposals. The Bills Committee, being sympathetic to the operational difficulties of the transport industry and the livelihood of professional drivers, asked the Government to postpone the adjustment to the fees and charges. This I welcome. However, I have reservations about the opinion of some members of the Bills Committee that the penalty for smoky vehicles would not have adequate deterrent effect if it was not adjusted according to inflation or even drastically increased.

Since the onslaught of the financial turmoil, the economy of Hong Kong has been slowing down. In the face of the recession, the transport industry and professional drivers have seen their income reduced by 30% or more. It would be a double blow to them if they violate the smoky vehicles provisions, for their business will be suspended in addition to paying the fine. On the other hand, government statistics show that Hong Kong has experienced deflation for seven months in a row since last November, and the consolidated consumer price index even dropped 4% to a new low last May. Some products on the market have

returned to their 1994 price levels. While prices have become cheaper, the penalty for smoky vehicles is sufficient to maintain its original deterrent effect even if it is not increased.

It is another issue whether we need to rethink the penalty for smoky vehicles, and it is outside the scope of the present discussions about the Bill. I think that the objective of the Revenue Bill 1999 is to implement the revenue proposals in the Budget through legislation, rather than providing Members with an opportunity to express their views over a certain policy, or to review the penalty for any particular offence. Besides, the penalty for smoky vehicles should be commensurate with the level of liability set by the community as a whole for the seriousness of the offence in question. Therefore, if the penalty for this offence is to be set anew, we must give the public a chance to discuss the issue. The Government has already undertaken to submit to this Council a proposal for an increase of the penalty for smoky vehicles in the Legislative Session of 1999-2000, by that time, Members can have in-depth and detailed discussions of the proposal, and to reflect the various opinions of the different sectors. There would be more time to listen to public views before a satisfactory level of penalty could be determined for the offence.

Mr Deputy, I am very much concerned about the issue of air pollution. However, as today is not an opportune time to discuss any change to established policies, we should not engage in argument now. Therefore, I will support the amendment of the Government, and support postponing the adjustment to all fixed penalties for traffic-related offences in line with cumulative inflation as proposed in the Bill.

Mr Deputy, the increase in the CHT tolls and parking meter charges, as the Government estimate, will bring additional revenue to the Treasury and will achieve traffic management and traffic diverting objectives, including a daily reduction of 10 000 car trips using the CHT, shortening the length of the vehicle queues by 300 m during rush hours, a 15% vacancy rate of on-street parking spaces which can reduce the unnecessary traffic flow resulting from vehicles waiting for or seeking parking spaces.

However, I think that the two proposals will result in exorbitant increases that could eventually affect traffic management, and even bring about adverse effects. Given that the proposed new toll for the CHT is \$20, higher than that

of the EHC, motorists could be induced to using the EHC, resulting in increased congestion pressure in that area; it could also give an excuse for the EHC to seek a toll increase as well. This in turn would add to the burden of those motorists who are regular users of the EHC, and would again push the long lines of vehicles back to the CHT. Whatever the possibility, the result would clearly demonstrate the truth of the saying that "excess is the same evil as inadequacy". However, if the adjustment could bring the toll up to the current level charged by the EHC, motorists would be less influenced by the prices and would then choose the tunnel according to their travel route; thus traffic can truly be diverted. Further, as the toll is brought only to the level of the EHC, the EHC would not be induced to also seek an increase. This is to kill several birds with only one stone. Therefore, I would support the amendment that is "taking the middle of the road".

As said above, the transport industry is experiencing difficulties in operation, and professional drivers all see reduced income. But they have to use on-street parking spaces during their working hours, such as a change of drivers at the end of a shift, for meals or going to the toilet, so the charges paid at on-street parking meters have become an unavoidable part in their cost of operation. The 100% increase proposed by the Government will add to their burden. While the many proposals in the Budget are meant to reduce business costs, such as the tax rebate and the freeze on government fees and charges, this proposal goes in the opposite direction. Besides, if private car parks adjust their charges upwards as a result, the consequence would even be more serious. Therefore I oppose the increase in the charge as proposed by the Government.

Mr Deputy, I so submit.

**MRS MIRIAM LAU** (in Cantonese): Mr Deputy, the Financial Secretary has made five major revenue raising proposals this year, three of which are directed against vehicle owners and motorists. That the Government is brandishing its sword at vehicle owners and motorists is not only to increase revenue, but also to serve traffic management purposes. However, I will not support all proposals on traffic-related increases. I shall now give my reasons.

Firstly, the Government originally proposed to adjust the level of fixed penalties for all traffic-related offences in line with cumulative inflation since 1994. Though this proposal appears in the Revenue Bill 1999, the Government

has clearly indicated that the proposal was made not for additional revenue, only for maintaining the general deterrent effect of such penalties. However, if the fixed penalties are to have sufficient deterrent effect, government revenue is bound to decrease; and if the deterrent effect of the fixed penalties is not sufficient, there will be increased revenue. As the Government has indicated that the proposals was not for additional revenue, then we should focus on the question whether the deterrent effect is adequate.

When inflation is factored in, the present fixed penalties are in theory lower than they were in 1994. But after the consistent economic downturn in the past two years, the existing level of fixed penalties is in fact having a better deterrent effect than in 1994. Besides, the figures of prosecution do not show any deterioration in the situation or any weakening of the deterrent effect, because the number of fixed penalty tickets issued by the police saw a steady reduction from 1994 to 1998 by as much as 41.9%.

The police say that one of the reasons for the decreased number of prosecutions is the adoption of the flexible prosecution policy. However, in view of the unreasonable speed limits in certain roads and the inadequacy of drop-off points for taxis, there is a need for the police to adopt a flexible approach in prosecuting. Take speeding as an example, many motorists were caught unawares in "speeding traps" because many speed limits were unreasonable. Since the Transport Department relaxed the speed limits, police statistics show that on the 12 highways where speed limits were relaxed, speeding and traffic accidents dropped significant, among them, speeding cases on Western Kowloon Highway and Tuen Mun Highway decreased by as much as 90%.

Obviously the original proposal of the Government to increase fixed penalties was wrongly directed against drivers. Fortunately, the Government eventually saw the light and heeded public opinion and is now prepared to withdraw the proposal. I will support the amendment that the Government is going to move later at the Committee stage to delete the clauses relating to fixed penalties in the Revenue Bill 1999.

I also urge Members to support the Government in deleting the clauses on increasing the fixed penalties. However, I understand that some Members might oppose this move of the Government so that they could move an amendment to increase the penalty for smoky vehicles. I wish to point out, if

Members support an increase to the penalty for smoky vehicles, they will also wrongly direct against motorists of diesel vehicles.

The Revenue Bill 1999 is a bill about government revenue. But certain Members have planned to move an amendment to increase the penalty for smoky vehicles, an endeavour that concerns environmental policies. Naturally, if the Legislative Council approves the increase in the penalty for smoky vehicles, the Government may have additional revenue, or may see reduced revenue. But if what the Members' concern is not about the amount of government revenue, but about improving air quality, I have to ask them: Can we draw an equal sign between an increase in penalty and an improvement in air quality? Some Members seem to have a simple and direct deduction, that is, the increased penalty will reduce black smoke from diesel vehicles; the increased penalty will cure both the symptom and the cause, and will improve air quality completely. I will explain my reasons for opposing the increase in the penalty for smoky vehicles when I move my amendment at the Committee stage.

Secondly, I support the Government's proposal to increase the tolls for private cars and motorcycles using the CHT at Hung Hom. I vigorously opposed the toll increase by the CHT several years ago because there were only two cross-harbour tunnels then, when even a toll increase by the CHT could not divert traffic, and both tunnels would still be congested. But now, with three cross-harbour tunnels, two of which are not fully utilized, the CHT is still often jammed and its traffic flow consistently exceeds its designed capacity; this, from a traffic management angle, is unsatisfactory. I think that an increase in the CHT tolls will achieve a certain degree of diverting effect, giving private motorists an incentive to use other tunnels, or simply giving up driving their cars to cross the harbour. Besides, as the increases will only affect private cars and motorcycles, not the business vehicles, owners of private cars will be encouraged to take public means of transport such as taxis, minibuses or buses to cross the harbour, and congestion on the roads will then be reduced. On basis of the above reasons, the transport sector is in favour of the Government's proposal to increase the tolls of the CHT.

Thirdly, I oppose the Government's proposal to increase the charges of on-street parking meters. Theoretically, increasing the parking meter charge will help maintain the vacancy rate of parking spaces. But the Government has

in fact not considered in a comprehensive way how this traffic management objective can be achieved when it put forward this proposed increase. For instance, the Government has not indicated where such charges will increase, and with what corresponding ways to prevent parking spaces from being occupied indefinitely. Besides, the transport sector also worries that this increase will induce other increases. When on-street the parking meter charge is increased, private car parks may also introduce hefty increases of their own. In fact, the Government cannot and does not have the ability to guarantee that car parks would not increase their charges, nor control such car parks, for that matter. For these reasons, I do not support an increase in parking meter charge at the present stage.

Mr Deputy, not only the present Budget, but also several budgets in the past were targeted against car owners or motorists. Though the Government has been specially considerate with business vehicles this year, private cars are not spared. There is a limit as to the ability of car owners and motorists to afford the increases, and it is also unfair to make car owners and motorists to bear a major portion of the relevant government expenses. I hope that the Government can seek other means to increase revenue and stop the practice of always directing against car owners.

Mr Deputy, I so submit.

THE PRESIDENT resumed the Chair.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I speak on behalf of the Frontier on the Revenue Bill 1999.

The Secretary for the Treasury and many Members have said today that if the CHT increases its tolls from \$10 to \$20, the Government will have an extra \$400 million of revenue. However, I would like to remind the Secretary that I offered her a means to save \$3.1 billion. Naturally, with the upper limit of the tax rebate set at \$100,000, only 5 000 companies and 800 employees would be affected, but these 5 000 companies and 800 employees would save the Government \$3.1 billion. Since that occasion, the Secretary can hardly tell me about savings of \$400 million. As she could forfeit \$3.1 billion, why not also this \$400 million. Had she supported capping the tax rebate at \$100,000, I

would have helped the Government save \$3.1 billion.

