

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 8 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.

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.

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Council will now resume. The unfinished items on the Agenda shall now be dealt with. We shall now deal with the Revenue Bill 1999. The Second Reading debate on this Bill was completed yesterday, and we shall now go into the Committee stage. Council is now in Committee.

Council went into Committee.

Committee Stage

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

REVENUE BILL 1999

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

CLERK (in Cantonese): Clauses 1, 3 to 15, 17, 19, 20, 22, 26 to 36, 38 to 42 and 44 to 48.

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 16 and 18.

SECRETARY FOR THE TREASURY (in Cantonese): Madam Chairman, I move that clauses 16(d) and 18(d) be amended as set out in the paper circularized to Members.

At present, a number of provisions of the Stamp Duty Ordinance on the presentation of instruments to the Inland Revenue Department all specify that the relevant instruments must be presented as executed copies. The Inland Revenue Department understands that under some circumstances, the persons concerned may be unable to present the executed copies of the instruments required, which is why the Inland Revenue will also accept the true copies of the instruments. Because of this existing practice, the new section 19(12A)(a) to be added to the Stamp Duty Ordinance as proposed in clause 16(d) of the Revenue Bill 1999 (Revenue Bill) specifies that only in an application for exemption of stamp duty for stock borrowing, an executed copy of the stock borrowing and lending agreement must be submitted to the Inland Revenue Department. The Inland Revenue Department shall, in the course of enforcement following the enactment of this clause, accept the true copies of instruments by taking account of individual circumstances. During the scrutiny of this Bill, members of the Bills Committee, however, expressed the view that the Government should formally legislate on the acceptance of true copies, permitting a stock borrower to present either the executed copy or the true copy of the stock borrowing and lending agreement. Taking account of the view of the Bills Committee, we now propose to amend the relevant provisions. Later on, I will also move the introduction of a new provision to the Revenue Bill to amend the existing Stamp Duty Ordinance. Under this proposed provision, the requirements on the presentation of instruments to the Inland Revenue Department for stamping will be amended to specifically stipulate that under some specific circumstances, the Inland Revenue Department may accept the true copies of instruments for stamping purposes.

To clause 18(d) of the Revenue Bill, we have proposed amendments in two respects. First, the requirement for a company purchaser to produce a bank's undertaking is deleted from the provisions on the application for deferred payment of stamp duty in respect of a chargeable agreement for sale on the conveyance of residential property. The aim of the second amendment is to require the Inland Revenue Department to give the reasons for rejection when issuing a notice rejecting an application for deferred stamp duty payment.

The original proposal of the Bill on requiring company purchasers to present a banker's undertaking is intended to protect revenue. But as I mentioned during the resumption of the Second Reading debate on the Bill yesterday, a number of members on the Bills Committee have expressed reservations about this proposal. They are of the view that the present statistics relating to companies defaulting on stamp duty payment cannot prove that many companies have in fact tried to evade stamp duty by resorting to the arrangements for deferred payment. Therefore, they maintain that there is no need to require companies to present bankers' undertakings. In view of this, I now propose to amend clause 18(d) of the Bill by deleting the addition of new section 29C to the Stamp Duty Ordinance. Some Members suggested yesterday that the Government should work with the Law Society to draw up some guidelines to encourage the co-operation of conveyancing lawyers in reducing the possibility of stamp duty evasion on the excuse of deferred payment. I will request the Inland Revenue Department and the Law Society to follow up this proposal. But I must stress that the Government will closely monitor the situation after the deletion of the provisions on bankers' undertakings. If necessary, we will raise the proposal on banker's undertaking to the Legislative Council again.

The second amendment to clause 18(d) aims to add a new provision to its proposed section 29C(12)(b) of the Stamp Duty Ordinance, requiring the Inland Revenue Department to give the reasons for rejection when issuing a notice rejecting an application for deferred payment of stamp duty. This amendment is made to reflect the existing practice of the Inland Revenue Department and in response to the suggestion of the Bills Committee.

I urge Honourable Members to support this amendment. I so submit, Madam Chairman.