The whole Revenue Bill 1999 should be considered in the context of the major circumstances. The first major circumstance is the tax rebate by the Government. The tax rebate is meant for everybody, but it was the rich who are eventually to benefit, that is, the big firms of Hong Kong can get \$3.1 billion. I wish to remind the Secretary of the second major circumstance, and that is, the Government has heeded public opinion and continues to freeze the 300 items of government fees and charges. The emergence of this major circumstance is because the Government has considered the aspirations of the citizens, has understood their hope to get some breathing space in the midst of the current recession. With a major circumstance when a tax rebate is given, with another major circumstance when fees and charges are frozen, the Government knows the expectations of the citizens, understands that they hope to get a little relief. In the presence of these two major circumstances, when we look at the Revenue Bill 1999 today, we cannot help but ask, why bother with the increases? As the Government could forfeit \$3.1 billion and freeze the fees and charges, why can the Government not maintain the present level of the CHT tolls and the charge of parking meters? What is more, the increases proposed by the Government are very shocking, 100% for the CHT and parking meters and 50% for the Lion Rock Tunnel. Why has the Government not considered the expectation of the citizens for some breathing space when it proposed the increases? The present expectation of the various strata is to have some breathing space in the midst of the recession. If the Government wants to relieve the hardships of the citizens, why has it proposed the increases? This is why the Frontier opposes the toll increases for the two tunnels, and also the increase in the parking meter charge.

Another reason used by the Government to justify the increases is that from the traffic policy angle, the increases could divert traffic. Talking about diverting traffic, the toll of the WHC, at \$30, is too expensive compared to the \$10 charged by the CHT. I am of the opinion that only a reduction of tolls by the WHC can achieve traffic diverting. There is no reason to raise the cheap tolls to suit the expensive tolls just to divert traffic flow. The Government can of course claim that it is bound tightly by the contract with the expensive tunnel; there is no solution because the WHC was constructed under a build-operate-transfer (BOT) arrangement. However, being bound by a contract is one thing, but does that make it justifiable to raise the tolls of the CHT to suit a more expensive one? We have a big question mark over this.

On the other hand, the Government claims that it hopes the increase in parking meter charge would make more vacant parking spaces available. But we are worried about two points. Firstly, an increase in meter charges will greatly push up the cost for professional drivers who simply wish to park their vehicles and go away for a meal; secondly, would such an increase induce other car parks to also raise their charges? There is indeed a big inducement. If on-street parking meters charge \$16 an hour, other car parks would be tempted to increase their charges. We do not want to see such a chain reaction. Therefore the Frontier opposes the proposal by the Government to increase meter charges; the Frontier will instead support the amendment proposed by the Democratic Alliance for the Betterment of Hong Kong (DAB) to maintain the tolls of the CHT and the Lion Rock Tunnel at the present level of respectively \$10 and \$6. I hope that the DAB would stand firm.

Lastly, we support the Government's proposal on the stamp duty because we think that this only involves property valued at over \$3 million, the buyers of which, we believe, can afford a little higher stamp duty payment. Thank you, Madam President.

**MR JAMES TIEN** (in Cantonese): Madam President, the Liberal Party opposes all the proposals by the Government to increase this and that. The reason is that the majority of the small and medium enterprises (SMEs) and the business sector in general are having difficulties in their operation as a result of the recent economic downturn, and citizens including the "wage earners" and the labour sector are experiencing much hardship. Therefore when the Government proposed to raise over 3 000 items of fees and charges, the Liberal Party voiced its opposition. That was the first time ever we joined hands with Mr LAU Chin-shek to call on other Members to oppose the increases proposed by the Government. However, the several proposals for increases we examine today have their respective special reasons and I shall discuss them one by one.

The first proposal is not justifiable, in our opinion. Though Mr LEE Cheuk-yan and Mr LAU Chin-shek both thought this increase was warranted, our view is different. We think that, as citizens are still struggling to make ends meet, why the increase? What I am talking about is the stamp duty for property transactions. Mr Ronald ARCULLI of the Liberal Party has raised his opposition against this increase. Let us look at some data: for property selling at \$1 million or less, the stamp duty is and will remain a very low \$100;

and in last year, there were a total of 130 000 transactions of flats selling below \$3 million, 13 000 transactions of property selling between \$3 million and \$4 million, 8 000-odd for those between \$4 million and \$6 million; and only 7 900 for the above-\$6 million category.

Just think about this. Are people speculating more in luxury properties or low-priced ones? I believe that those who can afford flats costing over \$6 million are mainly users. The Democratic Party normally represents the users, support the users and the citizens, they are very much against speculation. Why then they think today that the stamp duty rate for property valued at over \$6 million should be increased from 2.75% to 3.75%, an increase of exactly one percentage point? What does that one percentage point cost? The Government claims that it works out to be \$135,000, that is, for each transaction, an extra stamp duty of \$135,000 is payable. In the circumstances, the users have to pay \$135,000 more. In that case, why should the proposal of the Government to increase the stamp duty still merit our support? On the other hand, if the wind of speculation blows again, I believe that more speculators would focus on low-end property, because for flats selling below \$1 million, the stamp duty is only a mere \$100, it is real cheap. On top of it, legal fees are now around only \$5,000 to \$6,000, and agent commission is only 0.5%. With stamp duty set at a meagre \$100, low-priced flats would be the targets of hot speculation. If we wish to help users, not speculators, is it not that the stamp duty for expensive flats should not be raised?

On the other hand, we already mentioned that property prices have dropped. The Government is now saying that flats now selling for \$6 million were worth \$8 million in the past, thus claiming that the stamp duty at 2.75% for a \$8 million property is the same as that at 3.75% after a drop of \$2 million in its price. If this is the rationale behind the proposal, should the property value appreciate from \$6 million to \$8 million in the future, would the Government again lower the stamp duty rate from 3.75% back to 2.75%? If the Government promises it will do so, we would consider supporting its present proposal. Besides, will the rate of this type of stamp duty fluctuate according to the prices of property in future? Madam President, I think the Government should not increase the stamp duty. The Liberal Party supports the amendment of Mr Ronald ARCULLI.

Madam President, the second item of increase. The Government is proposing to increase parking meter charge from \$4 to \$8, or from \$2 every 15

minutes to \$4 every 15 minutes, that is \$16 per hour. We all know that most car parks charge over \$20 or more per hour. If on-street parking meter charges are too low, the purpose of on-street parking spaces to provide short-term parking will be defeated. On-street parking spaces are not meant to let people park their cars there for eight hours, or even 24 hours. Those parked for eight to 24 hours should be accommodated in the parking facilities of private residential or commercial buildings. At present, many car parks charge a monthly fee of only around \$2,000. On-street parking spaces should be left for cars that need a few hours of parking time so that their drivers can finish their business or go shopping nearby. On-street parking spaces should be made easily available. Therefore we support the idea of the Government that there should be a vacancy rate of 15% for metered parking spaces, unlike the present situation where all parking spaces are always filled. Moreover, let us look at major metropolises around the world from Paris to London to Singapore, where the charges for metered parking spaces and car park spaces are very close, quite unlike Hong Kong where most car parks charge \$16 to \$20 per hour while metered spaces only cost \$8. This results in cars not leaving on-street parking spaces. Such vehicles may have been parked in their spaces for eight to 10 hours, in a way, monopolizing the use of the spaces. And our objective for having on-street parking spaces is not achieved. Madam President, for this reason, the Liberal Party supports the Government's proposal to increase the charges of metered parking space to \$16 per hour.

Madam President, in respect of the tolls for the CHT at Hung Hom, how big is \$20? If it is for assisting SME operation, we would absolutely not support the Government's proposal to raise the fixed penalty to \$410, for \$400 is a big sum. However, what is the impact for the tunnel tolls to be increased from \$10 to \$20? If the traffic congestion increases the travelling time by 15 to 20 minutes, the fuel a goods vehicle burns off during that time would cost more than \$20. On top of that, the wages of the lorry driver do not come cheap, and traffic jams render the lorries useless and thus a suspension of business operation. These can be solved with an increase of \$10. Some Members thought that we should do the opposite by asking the WHC to lower its tolls. This, of course, is one way. But, Honourable Members, Mr LAU Chin-shek and Mr LEE Cheuk-yan in particular with whom we have worked for many years were also present in this Chamber when capital was raised for the construction of the WHC. Do they remember that the WHC costed \$7 billion to build, and with 30 years to recoup the investment, nobody would be willing to make that sort of investment if it were not allowed to charge \$30 per vehicle trip. If they

remember what we discussed at that time, they would recall that the Government, not willing to commit its own money, hoped the business sector would make the investment. If the Government did not promise that sort of return, just who would invest in the project? If nobody invested, we would not have our WHC at all. Therefore I think it unreasonable to ask the WHC to reduce its tolls today.

As the WHC cannot reduce its tolls, how then can we strike some sort of a balance between the 120 000 vehicle trips using the CHT and the only 44 000 vehicle trips using the WHC? The Liberal Party thinks that as there has not been a single toll increase for the CHT in the 15 years from 1984 to the present day, and for the purpose of balancing the traffic flows in the different tunnels, we support the increase in of the CHT toll to \$20. To put it more clearly, what are the vehicles making that 120 000 trips in the CHT? Will the toll increase hurt the general public, the business sector, small businessmen or taxi passengers crossing the harbour? It is in fact not the case. Among those 120 000 vehicles, 90 000-odd are private cars, only 10 000 are goods vehicles and around 10 000 taxis. The Government has made it plain that taxis and lorries will not be affected by the toll increase, so Members should not worry about those people taking a taxi to cross the harbour, nor about the difficulties in SME operation because lorries are left out. On the contrary, smoother traffic flow after the toll increase would reduce the fuel bill and travelling time of goods vehicles; this absolutely would benefit the business sector. What is the impact on private cars then? I am wondering if their drivers would consider taking the Mass Transit Railway or using the other tunnels instead? Is it necessary for 90 000 private cars to cross the harbour every day? I do not think so. For these reasons, we support the Government in raising the tolls of the CHT.

Madam President, I keep the best until the last. And this is the one on fixed penalties. We agree with the Members who said that in the midst of the present economic downturn, fixed penalties should not be increased, just like all those many fees and charges the Government proposed to increase earlier on. Therefore, for the fixed penalty tickets and the penalty for off-loading passengers in prohibited zones, we support a freeze at their current level. However, the penalty for smoky vehicles is a bit trickier. The issue of smoky vehicles is an interesting one, for everybody has his or her own views about it. It is like the issue of whether smoking is hazardous to health, and whether there

should be a \$5,000 fine for smoking in a cinema. Regarding this issue, Members from the Liberal Party have spent much time deliberating. Eventually, I think that individual views are very important. Therefore, I have decided that Members from the Liberal Party can vote on the penalty for smoky vehicles freely.

I personally think that the Government should do its best to help vehicles emitting black fumes, such as diesel taxis and lorries, so that such vehicles are handled in the best possible way. Mrs Miriam LAU, representative of the transport sector has pointed out that to punish vehicle owners before the Government has satisfactorily tackled the problem of smoky vehicles would push the owners into a tight corner. Unlike the question of smoking because a smoker can choose not to smoke, and those who spit can refrain from doing so; taxis are business tools and the drivers are helpless if their taxis belch black fumes while running on the road. The Government on the other hand has not provided the necessary facilities or effective ways for them to maintain their taxis. What can they do? Do they not have to make their living? This argument is very reasonable. However, the Government is dragging its feet, just keeps repeating that something would be done in future. Now the Government tells us to wait another several months, and it would do something in a few months' time, and asks us to give it our support. Nothing will be done now, but something will be done in the future. Some Members from the Liberal Party agree, and some do not. I do not. I query why the Government does not first increase the fixed penalty. This will make all people unhappy, I believe the drivers affected are sure to express their unhappiness. If they express their unhappiness, I believe the Government would speed up its pace. Now the Government is all very leisurely, it has six months for going about it slowly. If the Government raises the fixed penalty, punishing every offender, then it will be obliged to expedite the tackling of this problem.

Madam President, there is another reason which I also wish to talk about. Nowadays if the fixed penalty is increased to \$5,000 as Miss Christine LOH suggested, will there be a very big impact? I obtained some information from the Government today which shows that in the months of May and June, a total of 12 317 smoky vehicles were reported by spotters, and the Government took action against 8 000 of them, and only 434 vehicles failed to pass the test.

These figures show that of the 12 317 cases prosecuted, not all of them resulted in a fine of \$400 odd, or \$1,000 as the Democratic Party suggested (though it is learned that the Democratic Party has already changed its view and will not put forward the proposal regarding \$1,000), or \$5,000 as Miss Christine LOH suggested. It is in fact not the case at all. In fact there were at most 434 vehicles liable to a penalty. Therefore, I believe this problem is not that serious. If the owners of that 434 vehicles had known that they would be fined \$5,000, they would have addressed the smoky problem, and repaired their vehicles. This way the smoky vehicles problem would have been solved.

Madam President, when the Bill is put to the vote later, we still have a chance to speak. But if the amendment moved by the Government is approved, I believe we would no longer have the opportunity to have a debate on the issue. Therefore, I personally support the \$5,000 fixed penalty as proposed by Miss Christine LOH. On this issue, other Members from the Liberal Party can vote according to their own inclination. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, many reporters have asked me the last few days how I would vote in these several items of increases. I gave them all a reply. But a few of them asked also, "In that case, can it be simply put that you oppose every and all increases?"

Madam President, I indeed opposed the Government's proposals for raises in the past, but I also supported some. Therefore it cannot be said that I am against all increases. In respect of the present Revenue Bill 1999, I really need to oppose many of the Government's proposals for increases.

Why do I oppose them? All these increases will make the people of Hong Kong worry. The Government's proposals for increases in the midst of such severe economic hardship may induce a round of price raising. In other words, we cannot ignore the economic situation of Hong Kong and "increase for the sake of increasing". Therefore, I do not agree with any increase at present.

The Government has said that its objective for now is to benefit the people and reduce their hardships. But some items of "increasing for the sake of increasing" go diametrically against this aim. For this reason, I cannot support the Government. The Government can only claim to have three justifications for all its proposals for increases. The first is that certain items have not been adjusted for a long time, therefore, an increase is in order. The CHT at Hung

Hom about which so many Members have spoken is a case in point. The tolls of this tunnel have not been raised in the past 15 years, therefore, it is now naturally a time for an increase. However, I think this reason has no logical base. If the tolls can remain the same for 15 years, why not wait another one or half a year to adjust it? In other words, why must the tolls be raised now? I cannot accept this point, in particular, why can the Government not wait until the economy improves before asking for an increase?

Another reason advanced by the Government is that such increase serves to achieve certain policy objectives. For example, if the CHT increases its tolls, traffic could be diverted, motorists would be persuaded to take other routes. Mr James TIEN also said something like that just now. I wish to point out that though I do not know how to do business, I have often heard people say that one of the policies of doing business is to set a small profit margin and sell more, that is, to lower the prices to attract more customers. In fact, when the WHC offered toll-free rides one Sunday, I saw that cars formed long, long queues to enter the tunnel. Why do you not understand that when there are long queues of cars, the results mentioned by Mr James TIEN could also be possible with lower tolls; the tunnel company could even make more money. I am not sure about it though. But what I saw was that there were long lines of cars on that toll-free Sunday. Why then do we not lower the tolls as an incentive for more people to use that tunnel? I think this is one of the practicable ways. But the Government is now forcing people to take other routes through its proposed toll increase. I cannot accept this approach in principle. In fact I think the Government is putting the cart before the horse in trying to achieve its policy objectives by way of increases.

Besides, the Secretary for the Treasury has time and again indicated that another reason for the increases is to balance the Government's books; the increases are proposed to reduce the huge budget deficit as far as possible, and this is the way to achieve a balanced budget in the long term. I agree that this cardinal principle is correct, and indeed few people would object to it. The point is that fiscal deficit is unavoidable in the present unfavourable economic climate. But does the Government not know that deficits are not a regular problem, and deficits will appear only when the economy is poor? Therefore, we are not demanding the Government not to make increases in all years, but in the present situation, why does the Government not yield to the current economic circumstances so as to achieve its objective of benefiting the people

and reduce their hardships?

Madam President, Mr LEE Cheuk-yan told me just now that the toll increase for the CHT could bring the Government \$400 million of additional revenue, but how much is this amount in the total deficit of this year? I do not know if my calculation is correct, but it is only a mere 1% of the deficit. What difference can that 1% make to the deficit? And how does it help? In that case, is it necessary to introduce the increase to the displeasure of the citizens under the present circumstances? And why can we not try to tide ourselves over the present economic difficulty together? Therefore the argument of balancing the budget does not wash in this case. On the contrary, if the Government wishes to balance its budget, it should start thinking of ways to kick-start the economy, to improve the livelihood of the citizens. This approach might be better because when the economy improves, people will have better living and income, and the Treasury will get more revenue to balance its books. Therefore, Madam President, I do not support the proposal for the increase.

I would also like to talk about smoky vehicles. Mr James TIEN pointed out that increasing the penalty could force the Government to do something. But as I just said, I do not support any increase as a means to achieve policy objectives. That I do not support raising the penalty for smoky vehicles does not mean that I do not attach importance to environmental protection, nor does that mean I do not care about the health of Hong Kong citizens. In fact I have often told people that it is the professional drivers who will bear the brunt of the smoky vehicles problem because they are always on the road, and are bound to inhale the black fumes first. In other words, insofar as health is concerned, they should be more concerned about the problem than we are. But the point is, how can they solve the problem?

Madam President, I remember I asked a question in this Chamber, about a Legislative Council car with the plate LC3. That car has been replaced now, but at that time it was barely two years old before belching black fumes profusely, and again doing so only half a year after the necessary repairs. In other words, it is not that they do not want to do something, it is, as Mr James TIEN said, that no improvement can be made despite much effort, and there is no way to help them technically and in terms of resources to solve the problem. As people in the trade have said, one of the reasons leading to profuse black emissions is the excessive sulphur content of the fuel.

I remember that in the mid-1980s, and Mr James TIEN may also remember it, there were many factories in Kwai Chung giving out huge amount of black smoke. What was the reason? The reason was that the fuel had excess sulphur content, and that made people very dissatisfied. When the Government promised to lower the sulphur content later, the environment improved accordingly. The problem has been solved now along with industrial development. But the Government has in fact done nothing to tackle the problem of smoky vehicles. Therefore it is quite helpless to have the problem of smoky vehicles or one with the fuel car owners choose.

It is therefore making the wrong stress to increase the penalty to achieve environmental protection objectives and not to see what the Government has in mind to tackle the problem. If we support the penalty increase, we would be helping the Government shed its responsibility and shift the same onto professional drivers and other drivers. This is extremely unfair.

If the Government is truly serious about environmental protection, it should start thinking about other more effective means in real earnest, such as to improve the fuel, the performance of vehicles and vehicle-servicing skills. More effective results might be produced if these aspects are taken care of.

On the issue of smoky vehicles, I often say, "Who would prefer to become bald if they could keep their hair". You think the drivers like the black fumes? Nobody ever likes it. Therefore if the Government only seeks to solve the problem through raising penalty, it is lazy in considering other alternatives, if we put it euphemistically; and it shirks its responsibilities and shift such responsibilities onto other people so that it does not need to face the problem, if we put it more harshly.

I therefore think that increasing the penalty for smoky vehicles is meaningless. I urge the Government to truly do something in this respect; that would better help improve the environment of Hong Kong.

Madam President, I so submit.

**MRS SELINA CHOW** (in Cantonese): Madam President, I have been concerned about all government charges on motorists over the years, because I have always thought that it is unfair of the Government to target these middle and sandwich class and the small and medium enterprises (SMEs). The Government has used all sorts of pretexts to unnecessarily "victimize" them, the reason often cited is that in view of the insufficient road space in Hong Kong, the growth of vehicles has to be contained. I strongly opposed this reason as early as 10-odd years ago in the former Legislative Council (this you may also remember, Madam President). The present proposal by the Government to double the tolls of the CHT at Hung Hom is not a new idea, for the Transport Branch also put forward the same idea 10-odd years ago. At that time, I resolutely indicated that I would loudly oppose that proposal, saying "Over my dead body", and the Government relented.

Some four years ago, the Government again wanted to drastically increase the tolls of the CHT to \$30. Again I strongly objected and the Government again relented. I did not know if it was the result of my strong opposition, I do hope it was. This time around I make no exception, particularly Hong Kong is now going through a period of deflation and that the ownership of the CHT will soon revert to the Government, and government revenue will increase. The proposed toll increase is not opportune now. Further, as other government fees and charges have been frozen, tunnel tolls should not be an exception.