Proposed amendments

Clause 16 (see Annex VIII)

Clause 18 (see Annex VIII)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 16 and 18 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 21.

MR RONALD ARCULLI: I move that clause 21 be amended as set out in the paper circularized to Members.

I have already dealt with the details of this during the Second Reading debate. All I need to do, therefore, is to remind Members that if my amendment is passed, the effect would be to delete paragraph (a) and paragraph (b)(i) of clause 21. And the result would be that the stamp duty of residential property transactions would remain at not today's rate, but at the old rate, because of the Public Revenue Protection Order.

Madam Chairman, in her reply yesterday, the Secretary for the Treasury asked us to forecast what the Hang Seng Index would be next year. Naturally, we are unable to do so. Even if this Council was to give the guarantee suggested or hinted, we would still need the Finance Committee's approval and that will be far too complicated for today's discussion. But what I want to do is to remind Members that when the Government purchases the portfolio that they now hold through the Exchange Fund in August last year, the Hang Seng Index was about 7 100. I suspect that when the Budget was drawn up either early February or reviewed at the end of February, the Hang Seng Index was at the level of about 9 600 at the beginning of February, and 9 800 at the end of February. And today, we are sitting at over 14 000. The point that I am seeking to make is not that the Hang Seng Index will remain at 14 000 this time next year, but that it was an underestimate. Because of these changing events over the last several months of our deficit for the current year, the estimate put by the Financial Secretary was about \$36.5 billion. All I am saying is that it was a gross overestimate which is more likely to be \$10 billion, or more or less than that. But that having been said, I think there is another reason which I did not in fact draw Member's attention to support my amendment. And that is, I am quite sure that Members, particularly those that put forth the amendments, have received a letter from the Administration saying that any amendment by Members is contradictory to Article 74 of the Basic Law, because it involves government policy and we need the consent of the Chief Executive. That reason alone should propel Members to support my amendment and I hope that they will do so.

Proposed amendment

Clause 21 (see Annex VIII)

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

MISS MARGARET NG: Madam Chairman, I support the amendment proposed by the Honourable Ronald ARCULLI. The tumble in property prices has dismayed many households in this community, because it means the devaluation of their chief, and often, the only, significant asset. We ask them to bear the pain, because, we say, prices must come down for the health of our economy and long-term competitiveness. The only consolation in an economic downturn is that at least prices would be more affordable. Increasing stamp duties removes even that consolation.

Further, there is an unsavoury hypocrisy for the Government to give away small perks in the like of tax rebates with one hand, and take away significant sums in stamp duty increase with another. The Administration says that increase only starts at the higher end, at properties of \$3 million and above. But is that really the higher end? A small recovery, and many will fall into that bracket. I do not accept that it only hits those who are most able to afford it. I support the deletion of that increase.

Thank you, Madam Chairman.

MR JAMES TIEN (in Cantonese); Madam Chairman, during the Second Reading debate yesterday, I already expressed my views on this amendment. However, I would like to respond briefly to two points made by the Secretary for the Treasury.

First, the Secretary said that the increase is a "moderate increase" — I noted down the words "moderate increase" at that time, because it is only a one percentage point increase. However, I would like to remind the Government that a one percentage point increase from 2.75% to 3.75% means a 36.36% increase. I believe that a 36% increase cannot be said to be moderate.

Second, the Secretary said that since property prices have dropped, less stamp duty will be payable. I think what she meant was when the stamp duty rate was 2.75%, a duty of \$275,000 is payable for a flat of \$10 million. Now, the price of the property has dropped to \$6 million. If we multiply the property price by 3.75%, the duty would be \$225,000, that is, \$5,000 less. However, if the price of the \$6 million flat rises to \$10 million in the future, the duty would be \$375,000 at a rate of 3.75%, that is, one would be paying \$100,000 more in stamp duty. Will the Secretary lower the stamp duty rate from 3.75% to 2.75% when property prices rise?

Thank you, Madam Chairman.

MR LEE WING-TAT (in Cantonese): Madam Chairman, I rise to support the Government's proposal.