Madam President, I would like to respond to the issue of parking meter charge raised by Mr James TIEN, chairman of our party. As I have been granted exemption, I wish to take this opportunity to speak freely. Chairman TIEN claimed that without an increase in charges, some metered parking spaces would become long-term parking facilities for certain vehicles, and the Government had to increase the meter charges so as to push them back to car parks. In fact, I have said many times before that Hong Kong's policy on on-street parking spaces is wrong. Let us see how it is in London. There the parking time limit is fixed, if it is a two-hour parking meter, the car owner can at most park his or her car there for two hours. Similarly a half-hour meter only allows a half-hour stay. This has nothing to do with the charges. Besides there are traffic wardens always patrolling the downtown areas. If the meter

specifies a certain time limit, the car owner is not allowed to insert more coins to buy extra parking time, unlike our practice here of continually feeding the meters. If the Government can strictly enforce such a rule, irrespective of the charges, vehicles will not be able to occupy the same on-street metered spaces for a long time; and this situation need not be rectified through an increase in charges. Using the reason of inflation, as the Government usually does, is hard to convince people nowadays. Therefore I oppose all increases proposed by the Government and support other amendments that aim at maintaining the existing levels.

Madam President, I have today applied to the Liberal Party for an exemption and to express my above idea which deviates from the stand of the Liberal Party. But my application for exemption was approved mainly as a result of the strong views from the automobile sector of the retail and wholesale constituency I represent. The automobile sector has been the hardest hit in the whole retail and wholesale industry. Their sales dropped over 30% in the first half of this year, as compared with last year. I believe that Secretary Denise YUE is well aware of this because they have already written to her to request that no increases be made and that charges would not be increased too much to add to the burden of drivers. If the Government insists on increasing the charges payable by motorists, it would only create an unfair and heavy burden to them and deal a further and serious blow to the automobile dealerships. Having considered the hardships in the sector and the situation of the motorists, I applied for the exemption.

The issue regarding the penalty for smoky vehicles is also very controversial. I appreciate the intelligent and resolute decision of our party chairman in letting us vote freely. *(Laughter)* This issue does not fall within the exemption I applied for, but our party chairman has already given us permission to vote freely. Moreover, this is a matter concerning the air we breathe and our health, the significance of its implication could be great. I recall that there was an occasion, Mr Martin LEE may also remember that, on which he and the late Stephen CHEONG antagonized each other over the issue of whether smoking should be allowed in a conference room, and they refused to speak to each other for as long as two hours. *(Laughter)* What air we breathe

is a highly controversial issue and also a highly personal matter as well. Therefore I thank our party chairman for permitting us free voting. I believe my fellow party members share this feeling. We have to solve a very difficult, very thorny issue. However, as to my own views on this, I shall talk about them later at the Committee stage.

Madam President, I support the motion. Thank you.

**MISS EMILY LAU** (in Cantonese): Madam President, Mr LEE Cheuk-yan has already made known the views of the Frontier. We have heard people from many strata (not only the grassroots) say that they would not support any of the Government's proposals to increase charges and tolls now that the economy is in such a bad shape. Apart from the stand of the Frontier as Mr LEE just stated, I wish to say something on the issue of smoky vehicles.

I personally feel very strongly about this issue. In fact, I support the proposal of Miss Christine LOH that the penalty be increased to \$5,000, and probably still feel that the increase is too small. I believe the President may also know that Hong Kong citizens are not particularly offensive against taxis, but all vehicles belching black emissions. They are enemy number one. We in the Frontier have poignant experience. Frontier is a very poor organization and we need to go to the street to raise money. But I suppose such fund-raising activities need to be curtailed, not because of the poor economy, but because the money is raised at the risk of our lives. Madam President, we think that the situation is really ghastly, and that is why so many Members, including Mr James TIEN, support drastic actions to deal with this issue. Life is very important in Hong Kong and I believe everybody now agrees that the situation is running out of control because we have to cover our mouths whenever we venture out to the street. Just ask yourselves, which city has such obnoxious air quality. And to say Hong Kong is very famous, very advanced in many aspects!

The Government has millions of reasons to explain why the situation has not improved. Some people even shift the responsibility onto us, Members of

the Legislative Council. Several months ago, a report in the *South China Morning Post* alleged that the Director of Environmental Protection and some other people claimed that the Legislative Council was the chief culprit (referring perhaps to Mrs Miriam LAU and those others who had a hand in it), and that Members had to assume full responsibility for not approving the environmental protection legislation. I think that who should those be responsible should naturally assume the responsibility. But in fact we all have our own share of responsibility, blaming each other is meaningless. We should look forward.

I wish to give the Government a clear message today, and that is, the citizens of Hong Kong are really thinking that the present situation is gravely unsatisfactory. If we simply sit here and pretend we are just onlookers, I believe we would really be severely reprimanded by the public. As we should be in that case. I hope that when the Financial Secretary later seeks our views on next year's budget, all Members would tell him that environmental protection must have his foremost attention. Whereas our constituents used to be concerned about housing and medical issues, I believe their priority has now changed. This I think is very important. I agree with the Government that the present Bill deals with revenue and should not be mixed with environmental protection. The logic of the Government is correct, but why have some people mixed them up? That is because they are too angry, and hope to grab the first opportunity to force the Government to do something. The Secretary has now indicated that an amendment would be moved to delete the relevant clauses, and I believe she will later on get sufficient votes to support the deletion. But this does not mean that no action needs to be taken to tackle this issue. Madam President, I hereby hope that all Bureau Secretaries and the Chief Executive can hear this: The citizens of Hong Kong demand actions from the Government.

Recently some drivers and car owners told me that they naturally opposed an increase in penalty. But they also knew their responsibility and that citizens regarded them as the chief culprits. Therefore they requested the Government to provide chassis dynamometers to help them diagnose their vehicles. With such equipment, they can know when problems develop in their vehicles and thus make timely repairs. In this way they would agree to whatever heavy

penalties. The views of the motorists who approached me might not represent the whole sector, but they told me they would so agree. I wish the Secretary for the Treasury can hear this. If the Government wants to collect fines so much, it should come back next time with a better proposal. I believe the lives of the citizens of Hong Kong are not that cheap. Even if this Council does not approve the proposal to raise the penalty today, I still hope that all Bureau Secretaries would submit their policy proposals to the Legislative Council, because the citizens of Hong Kong cannot afford to wait any longer. This issue has been dragging on for so many years; and with the extremely obnoxious situation at present, we must take action as soon as possible. Thank you, Madam President.

**MR RONALD ARCULLI:** Madam President, it is rare to hear the Honourable Miss Emily LAU speak with such passion about the environment. The only time I can recall her speaking with equal passion is about 60 directly-elected seats. So, all I can say is that she must feel very strongly about this issue, and I think quite rightly so.

But that being said, I have listened to many comments made by my Honourable colleagues in today's debate and listened with a lot of interest. Many comments really have been directed as to why Government should not increase fees and charges, even inflationary increases. Perhaps those Members who have already indicated how they might vote, including not supporting an amendment of mine to, as it were, freeze the stamp duty on residential transactions at its current level, would like to consider or reconsider their position when I give them these figures.

We are talking about tunnel tolls and, according to the Financial Secretary in his Budget speech the loss of, or the increase in revenue over the medium-range forecast period, which is over a five year period, is \$840 million. So, on an annual basis, it is roughly about \$170 million. On the parking meter charges with the increase over the medium-range forecast period, it is again \$980 million, or about \$200 million a year. And with traffic-related offences, it is about \$140 million a year or \$700 million over the medium-range forecast period. Yet the item on stamp duty will bring in, Madam President, \$5.9 billion over the medium-range forecast period. I do not think I will bring in the betting duty because I will be wearing too many hats.

But the other aspect that I would like to draw Members' attention to is this, that in telling us what this year's or last year's deficit was, the Financial Secretary had this to say in paragraph 122 of his Budget speech, and he said this:

"Fortunately these shortfalls have been partially offset by an enhanced yield from the investment of our fiscal reserves with the Exchange Fund. This windfall is a by-product of our incursion into the Stock Market last August and a subsequent rise in the Hang Seng Index. As a result the investment earnings on our fiscal reserves in 1998-99 are now forecast to be \$36 billion, some \$9.3 billion more than originally estimated."

In paragraph 131, the Financial Secretary tells us that the deficit for the current year, that is, 1999-2000, is forecasted at \$36.5 billion. Now, I assume that when he made that forecast he was looking at the Stock Market round about March when he delivered the speech, and whatever he projected to be the income from our fiscal reserves being invested with the Exchange Fund, I would be very surprised if he could forecast that the Hang Seng Index today would be some 14 000.

So, what I am basically saying is this, that I suspect that there has probably been an underestimate of at least \$10 billion of income. So, all my colleagues here, you do not have to worry about voting against any item because my forecast is that it will be covered by the surplus with the increase in the Hang Seng Index.

Based on that, I hope you can support my stamp duty amendment, and do not feel bad about it. You are talking about nickels and dimes, and this is \$140 million a year. Since when has this Government, under the able leadership of the Secretary for the Treasury, worried about \$100 million? Have you ever got such a lot of phone calls and concern about tunnel tolls, parking meters and whatever else? So, I think Honourable colleagues should rest at ease and do not concern themselves about the fiscal consequences of defeating any particular measure in the Revenue Bill, particularly my stamp duty amendment.  
*(Laughter)*

Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, I originally did not intend to speak today. Members can all see that I am holding no speaking note. Regarding the Revenue Bill 1999 today, my attitude is that wherever possible there should not be any increase; and I would judge each individual increase on its merits and only if it helps the operation of society.