Actually, this Council has had several debates about the principles and effects of the levy of stamp duty, including debates on questions such as whether to extend the Stamp Duty Ordinance or adjust the charge rate, and the effects on property speculation and government revenue. In the Democratic Party's view, stamp duty has two basic implications for the Government. First, it is a relatively stable source of revenue. If I remember it correctly, except when the property market was extremely depressed last year, there are on average 10 000 to 12 000 property transactions each month. This means a total of over 100 000 property transactions annually, generating quite an enormous amount of stamp duty. Of course, the cost for property buyers will be lowered if there is no duty on property transaction. But how will the Government compensate for its income in this area? Personally, I think that this cost in property transaction can be gradually reduced in the long term, that is, if the Government's tax regime has a better base and if the tax base is broader. Given that the Chief Executive encourages those with means to buy their own homes, home ownership is no longer a luxury for the average household, but rather a necessity for those who wish to settle down. Moreover, there are also many mortgage schemes available now. The Chief Executive

expresses the hope that 70% of households will own their own home in 10 years' time. If so, on the whole, it would not be a privilege of the minority. Therefore, I personally think that in the long term, it is debatable whether stamp duty should be set at such high levels.

However, the question now is: What should be done in view of the shrinking government revenue during these two years? Of course, I absolutely agree that increasing the stamp duty on the transaction of properties of over \$3 million will add to the burden of those people buying property at this price bracket. However, there are two kinds of property buyers. One kind is first-time home buyers and the other kind is home buyers who would like to upgrade their home by trading in. As far as I know, the great majority of middle class or average first-time home buyers very seldom buy a flat worth \$3 million to \$5 million, unless they are really very rich. In the present property market, one can buy a flat with an area of over 500 sq ft to over 600 sq ft in the urban fringe urban areas for less than \$3 million. If people from the grassroots or middle class want to buy a flat for the first time, there are many choices. I do not suggest that these first-time home buyers buy a flat worth over \$3 million or over \$4 million, since they might have a problem financing it. People who want to trade in their flat also have a wide choice. Of course, it is not for us to teach them how to choose. The property market is relatively stable now and they can take their pick. There is also no need for them to make a lot of decisions about property ownership within a short time. They can even rent a flat for a long period of time before thinking about buying one. As the Financial Secretary said, the rate of return for property now is only 4% to 5%. Is it worthwhile to buy a flat? However, this is not our topic today. Therefore, let us not talk about it. For those people who really want to trade in their flat, the increase in stamp duty will add to their burden, but it will not be unbearable. If someone now living in a flat worth over \$1 million to \$2 million wants to trade it in for a flat worth \$4 million, he must be prepared to pay a bigger monthly instalment for his mortgage. He must also be prepared for the higher stamp duty he has to pay in this process.

Madam Chairman, the second effect of the stamp duty is to dampen speculation. It seems that there is little point in discussing this question now, because property speculation has cooled down considerably. Although there

have been quite a lot of transactions in the uncompleted flats market and first-hand market over the past six months, I agree with the report published by the Housing Bureau or the Rating and Valuation Department recently that there are fewer transactions in the second-hand market. The boom in the first-hand market is attributable to the marketing strategies adopted by developers and to the discounts offered on some flats. Although the stamp duty is not too effective in dampening property speculation, I consider that there is still a need to maintain the duty rate at an appropriate level.

Madam Chairman, although the amendment in law will add to the burden of those buying flats worth over \$3 million, I consider that this is necessary for the purpose of maintaining a stable source of income for the Government. Since this amendment will not affect the first-time or average home buyers from the grassroots or middle class in principle, the Democratic Party will not oppose this amendment. Thank you, Madam Chairman.

MR LAU CHIN-SHEK (in Cantonese): Madam Chairman, this is in my view a very special time. While the Hong Kong economy is in such a depressed state and the unemployment rate keeps rising, all fees should be frozen. We should not support or oppose something because of our own constituency's interest or because we are concerned about a certain subject. I hope that we will really join forces and face the difficulties together. Members might wonder why I support Mr Ronald ARCULLI's amendment. In fact, I very much admire Mr Ronald ARCULLI for his upholding of the powers conferred on us by the Rules of Procedure. Even if Members do not support the content of his amendment, they should support the spirit of his upholding the Rules of Procedure.

Thank you, Madam Chairman.

DR YEUNG SUM (in Cantonese): Madam Chairman, I support Mr Ronald ARCULLI in exercising his influence in accordance with the Rules of Procedure, but we in the Democratic Party do not support the substance of such influence. Thank you. *(Laughter)*

SECRETARY FOR THE TREASURY (in Cantonese): Madam Chairman, the Government strongly opposes to (*laughter*) the amendment proposed by Mr Ronald ARCULLI to delete clauses 21(a) and (b)(i) of the Bill.

Clauses 21(a) and (b)(i) of the Revenue Bill 1999 seek to implement the proposals of the 1999-2000 Budget to adjust upwards the stamp duty for the transaction of properties valued at \$3 million or above. Our proposal will only make a very moderate increase of 0.25% on the stamp duty for the transaction of properties valued between \$3 million to \$6 million. We also propose to raise the stamp duty for the transaction of properties exceeding \$6 million by 1%. The rate of these adjustments is very mild and will not affect the property market. These proposals are expected to bring in an additional \$1.2 billion to the Government in 1999-2000.

During the resumption of the Second Reading debate yesterday, I also mentioned the fact that over 80% of the property transactions are related to properties valued at \$3 million or less. All these properties will not be affected by the proposal.

As a matter of fact, as property prices have adjusted downwards over the past year, transaction of the same property which is made in April this year is required to pay a lower amount of stamp duty than if it were made in the last financial year. Some Honourable Members mentioned just now and yesterday that properties valued at \$3 million or above will have to pay more stamp duty than before because the government proposal to raise the stamp duty for property transactions. For properties valued at more than \$6 million, the buyer has to pay a few dozen thousand dollars more in stamp duty. However, this is far from the facts. Please allow me to quote two examples. According to information from the Rating and Valuation Department, in 1 April last year, a property valued at about \$6 million was required to pay \$165,000 in stamp duty at a rate of 2.75%. However, the value of this property has dropped to about \$4.4 million this year, and according to the 3% rate of stamp duty as we are now proposing, the buyer of this property now only needs to pay a stamp duty of \$133,000. In other words, although the rate of stamp duty has been raised, there is still a \$32,000 saving in stamp duty because prices of properties in general have dropped. Another example is a property with a value of \$10

million as at 1 April last year. Due to the downward adjustment of the property market, the same property was valued at \$7.2 million as at 1 April this year. A person who bought that property last year would have to pay stamp duty according to the 2.75% rate, that is, \$275,000. The value for the same property has dropped to \$7.2 million this year and a buyer has to pay stamp duty at a rate of 3.75%, that is, \$270,000. Comparing both amounts, the buyer who buys the property this year will be able to save \$5,000 in stamp duty. A more important point is that stamp duty only accounts for a very small proportion of the total expenses a buyer has to pay for his property. The proposed increase will not serve to create any substantial impact on the property market.

Yesterday I talked about the number of property transactions valued at \$3 million or above for the period from April to June this year after the slight increase of stamp duty made under the Public Revenue Protection (Revenue) Order 1999 has increased against the period from January to March this year when the stamp duty was not yet increased. We noted from the newspapers that over the past few months, the sales figure of new flats by private sector developers and prices for residential land since the resumption of land sales on 1 April have proved that the property market has not been subject to any negative impact as a result of the moderate increase in stamp duty. Some Honourable Members expressed concern earlier and asked whether the Government would consider providing some relief of the stamp duty liability when property prices further go up. Members may recall that over the past few years the Government has proposed in the budget some relief of the stamp duty for property transactions. Such relief is made by revising the scale upwards so that the public can have some stamp duty relief when property prices go up. We will keep a close watch of the overall economic and property market situation to decide whether the rate of stamp duty for property transactions should be revised.