First of all, I wish to talk about the Government's intention to withdraw the clauses on fixed penalties. I think the Government is doing the right thing. At the present time, if the Government considers too many increases, we will be subject to a big psychological pressure, because our economy is just beginning to revive. On the amount of penalty for smoky vehicles about which Members debated earlier, my view is that pollution created by motor vehicles is not confined to their black emission, there are other obnoxious gases, such as nitrogen dioxide, sulphur dioxide and carbon monoxide. I know that new private cars will now need to be tested when they are six years old. However, I do not know if the test covers these other obnoxious gases. I hope that the Government would consider requiring the test to also cover this requirement, to see if the vehicles emit other obnoxious gases. The quality of our air is deteriorating, and I am personally rather pessimistic about any improvement to air quality. I do not think and have not the confidence that there will be any true and substantial improvement to the quality of our air. I hope that the Government would do more to boost my confidence. But on the issue of smoky vehicles, can our air quality be improved with penalties alone? The answer is, not totally. I see that we have a very competent Secretary for Planning, Environment and Lands who has assumed office not long ago. I wish to give him a bit more time, hoping that he can produce a comprehensive set of action plans to introduce other measures to improve the environment, apart from tackling the issue of smoky vehicles, so as to boost my confidence in cleaning up the air in Hong Kong.

Secondly, I wish to talk about parking meters. I think that it is not important whether the charges are increased from \$2 to \$3 or \$4, because much still needs to be done to improve the congestion on Hong Kong's roads. What are the functions of on-street parking meters? They are there to facilitate drivers, saving them the trouble of driving around looking for a car park if they can park their vehicles in spaces at roadside. But the parking meters in Hong Kong are not well-managed now. I used to live in London for more than nine years. Mrs Selina CHOW just mentioned that they could make parking meters serve their purposes over there, helping to relieve traffic congestion. I think that we should consider different time limits for the meters. There were four-

hour meters in Hong Kong before, but they were later changed. In fact we could have eight-hour, four-hour, two-hour, one-hour or half-hour meters; motorists can use the colour of the meter post to help them pick the meter that serves their purpose. The aim of having parking meters is to enable motorists to park their vehicles before going about their businesses. When there are such spaces at roadside, they can easily get a place to park their cars, obviating the need to drive around. But the present situation is that many metered spaces are occupied for excessively long period of time by the same vehicles, and thus fail to serve their purpose. There should be some meters that once a coin or a card has been inserted, it is impossible to extend the parking time limit. At present, the police have to discharge such duties and make prosecutions. I think this is not a suitable way because it will give rise to a problem of resources distribution. I think that prosecuting illegal parking should be the job of the traffic wardens. There seems to have no such arrangements at present.

I think that parking meters alone are not sufficient. I have never approved Hong Kong's policy regarding parking. There is this thing that I have often argued with experts. They are of the opinion that if no car park is constructed, citizens would be discouraged from buying cars, or from driving the cars they already bought. I think this theory is wrong. I think that more car parks must be built, and the citizens must be able to use their cars because in a prosperous community, private cars are not necessarily a luxury, they could be necessities. Cars are used for business purposes, and could also be needed in people's daily life. If citizens have the need to buy cars, but no parking spaces are available, they would be greatly inconvenienced. On the other hand, a lack of car parks might not deter car purchase and use. A 1981 paper indicated that the Government would banish such thought, that is, the thought to discourage car ownership or use by not building car parks. Despite this document, it has in fact not been fully done, the car parks planned for many places have never been built.

Apart from the building of car parks, I think the Government has also failed to do one other thing, and it is the park-and-ride scheme. I have spoken on this many times. Early at the beginning of the electrification scheme of the railway in 1977, I proposed that car parks should be provided near railway stations so as to facilitate the citizens to park their car there before taking the trains. This has never been done. A funny instance is that when the Kowloon Tong Station was to be built, I made a similar suggestion which the Government

did not accept; when the superstructure was under construction, the Government came around to propose a revised design with the hope of providing additional parking spaces. That was of course not possible, because structural design could not be changed in the middle of construction. Later the Government claimed that it would build a car park near the Kowloon Tong Station as soon as possible. But 20-odd years later, the car park is still nowhere to be seen. When the Mass Transit Railway was built, I again made the same proposal to provide parking facilities in or near the stations. That did not materialize. I twice raised with the Airport Consultative Committee if car parks could be provided near Airport Railway stations. Eventually, none was built.

On the whole, it is not the question of an increase of a dollar or two. The point is the Government should ensure smooth traffic on the roads, should make it easy for the citizens to park their cars when they need to instead of driving around to look for parking spaces, or to risk fines by illegally parking their cars. I think the Government should seriously consider this point.

Thirdly, I wish to talk about cross-harbour tunnels. We now have three cross-harbour tunnels in Hong Kong, but arrangements are not too satisfactory. The traffic flow at the WHC is different from that originally planned and from what was projected in the BOT agreement. As it is at present, I believe there is difficulty in increasing its traffic flow, because before the completion of the Central-Wan Chai Bypass, there are insufficient roads to connect with its exits on both sides of the harbour. Therefore I think that encouraging it to reduce tolls to attract more traffic flow will result in similar traffic congestion at both its ends. When the WHC was under construction, I, as chairman of the Transport Advisory Committee (TAC), visited the construction site with TAC members. I made two suggestions to the senior management of the WHC: first, could the WHC waive tolls at the early stage of commissioning, or in certain time slots of the day; second, could the tolls be reduced at the early stage of commissioning. They accepted my first suggestion but not the second. As a result, they waived the tolls for one Sunday, creating a mammoth traffic jam.

As to the CHT, the Government proposed to increase the tolls from \$10 to \$30 in 1995, soon after that I became chairman of the TAC. The TAC held two meetings on the issue, the longer one lasted six and a half hours. I recall that I was the last to make a suggestion, so I did not influence other members. I said that the tolls of the CHT could not be raised from \$10 to \$30 because it was

then two years before the commissioning of the WHC. I justified my objection with six reasons, one of which was that the growth rate of private cars at that time was only about 1%. I told the then Secretary for Transport that I would support him if he proposed to increase the tolls to \$20, but he refused. Fortunately, the Executive Council was also against the increase from \$10 to \$30. However, things are different today. The Government has explained that if we do not support a toll increase, when the franchise of the CHT expires on 1 September, there will not be any mechanism whereby the Government can regulate its tolls. I think this is a serious problem that I have to consider. We must not turn the CHT to a toll-free one. A toll-free tunnel would be so congested that you could be locked in a traffic jam for a couple of hours and still unable to cross the harbour; in that case, the CHT would be rendered useless.

We must consider diverting traffic. The CHT is congested all right, but it is still not too bad. But with the economy picking up, I believe the number of cars will increase and the gridlock in and near the tunnel is bound to worsen. As the CHT is centrally located, it is favoured by most motorists. The EHC on the other hand, is relatively remote, only convenient to those going to Kwun Tong or Chai Wan. In the circumstances, if the EHC charges \$15, I would think that proportionally it is reasonable to increase the CHT tolls to \$20. Therefore, I will support the Government in increasing the CHT tolls to \$20. In this way, the tolls differential of the three tunnels will be more reasonable, and is sure to help divert traffic. I believe that this time around the Government has listened to public opinion and therefore the proposed increase does not affect business vehicles. I appreciate this decision of the Government very much.

Lastly, on the increase of the stamp duty for property transactions, I also stick to the same principle, that is, if the increase does nothing to really help the smooth operation of society, I do not see any reason for such an increase. Though the economy of Hong Kong is now picking up, there is still no clear indication where the property market is heading. To increase the stamp duty at this stage is premature; I will therefore support the amendment proposed by Mr Ronald ARCULLI.

I so submit. Thank you, Madam President.

**MR ALBERT HO** (in Cantonese): Madam President, in clauses 23 and 24 of the Revenue Bill 1999, the Government proposes to increase the fixed penalty for illegal parking from \$320 to \$410 in line with cumulative inflation since 1994, the objective being to increase government revenue and to maintain the deterrent effect of the penalty. The Democratic Party has opposed the Government's proposal to include the increase to the fixed penalties in the Revenue Bill 1999, because fixed penalties should in principle not be deemed a revenue measure of the Government, and their amount is sufficient so long as they produce their desire deterrent effect. In the midst of the present unfavourable economic climate, the transport industry is already facing many difficulties, and the present level of \$320 has proved sufficiently deterrent. Therefore, we think that there is no reason to increase the penalties in the present economic climate. Further, the increased penalties will add to the psychological burden of the trades concerned. In fact, the number of fixed penalty tickets issued for illegal parking has steadily dropped in the past few years. Between 1994 to 1998, a drop of 41.9% was recorded. And this dropping trend has been seen in the various places all over the territory, including Hong Kong Island, Kowloon East, Kowloon West, New Territories West and New Territories South. It can therefore be seen that the problem of illegal parking has not worsened and the reasons put forward by the Government for an increase in the penalty is not justified. I have submitted an amendment to the Legislative Council to freeze the penalties for traffic-related offences. However, the Government has accepted the views of Members and decided to move an amendment to delete clauses 23 and 24. As the amendments proposed by the Government are the same as ours, we should insofar as this issue is concerned support the Government.

Regarding the proposal of the Government to delete clause 25, we look at it this way. The Government proposes to increase the penalties for the 57 offences on the schedule of the Fixed Penalty (Criminal Proceedings) Ordinance by 26.5% to reflect the cumulative inflation since 1994. The offences concerned are mainly moving traffic offences, and among them is the penalty No. 29 for smoky vehicles. The Democratic Party opposes increasing the penalties for moving offences, our reasons are the same as those advanced against clauses 23 and 24. We mainly think that the Government should not adjust penalties upwards to increase government revenue. Besides, in view of

the present economy climate, the Democratic Party opines that the penalties at their present level can already achieve adequate deterrent effect. Therefore there is no need for any increase. Further, the data produced by the Government do not show that there is any deterioration in the violation of traffic laws. So the reasons advanced by the Government to increase the fixed penalties cannot be supported. From 1996 to 1998, the number of fixed penalty tickets issued by the Government in respect of moving offences dropped by 10.8%, and those for speeding by 5.8% in 1998. It can be seen that the level of penalties for moving offences has produced the expected deterrent effect, and there is no need for a further increase.