Each and every proposal to increase revenue made in the Bill has been carefully considered by the Government before it is introduced. The proposal to increase the stamp duty is not only moderate but will also bring in substantial revenue to the Government. Owing to the above reasons, I urge Honourable Members to oppose the amendment proposed by Mr Ronald ARCULLI. Madam Chairman, I so submit.

CHAIRMAN (in Cantonese): Mr Ronald ARCULLI, you may reply.

MR RONALD ARCULLI: Madam Chairman, I am a little disappointed with the Democratic Party and the words of comfort from my colleague Dr the Honourable YEUNG Sum, who has given me a little comfort, but unfortunately not enough to sway their votes to my side. What I really would like to say is that the Honourable LEE Wing-tat has made references to past discussions. I would also like to remind Members, and I think it was Dr the Honourable Philip WONG who has actually suggested this at one time, that for first time home buyers, they should be exempted from stamp duty. And that if they trade up, it is the difference between the costs of the first home and the second home that is concerned. Assuming your first home is \$1.5 and the second home is \$2.5, when you buy your second home at \$2.5, instead of paying stamp duty on \$2.5, you need to pay it on the incremental amount, on \$1 million. It is what we called the high water mark tax. We can, of course, enter into discussion on that, but I think the point that we really want to talk about today is that the Government keeps on complaining that the tax net is being narrowed, by concentrating taxation on those who can afford it, as the Government puts it, and it is in fact doing exactly that.

Secondly, in terms of encouraging home ownership, whatever the cost of stamp duty, I do not think that anyone can deny that on a re-sale by a user, the cost of the stamp duty will be passed on. Assuming that the market holds up, it will be passed on if it were to the second buyer. So the cost does increase whatever you look at it, whichever way you look at it.

The Secretary for the Treasury made the point that it would not affect the property market. We are not talking about the property market, we are talking about the buyers who have to bear the cost of that. May I also remind her, Madam Chairman, that not so long ago, people who wanted to buy their own home had to borrow even the stamp duty. They were given financing for the stamp duty. She says that the increase of 1% from 2.75% to 3.75% is a moderate increase. I am actually quite surprised, perhaps I should not be, because government official thinking, in terms of management, is on cash management, not resource management, I guess that if we think in cash terms, perhaps 1% is moderate. But I think the rest of us, and the rest of the world, do not think along those lines. Thus, I think from that point of view, a 36% in

anybody's language is anything but moderate.

So I hope that even if I do not succeed today, there will still be sufficient votes here from both "chambers" of this Chamber, if I could put it that way, to give the Government a very clear signal that we are concerned about the men in the street, about the citizens having to bear this increase which I believe is wholly unwarranted. Thank you.

MR JAMES TIEN (in Cantonese): Madam Chairman, as far as I know, I can speak on this question again. Is that right?

CHAIRMAN (in Cantonese): You may speak, but I do not encourage you to do so. Therefore, please be as concise as possible.

MR JAMES TIEN (in Cantonese): Madam Chairman, I will be very brief. I just want to talk about the question of cost mentioned by the Secretary just now. If a person buys a home now, he has to pay 20% as down payment and borrow the remaining 80% from the bank, which he can pay back over a period of 20 years. However, the 3.75% government stamp duty is a lump-sum payment. Nowadays, many trades are facing a difficult business environment. Estate agents are one example. They only charge a 0.5% commission on property transaction. The same thing applies to lawyers who also charge a half fee in general. Mr Ronald ARCULLI and the Members sitting next to me say that it is even less than half. The fees charged by estate agents and lawyers together make up less than 1%, while the Government charges 3.75%. That is not a small amount.

Madam Chairman, another thing is, the Government said it has taken the interest of users into consideration. However, the Government has never cited in its arguments the number of flats that has been sold by speculators within one or two years among the 7 900 transactions of properties worth over \$6 million. I do not think that the Government should levy a 3.75% stamp duty on these users. In contrast, the \$100 stamp duty levied on properties worth less than \$1 million is a great stimulant for speculation. The people affected are the so-

called grassroots whom the Democratic Party would like to protect.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): For the sake of fairness, I have to give the Secretary for the Treasury a chance to speak again. But she may choose not to do so.