Clause 29 concerns the penalty for smoky vehicles, and the Democratic Party naturally considers the environmental protection aspect. The Democratic Party is very much supportive of the views expressed by many Members in this respect. We feel that with the deterioration of the air quality in Hong Kong which has a direct impact on public health, we must look at this problem critically. Roadside air pollution in urban areas is particularly serious at present, and diesel vehicles are the main culprits causing this problem. If diesel vehicles are not well maintained, huge quantities of exhaust fumes and black emission will be given out, further polluting our environment. We must take immediate and effective measures to improve our air quality. This is something that cannot wait, and it is of paramount importance that the health of the public be safeguarded. We think that to make drivers or owners of diesel vehicles have better awareness, make them understand the importance of properly maintaining their vehicles, there is a need to raise the penalty for smoky vehicles. We propose that the maximum fine as provided in the present Fixed Penalty (Criminal Proceedings) Ordinance be increased to \$1,000. However, the Government has indicated that it hoped to introduce the relevant bill in the coming Legislative Session to tackle the issue in its entirety and to amend clauses 23 and 24. In view of this, the Democratic Party is prepared to support the amendments proposed by the Government. But this is on the understanding that the Government will table in the next Session schemes and bills concerning environmental protection measures in this respect for scrutiny and early approval by the Legislative Council. On this understanding, the Democratic Party supports the amendments of the Government.

The Democratic Party has the following views in regard to the clauses relating to stamp duty on property transactions. In respect of clauses 16 and 18, the Democratic Party supports the Government's amendments to permit the

submission of copies of instruments for stamping and to delete the requirement to have a banker's undertaking. We are aware that when a body corporate applies for deferment of stamp duty payment, the requirement for them to produce a banker's undertaking constitutes much inconvenience. In fact, we also know that it is no easy matter to ask a bank to issue an undertaking. It is believed that a lot of processes are involved, even requiring the payment of an expensive fee. Further, the Government has provided no data to prove that many companies have postponed or avoided payment of stamp duty, or winded up after the transactions are completed. Therefore as things at present stand, there is no data to prove that such requirement is necessary. We think that the Government can in fact discuss with the Law Society with a view to drawing up the relevant code of practice to ensure that when solicitors represent their clients in dealings and transactions, stamp duty is collected at the appropriate time, so as to ensure that there will be adequate funds to cover the stamp duty liability when the relevant instruments are submitted for stamping. We believe this is the most effective measure which can do away with the other legislative measures of requiring the submission of a banker's undertaking which we consider unnecessary and a waste of time and effort.

So I have explained the reasons why the Democratic Party supports clauses 16 and 18. As regards clause 21, Mr Ronald ARCULLI made a very touching speech when he advocated his amendment; I believe many people have found him very convincing. But not the Democratic Party, he has failed to convince us. The Democratic Party thinks that as property prices have dropped significantly, an increase in the stamp duty for luxury property will not affect the great majority of property buyers of the middle and lower classes to any obvious or significant extent. Those citizens who can afford high-price or luxury apartments may have to pay more stamp duty, but I think that in the present circumstances, it is well within the ability of buyers of high-price property to pay a higher stamp duty. Given that Government has at present difficulty in generating revenue over many items, I think that we can accept this increase. Therefore the Democratic Party does not support Mr ARCULLI's amendment.

Lastly, I would talk about the increase to the tolls of the CHT at Hung Hom and parking meter charges. Mr Andrew CHENG of the Democratic Party has already made clear our stand, but I wish to say something about how we are going to vote. Regarding the parking meter charge, the Democratic Party supports an increase from \$2 to \$3 every 15 minutes. In other words, we oppose the proposal of the Government to double the charge from \$2 to \$4. I

understand that Members from the Democratic Alliance for the Betterment of Hong Kong (DAB) support a freeze. When we vote later or tomorrow, the amendment of the DAB will be voted on first. We reckon that the DAB will not support the amendment proposed by the Democratic Party, therefore, the chance of our amendment getting carried is slim. Under the circumstances, the Democratic Party is prepared to support the amendment of the DAB, because our hope is to put a cap on the increases proposed by the Government. To this end, we prefer no increase to supporting doubling the charge. This is the decision of the Democratic Party.

The toll increase for the CHT will be the next put to the vote. The Democratic Party supports an increase from \$10 to \$15 and we know that Members from the DAB demand a freeze, so their amendment is to keep the tolls at \$10. When the question is put to the vote later or tomorrow, the amendment of the Democratic Party will come first. But as Members from the DAB have indicated that it will not have their support, only the Members from the Hong Kong Progressive Alliance (HKPA) will support us, therefore, we believe that because of the voting by groups, the amendment of the Democratic Party will not be approved. We will then support the amendment of the DAB for a freeze on the tolls. As our demand for a limited increase cannot be approved, the Democratic Party has no choice, we prefer a freeze to a two-fold increase. I know that the HKPA does not support a freeze. But it now seems that the amendment of the DAB will not be approved, so what is left will be the original proposal of the Government. Will Members support doubling the tolls? The Democratic Party is against it.

I have just got wind that Members from the DAB will support the proposal of the Government to double the tolls. If the DAB supports a freeze and now knows that there is a big chance that its amendment will not be approved, why do they not support the Democratic Party's amendment to limit the increase to only half the proposed rate? Is our amendment not closer to their objective of getting a freeze? Is it not better than doubling the tolls? I truly cannot understand it. I hope that the DAB would consider tonight if our proposal is better. The DAB should not think that if they do not support the Government, the Government will incur loss in revenue. They may have such an impression because they think that if this portion of the Bill is defeated, the Government will not be able to increase the tolls until the relevant bill is passed in the next Legislative Session. They are wrong. The Secretary for the Treasury may perhaps respond later or tomorrow. In the first place, the Executive Council

can issue an executive directive to appoint a rate of tolls, and as to the amount permissible, the Secretary for the Treasury can talk about it later and the Government may set a limit as to the figure. Secondly, even if the amendment of the Government fails, the proposal may still be tabled again for discussion on 14 July. Naturally, the Government may not by that time propose to increase it to \$10, \$15 or \$20, but it may set a figure anywhere in between. As far as the stand of the Democratic Party is concerned, we will support anything between \$10 and \$15, that is, from \$10.1 to \$14.9. If it is set below \$10, we are of course more than happy to support it as soon as the Government so proposes. Thus it can be seen that opposing the Government's proposal is not something tremendously grave because the Government can still re-submit the proposal next week. I think that the most logical approach for the DAB is to carefully consider if it should support the amendment of the Democratic Party, because I do not want people to question if the DAB was genuinely sincere in moving the amendment for the freeze. I hope the DAB would consider this point.

Thank you, Madam President.

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, before I respond to various issues in respect of the Revenue Bill 1999, let me state the stand of the Government regarding the Rules of Procedure of the Legislative Council.

The Government has reservations about the Rules of Procedure of the Legislative Council in respect of the application of certain provisions of the Basic Law to the operation of the Legislative Council. Without prejudice to the Government's stand in this matter, we decided to resume the Second Reading of the Revenue Bill 1999.

Firstly, I sincerely thank the Honourable Miss Margaret NG, Chairman of the Bills Committee on the Revenue Bill 1999, and other members for scrutinizing the Bill in the past two months and more, and for their valuable views relating to the contents of the Bill.

The Revenue Bill 1999 is an omnibus Bill, the purpose of which is to implement the revenue proposals in the 1999-2000 Budget which can be implemented only by amending the relevant laws. We submit the various

proposals in the form of a consolidated bill to enable the Legislative Council to assess the overall fiscal effects of all the revenue proposals in a comprehensive way, so that this Council can more fully and totally deliberate the revenue part of the Budget.

In fact, the proposals put forth in the Bill include not only the various revenue measures which were the subjects of Members' remarks earlier in the debate, they also include a series of concessionary measures. All the increases and reductions are basically complementary and they constitute an integrated set of proposals. Therefore I urge Members to consider all the proposals as a whole from a macroscopic perspective.

The Revenue Bill 1999 contains eight proposals on concession. All the relevant clauses were basically accepted by the Bills Committee. The Bill also contains six proposals for raising revenue, to four of which Members have proposed amendments. The purpose of such amendments is to lower or to oppose the increase as proposed by the Government.

I wish to take this opportunity to reiterate the background against which and principle with which the Government worked out the 1999-2000 Budget. I would then go on to explain briefly the Committee stage amendments proposed by the Government. Lastly, I also hope to respond briefly to the amendments proposed by Members. I shall elaborate on them at the Committee stage.

On the 1999-2000 Budget, in delivering his Budget speech on 3 March this year, the Financial Secretary made it plain that amidst the slackening economy of Hong Kong, this year's budgeting was particularly arduous.

In the first place, we fully appreciate public aspirations for more measures to relieve their hardships. Therefore, following the many tax reliefs proposed in the 1998-1999 Budget which were already put into effect and the \$30 billion special relief measures introduced in the middle of last year, we proposed a number of reliefs in the 1999-2000 Budget, some of which were already implemented via executive means, including a tax rebate of 10%, a 50% reduction in rates charge for the quarter from July to September this year, and a freeze on all government fees and charges for six months. The Financial Secretary recently also decided to postpone the adjustment of government fees and charges originally scheduled for October this year, until the year-on-year

growth of our quarterly Gross Domestic Product (GDP) turns positive.

On the other hand, as a responsible Government, we must ensure that our financial position can be restored to a balanced state in the medium term. Therefore we must seek additional revenue selectively. However, we proposed measures for small and moderate revenue increases only after very prudent deliberation. These measures will have negligible effect on the community as a whole. We had also carefully studied if the tax base should be broadened to increase government revenue, but we concluded that this would only subject the people to move profound impact.

The implementation of all the revenue reduction and raising measures does not free us from a deficit. We estimate that there will still be a deficit of \$36.5 billion for the year 1999-2000, and \$5.6 billion for the next financial year, that is 2000-2001.

A Member just mentioned that the yield from the investment of our fiscal reserves, if reckoned at the present high of the Hang Seng Index at 14 000 points, would lower our estimated \$36.5 billion of deficit this year. To this I have two simple responses. Firstly, can the Legislative Council guarantee that by the end of March next year, the Hang Seng Index can stay at 14 000 points or above? In our capitalist and market-oriented economy, we understand that the stock market fluctuates. Who and what council can guarantee that the Hang Seng Index will not fall below 14 000 in March next year?

Secondly, of the Government's recurrent expenditure, the biggest portion goes to the Comprehensive Social Security Assistance. In this respect, three months after we compiled the 1999-2000 Budget, we have reasons to believe that the estimated resources are not adequate. Therefore we will certainly apply to the Finance Committee in the new Legislative Session for additional funding. I have cited this example just to show that in terms of expenditure, the actual expenditure in at least one important area is greater than our estimate when we compiled the Budget.

Therefore, our estimated \$36.5 billion of Budget deficit could increase. This will naturally depend on the yield from the investment of our fiscal reserves

and how much extra expenditure would have been incurred in our key expenditure areas by the end of March next year.

Strictly speaking, from a fiscal point of view, we in fact cannot do without all the revenue raising measures in the Revenue Bill 1999. Nevertheless, as an open and compassionate Government, we have heeded the views of the Bills Committee and of many other Members and decided to move four Committee stage amendments, one of which is to delete the clauses relating to raising the fixed penalties for traffic-related offences; and the other three are amendments relating to the stamp duty on property transactions. I wish to briefly explain the rationale for these amendments.

For traffic-related offences, our original proposal was to adjust the various penalties in line with cumulative inflation to maintain their deterrent effect. As members of the Bills Committee generally had reservations about this proposal, thinking that in the present economic climate, there was no need to raise the penalties to maintain their deterrent effect. Having carefully considered the views of the Bills Committee and those of the community, and bearing in mind that the Secretary for Transport would review road safety regulations and the related penalties from time to time, and our recent moratorium on the adjustment to government fees and charges, the Government decided to move amendments at the Committee stage to delete the clauses in the Revenue Bill 1999 that concern fixed penalties. I hope Members would support the Committee stage amendments to be moved by the Government.

In respect of the arrangements relating to property transaction stamp duty, the Government will move three Committee stage amendments. First, we originally proposed that when companies buying residential property and applying for deferred payment of the stamp duty, a banker's undertaking must be produced as guarantee. This requirement was meant to protect government revenue. Many members of the Bills Committee had reservations about this proposal. They were of the opinion that the number of companies involved in default of stamp duty payment could not prove that many companies were using the deferred payment to avoid stamp duty, therefore there was no need for these companies to produce a banker's undertaking as guarantee. After careful consideration, we decided to accept the views of the Bills Committee and move a Committee stage amendment to delete the requirement for the banker's undertaking.

The Government also decided to move two other technical amendments after accepting the views of the Bills Committee. The first one is that in reasonable circumstances the Inland Revenue Department can accept copies of instruments for stamping. The second is that when the Inland Revenue Department refuses an application for deferred stamp duty payment, he must give his reasons for the refusal in the notification.

Madam President, I would now like to briefly explain the Government's position in respect of the areas involved in the Committee stage amendments to be moved by Members. Later at the Committee stage, be it tonight or tomorrow, I hope to give the detailed reasons why the Government opposes the amendments proposed by Members.

First of all, about the punitive provisions for smoky vehicles. I have already pointed out just now, the Government will move an amendment at the Committee stage to delete all clauses concerning traffic-related offences in the Bill, including the proposal to raise the fixed penalty for smoky vehicles. Mr Albert HO and Miss Christine LOH submitted respective Committee stage amendments, proposing an increase to the fixed penalty for smoky vehicles. I wish to stress here that the Government is as concerned about the problem of air pollution as Members are. The Secretary for Planning, Environment and Lands is now actively formulating a package of measures to improve air quality, and has undertaken to table them to the Legislative Council next Session. A raise in the fixed penalty for smoky vehicles will certainly be included. The Government thinks that the problem of air pollution has to be solved immediately. But we must adopt an omni-directional approach and ensure that all measures will complement and supplement each other, including legislation, law enforcement, raising penalties, education and publicity. Therefore, before other measures are implemented, we think that this penalty should not be drastically raised through the Revenue Bill 1999.

The second amendment proposed by Members concerns the clauses relating to the stamp duty for property transactions. The Government has proposed that the stamp duty for property with a value over \$3 million be increased by 0.25 percentage point, and one percentage point for those over \$6 million. Mr Ronald ARCULLI will propose the deletion of this stamp duty raising proposal at the Committee stage. In fact, the Government's proposal is rather moderate and has negligible effect on the general public. First of all, over 80% of the transactions involve properties below \$3 million in value, and

they are not subject to this proposal of the Government. Secondly, property prices have adjusted downward in the past year. For the same property transaction, the stamp duty paid on 1 April this year and there afterwards will in fact be less than that if it were completed in the last financial year.

In fact, stamp duty accounts for a very small portion of the expenses involved in the purchase of a property. We think that the proposed increase will not have any substantial effect on the property market. The latest data from the Inland Revenue Department have actually shown that since the implementation of the Government's proposal to raise the stamp duty on 1 April this year by virtue of the Public Revenue Protection Ordinance, the number of transactions involving property with a value over \$3 million increased by 6.3% in the period from April to June this year, as compared with that from January to March this year. And the total money involved also increased by 50%.

Besides, from the sales figures of the brand new property put on the market by private developers in the last several months, and the prices of the land fetched in public auctions that were resumed by the Government since April this year, the moderate raise in stamp duty seems to have produced no effect at all. However, as in the past several years, the Government will keep closely monitoring the overall economy and the property market and consider if the clauses relating to the stamp duty on property transactions should be further revised in the next fiscal year.

Therefore I would urge Members to vote in favour of the Government's proposal, and oppose Mr ARCULLI's amendment to delete the clauses relating to stamp duty.

The third amendment proposed by Members concerns the clauses on the tolls of the CHT. The Government proposes to increase the tolls from \$10 to \$20 for private cars and from \$4 to \$8 for motorcycles on 1 September this year when the ownership of the CHT reverts to the Government. This will be the first toll increase since the last adjustment 15 years ago in 1984. In fact, the modest increases proposed by the Government will only have extremely limited effect on the general public, the main reason being that the proposed increases apply only to private cars and motorcycles, when all other business vehicles, including taxis, goods vehicles, public buses and minibuses are not subject to the proposed increases.

Apart from bringing additional revenue, this proposal in the Government's view, will encourage motorists to use other tunnels so as to achieve the traffic management objectives of diverting traffic flow and ameliorating the present congestion in the CHT and nearby areas. We also hope to see that the toll increase for the CHT will make some motorists switch to public transport so as to reduce the number of vehicles on our roads; this will benefit vehicular traffic and help environmental protection in Hong Kong.

For the above reasons, I urge Members to support the proposals of the Government, and oppose the amendment proposed by the Honourable Andrew CHENG for a 50% toll increase as well as the amendment proposed by the Honourable CHAN Kam-lam for maintaining the tolls at their current levels. In fact, if the amendments of both Members and the proposal of the Government are not supported today, there will be problems legally. Mr Albert HO questioned this point earlier. I would explain at the Committee stage why the Government thinks there will be legal difficulties if the so-called "defeat for all the three" happens tonight or tomorrow.

The other amendments to be moved by Members at the Committee stage concern the on-street parking meter charge. The Government proposes to raise the highest on-street parking meter charge from \$2 to \$4 every 15 minutes; this is the upper limit, may I stress. This is a moderate raise neutral on the ordinary citizens, and will only affect motorists, albeit quite slightly. The main reason is that our proposal sets out only the upper limit, and the actual level of charge of each parking meter will continue to be determined by the Transport Department according to supply and demand.

I can explain the present situation to Members. At present there are 14 000 on-street parking meters, and the Government will maintain the charge of at least 3 000 meters in the different areas at \$2 every 15 minutes. Even if Members support the government proposal to adjust the upper limit to \$4, the Government will not raise the charges of under-utilized on-street parking meters to the maximum of \$4. Apart from the extra revenue generated, this proposal will help maintain a 15% vacancy rate of on-street parking spaces and eliminate the unnecessary congestion in the roads near the on-street parking spaces caused by vehicles waiting for or cruising around looking for vacant spaces.

Some Members expressed the worry that the raise in the parking meter charge to the upper limit of \$4 might induce car parks to increase their charges also. I believe they need not be overly worried about this because the maximum charge of parking meters, if approved by Members, will only be \$16 an hour, less than what the car parks in many areas charge.

What is more, on-street parking spaces are provided to facilitate motorists who need to park their cars for a short time, and most of these motorists do not need to go to a car park. Further, there are not always car parks close to on-street parking spaces for them to choose. In fact since the upper limit of \$4 for on-street metered parking was implemented on 1 April this year, the Transport Department made a survey of about 520 car parks and discovered only one of them had increased its charge. This also shows that Members need not worry that increasing the meter charge to the upper limit as proposed by the Government would be followed by upward adjustment in car park charges.

Even if the Government raises the charge to the upper limit of \$4 every 15 minutes, the parking meter charges and car park charges in Hong Kong are still lower than those in many advanced countries. In other words, in many other countries, charges for on-street metered parking are more or less the same as, or higher than those of car parks; in Hong Kong, it is exactly the other way round.

For the above reasons, I urge Members to support the Government's proposal and oppose the amendment proposed by Mr Andrew CHENG to reduce the increase by 50%, and the amendment of Mr CHAN Kam-lam to maintain the parking meter charge at its current level.

At the Committee stage I will also explain in detail the impact on the middle class, because I note that Members consider that the selective revenue raising measures in the Budget this year seem to be directed against the middle class. This is definitely a misconception. I shall respond to this in greater details at the Committee stage.

All in all, I sincerely call on all Members to consider the revenue raising proposals in the Revenue Bill 1999 in the context of the overall interest of Hong Kong, including the Committee stage amendments proposed by the Government

and to look at all the proposals as an integrated set of complementary proposals. I hope that Members will not just selectively support measures to reduce fees and charges, but oppose those to raise revenue. I hope Members will support the position of the Government. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Revenue Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Revenue Bill 1999.

## **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): Honourable Members, I think it is a good time now for us to suspend the meeting. We shall put a series of items to the vote tomorrow. The meeting will resume at 2.30 pm tomorrow.

*Suspended accordingly at twelve minutes to Ten o'clock.*

**Annex I****ELABORATION ON THE REPLY TO A WRITTEN QUESTION****Elaboration on the reply by the Secretary for Trade and Industry to Mr YEUNG Yiu-chung's Written Question 16**

I refer to my reply to Question No. 16 asked at the Legislative Council meeting of 7 July 1999. A copy of the question and reply is attached for Members' easy reference.