SECRETARY FOR THE TREASURY: Chairman, I would respond briefly, and there are only two points.

Nothing will please me more if this Chamber supports any proposal which has the objective of broadening Hong Kong's tax base. Nothing will please me or the Financial Secretary more. We will be consulting different groups, including Members of this Council, on a possible broader based new tax, and whether or not we will be able to succeed depends to a significant extent on securing majority support from this Chamber. I hope that I will be in a position to remind the Honourable Ronald ARCULLI and Members of his Party and hopefully other Members of this request to the Administration.

My second response is that I hope Members will, after hearing my speech earlier on, move away from this fixation with a one-percentage point increase because I have just attempted to illustrate with two examples that the net-dollar effect on the purchaser as a result of the Government's proposal and against the current property market situation will in effect result in a reduction of the stamp duty payable by even those who purchase properties above \$3 million or above \$6 million.

Thank you, Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Ronald ARCULLI, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Ronald ARCULLI rose to claim a division.

CHAIRMAN (in Cantonese): Mr Ronald ARCULLI claimed a division. The division bell will ring for three minutes.

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

CHAIRMAN (in Cantonese): Are there any queries? If not, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr Ambrose CHEUNG, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat and Mrs Miriam LAU voted for the motion.

Mr Michael HO, Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr LAU Chin-shek and Mr HO Sai-chu voted for the motion.

Miss Cyd HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Miss CHAN Yuen-han, Mr Gary

CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 27 were present, 15 were in favour of the motion and 12 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, four were in favour of the motion and 24 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

DR LEONG CHE-HUNG (in Cantonese): With your permission, Madam Chairman, I move in accordance with Rule 49(4) of the Rules of Procedure that in the event of further divisions being claimed in respect of other motions on the Revenue Bill 1999 during this meeting, the committee of the whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That in the event of further divisions being claimed in respect of other motions on the Revenue Bill 1999 during this meeting, the committee of the whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. 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 respectively of each of the two groups of Members present. I declare the motion passed.

As the amendment moved by Mr Ronald ARCULLI have been negatived, I now put the question to you and that is: That clause 21 stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Heading before clause 23, clause 23, heading before clause 24 and clause 24.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I move that clauses 23 and 24 of the Bill be deleted as set out in the paper circularized to Members.

In the Revenue Bill 1999, we proposed an inflation-related adjustment of the level of fixed penalties for traffic-related offences to maintain their deterrent effect. The object of the proposed increase in fixed penalty is to catch up with inflation since 1994 and it is policy neutral. Clauses 23 and 24 of the Bill seek

to increase the penalty for parking offences while clause 25 increases the penalty for moving traffic offences.

The Bills Committee has strong reservations about the proposed increase. Members are of the view that the deterrent effect of the existing level of fixed penalty has already been increased under the adverse economic circumstances. We have carefully considered the views of the Bills Committee and the community, the present economic situation, and our recent decision to suspend adjusting government charges, and bearing in mind the fact that the Secretary for Transport would from time to time review the measures that should be adopted for traffic contraventions, we have decided to delete the provisions of the Revenue Bill for increasing the fixed penalties, as I said during the Second Reading debate of the Bill yesterday. I now move an amendment to delete clauses 23 and 24 of the Bill, and I will move an amendment to delete clause 25 later.

I urge Members to support the Government's amendments. Chairman, I so submit.

Proposed amendments

Heading before clause 23 (see Annex VIII)

Clause 23 (see Annex VIII)

Heading before clause 24 (see Annex VIII)

Clause 24 (see Annex VIII)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendments deleting the heading before clause 23, clause 23, the heading before clause 24 and clause 24 have been passed, the heading before clause 23, clause 23, the heading before clause 24 and clause 24 shall be deleted from the Bill.

CLERK (in Cantonese): Clause 25.

CHAIRMAN (in Cantonese): The Secretary for the Treasury and Miss Christine LOH have separately given notice to move an amendment to clause 25.

Committee shall proceed to a joint debate. I would can upon the Secretary for the Treasury to move her amendment first.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I move that clause 25 of the Bill be amended as set out in the paper circularized to Members.