Having checked further with the Department of Justice, I would propose to expand the first two bullet-points of part (b) of my reply as follows:

- Under the Consumer Goods Safety Ordinance, it is an offence to import into Hong Kong consumer goods not complying with the Ordinance. However, the Ordinance is not applicable to consumers who order such goods via the Internet (or other media) to be imported to Hong Kong for private use. In addition, the Ordinance does not cover those goods the safety of which is controlled by specific legislation, such as toys, children's products, pharmaceutical products, motor vehicles and electrical products.
- Similar to the Consumer Goods Safety Ordinance, the Toys and Children's Products Safety Ordinance stipulates that it is an offence to import to Hong Kong toys and children's products not complying with the statutory safety standards. However, the Ordinance is not applicable to consumers who order such products via the Internet (or other media) for private use.

I should be grateful if you would inform Members of the above clarification, and I apologize for any inconvenience caused.

**Annex II**

## ADAPTATION OF LAWS (NO. 12) BILL 1998

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 2, section 8	By deleting "Government" and substituting "HKSAR".
Schedule 2, section 9	By deleting "Government" and substituting "HKSAR".
Schedule 2, section 18	By deleting "Government" and substituting "HKSAR".
Schedule 2, section 36	By deleting "Government" and substituting "HKSAR".
Schedule 2	By adding -  "36A. Rule 71(1) is amended by repealing "Crown" and substituting "HKSAR".".
Schedule 2, section 43	By deleting "Government" and substituting "HKSAR".

**Annex III**

## THEFT (AMENDMENT) BILL 1998

**COMMITTEE STAGE**Amendments to be moved by the Secretary for JusticeClauseAmendment Proposed

3

In the proposed section 16A(3) -

(a) by deleting the definition of "benefit" and substituting -

"benefit" (利益) means any financial or proprietary gain, whether temporary or permanent;"

(b) by deleting the definition of "prejudice" and substituting -

"prejudice" (不利) means any financial or proprietary loss, whether temporary or permanent."

## THEFT (AMENDMENT) BILL 1998

**COMMITTEE STAGE**

Amendments to be moved by the Honourable Mrs Miriam LAU Kin-ye, J.P.

ClauseAmendment Proposed

- 3            In the proposed section 16A(3), in the definition of "deceit", by deleting "or opinions".

**Annex IV**

## ADAPTATION OF LAWS BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Health and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 1, section 2	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 2, section 4	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 3, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 4, section 1	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 5, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 6, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 7, section 4	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 8, section 2	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 9, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 10, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 11, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 12, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 13, section 3	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 15, section 1	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 16, section 1	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".
Schedule 17, section 1	By deleting "People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and".

**Annex V****HONG KONG WAR MEMORIAL PENSIONS (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Health and WelfareClauseAmendment Proposed

- 2(d)            In the proposed section 7(2)(f) -
- (a)    in subparagraph (ii), by deleting "服役於附表2指明的隊伍" and substituting "屬附表2指明的隊伍的成員";
  - (b)    in subparagraph (C), by adding "或在從事該等隊伍行動期間（視屬何情況而定）" after "服役期間".

**Annex VI****BANKING (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Financial Services

<u>Clause</u>	<u>Amendment Proposed</u>
4	By deleting the clause.
10	By deleting paragraph (c) and substituting -  "(c) in subsection (6) -  (i) in paragraph (kb), by repealing "it" and substituting "the Housing Authority";  (ii) by adding -  "(kc) any financial exposure to The Hong Kong Mortgage Corporation Limited arising from the obligations placed upon it for the purposes of the Mortgage Insurance Programme;".
New	By adding -  <b>"11A. Section added</b>  The following is added -

ClauseAmendment Proposed

**"87A. Acquisition by authorized institutions incorporated in Hong Kong of share capital in companies**

(1) In this section, "relevant day" (有關日期) means the day of commencement of section 11A of the Banking (Amendment) Ordinance 1999 ( of 1999).

(2) An authorized institution incorporated in Hong Kong shall be subject to a condition that it shall not -

- (a) acquire (whether by one acquisition or a series of acquisitions, and by whatever means) all or part of the share capital of a company (and whether or not the company was established by the institution) to a value of 5% or more of the capital base of the institution at the time of the acquisition unless the approval of the Monetary Authority has been given to the proposed acquisition of such share capital;

ClauseAmendment Proposed

- (b) if any such approval granted in respect of the company is revoked under subsection (5), hold share capital in the company to a value of 5% or more of the capital base of the institution on or after the time such revocation comes into effect.

(3) Approval under subsection (2)(a) shall be deemed to have been granted in respect of any company -

- (a) in relation to which an authorized institution incorporated in Hong Kong held, immediately before the relevant day, share capital to a value of 5% or more of the capital base of the institution;
- (b) in relation to which an authorized institution incorporated in Hong Kong comes to hold, not later than 3 months after the relevant day, share capital to a value of 5% or more of the capital base of the institution where the acts or circumstances by virtue of which the institution comes to hold such share capital substantially occurred before the relevant day.

ClauseAmendment Proposed

(4) The Monetary Authority may at any time, by notice in writing served upon an authorized institution, attach, with effect from such time as is specified in the notice (being a time reasonable in all the circumstances of the case), to an approval granted under subsection (2)(a), or deemed to have been granted under subsection (3), in respect of any company in relation to which the institution is to come to hold, or holds, share capital to a value of 5% or more of the capital base of the institution, such conditions, or amend or cancel, with effect from such time as is specified in the notice (being a time reasonable in all the circumstances of the case), any conditions so attached, as he may think proper.

(5) The Monetary Authority may revoke -

(a) in such case as he thinks fit;  
and

(b) with effect from such time as is specified by him, being a time reasonable in all the circumstances of such case,

an approval granted under subsection (2)(a), or deemed to have been granted under subsection (3), in respect of any company.

(6) Where the Monetary Authority refuses to grant approval under subsection (2)(a) or revokes an approval under subsection (5), he shall notify the authorized institution concerned in writing of the refusal or revocation.

ClauseAmendment Proposed

(7) Every director and every manager of an authorized institution who contravenes the condition in subsection (2) or any condition attached under subsection (4) commits an offence and is liable -

- (a) on conviction upon indictment to a fine at tier 7; or
- (b) on summary conviction to a fine at tier 5,

and, in the case of a continuing offence, to a further fine at tier 2 for every day during which the offence continues.

(8) For the purposes of this section, share capital of a company acquired by an authorized institution shall not include share capital so acquired -

- (a) in the course of the satisfaction of debts due to the institution; or
- (b) under an underwriting or a subunderwriting contract for a period not exceeding 7 working days, or such further period as the Monetary Authority approves in writing, and subject to such conditions as he may think proper to attach thereto in any particular case."."

ClauseAmendment Proposed

14 By deleting the clause and substituting -

**"14. Appeals**

Section 132A(1) is amended -

- (a) in paragraph (a), by adding ", 87A(5)" after "53G(7)";
- (b) in paragraph (d), by repealing "or 69(1)" and substituting ", 69(1) or 87A(2)(a)";
- (c) in paragraph (e) -
  - (i) by repealing "or 51A(2)" and substituting ", 51A(2) or 87A(2)(a)";
  - (ii) by repealing "or 51A(4)" and substituting ", 51A(4) or 87A(4)".

17(a) By deleting "51B," and substituting "79, 81,".

## Annex VII

## MERCHANT SHIPPING (LOCAL VESSELS) BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic Services

- | <u>Clause</u> | <u>Amendment Proposed</u>   |
|---------------|---|
| 2             | <p>(a) In the definition of "起重工具" -</p> <p style="margin-left: 2em;">(i) by deleting "吊桶鉤" and substituting "吊桶鉤";</p> <p style="margin-left: 2em;">(ii) by deleting "鉤環" and substituting "鉤環".</p> <p>(b) In the definition of "起重裝置", by deleting "吊杆" and substituting "吊桿".</p> <p>(c) In the definition of "pleasure vessel", in paragraph (c), by adding "in writing" after "agreement" where it twice appears.</p> <p>(d) In the definition of "《遇險訊號規例》", by deleting "《遇險訊號規例》" and substituting "《使用遇險訊號規例》".</p> |
| 4             | <p>(a) In subclause 2(d)(vi), by deleting "welfare".</p> <p>(b) In subclause (5), by deleting "5 members" and substituting "Not less than half the members".</p>  |
| 6             | <p>(a) In subclause (3), by deleting "and vote as a member".</p> <p>(b) By deleting subclause (5) and substituting -</p>  |

ClauseAmendment Proposed

"(5) Not less than 1/4 of the members of a subcommittee shall form a quorum at any meeting of the subcommittee but, in any case, a quorum of the subcommittee shall not be less than 2 members."

8(3) By deleting "(b)段" and substituting "本款".

10 By deleting paragraph (e).

21 By deleting "of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may" and substituting "required to do so by the Court of First Instance or the persons holding the inquiry concerned, shall re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or shall".

27 (a) In the heading, by deleting "《遇險訊號規例》" and substituting "《使用遇險訊號規例》".

(b) In subclauses (1) and (4)(a), by deleting "《遇險訊號規例》" and substituting "《使用遇險訊號規例》".

40(1)(f) and (g) By deleting "this Part" and substituting "regulations made under section 89".

48(1) By deleting "was not necessary for that purpose or".

<u>Clause</u>	<u>Amendment Proposed</u>
51(3)	By deleting "a second or" and substituting "any".
Heading to Part X	By adding "LOCAL" after "OF".
52(5)(h)	By deleting "(being, in any case, not less than 3 months from the date on which the vessel was seized)".
60	(a) In subclause (1)(c), by deleting "or any other enactment". (b) In subclause (2)(a), by deleting "who" and substituting "whom".
70(3)	By deleting "某船隻上" and substituting "某本地船隻上".
77(2)	By deleting paragraph (c).
85(1)(e)(ii)	By deleting "registered" and substituting "certificated".
86	By adding "in good faith" after "68".
90(b)	By deleting "《遇險訊號規例》" and substituting "《使用遇險訊號規例》".
Schedule	(a) By deleting section 7(d).

ClauseAmendment Proposed

(b) By adding -

**"7A. Application**

Section 3(1) is amended by adding "(except local vessels)" after "all vessels".

(c) By adding -

**"26A. Power to restore certificate, etc.**

Section 118 is amended by repealing "of the opinion that the justice of the case requires it, may re-issue the certificate or licence or, as the case may be, reduce the period of suspension and return the certificate or licence, or may" and substituting "required to do so by the Court of First Instance or the persons holding the inquiry concerned, shall re-issue the certificate or licence or, as the case may be, reduce the period of suspension and return the certificate or licence, or shall".