Clause 25 of the Revenue Bill 1999 seeks to keep up with inflation and increase the fixed penalty for moving traffic offences, while the object of my amendment is to delete this clause. As I have explained when moving that clauses 23 and 24 be deleted, the Government has considered the deterrent effect of the existing fixed penalties for moving traffic offences and our recent moratorium on adjusting government charges, we have decided to delete the clause proposing an increase in penalty.

The Government opposes Miss Christine LOH's amendment to clause 25 which aimed at increasing the fixed penalty for smoky vehicles to \$5,000. We fully understand that the purpose of Miss LOH's amendment is to arouse public concern about the urgent need to solve the air pollution problems. She has proposed a substantial increase in the penalty with a view to protecting the environment. The Government and Members alike are gravely concerned about the threat of smoky vehicles to public health and the Government agrees that it is necessary to adjust the level of the penalty. But we do not think a substantial increase in penalty alone can properly solve the problems created by smoky vehicles. Therefore, the Secretary for Planning, Environment and Lands has pledged in public recently that it will submit a comprehensive series of measures for solving the air pollution problem in the coming Legislative Session, such as enacting legislation to increase penalty for smoky vehicles, enhancing law enforcement and education and raising the standards of vehicle testing. We hope that Members will wait until the Secretary for Planning, Environment and Lands has put forward his plans before discussing the reasonable level of penalty for smoky vehicles.

Moreover, we also think that it is not appropriate as a matter of principle to deal with environmental problems in a revenue Bill. The purpose of clause 25 of the Bill is purely to make inflation-related adjustments to the penalties for moving traffic-related offences to maintain the deterrent effect of the penalties, and the rate of increase is not determined to achieve a certain policy objective. As the Government has pledged to submit proposals concerning an increase in the fixed penalty for smoky vehicles and proposals targeted at air pollution to the Legislative Council for scrutiny in the coming Legislative Session, and Members have indicated that they will not support inflation-related increases in other fixed penalties, I have moved an amendment to delete clause 25 of the Bill.

I urge Members to oppose Miss LOH's amendment. Although we oppose her amendment, it does not mean that we are indifferent to the environmental problems. On the contrary, this highlights the fact that Members are considering how the environmental pollution problems should be tackled from a comprehensive point of view. I urge Members to support the Government's amendment and oppose Miss Christine LOH's amendment.

Chairman, I so submit.

Proposed amendment

Clause 25 (see Annex VIII)

CHAIRMAN (in Cantonese): I would ask Miss Christine LOH to speak on the amendment moved by the Secretary for the Treasury and her amendment. But Miss Christine LOH cannot move her amendment at this stage.

MISS CHRISTINE LOH: Madam Chairman, with the Government's amendment to remove clause 25 and along with it the related fines, which Members essentially agree to, I have effectively no chance to raise the amendment. So while I acknowledge defeat on technical grounds, I do not accept defeat on the cause to penalize smoky vehicles much much more heavily. I think perhaps my attempt to make this amendment at this moment in time serves its purpose. It has brought ringing words from the Secretary for the Treasury both last night and today in support of raising fines and improving vehicle maintenance and air pollution generally. In a short time, we have come a long way. These problems about car maintenance and these problems about smoky vehicles have been with us for more than a decade and yet, only today, we are dealing with them. I wish to thank all the Members who spoke last night, in particular, the Honourable Bernard CHAN who even spoke up for \$10,000. I think there certainly are very strong views both in this Chamber as well as in the community for penalizing what is the symbol of all our air pollution problems. That is not to say that smoky vehicles are the only cause of air pollution, but they do symbolize our neglect.

At this moment in time, I still wish to talk about the \$5,000. Perhaps, Madam Chairman, you will allow me some time to do this as the first crack to what I intend to do later on when the Government does bring back proposals to increase the fines.

There were Members yesterday who spoke and agreed that \$5,000 is simply too much. But how much is our health worth to each one of us? How

much is it worth to us collectively? Perhaps many people still find it hard to think of premature deaths, lung cancer and other serious respiratory ailments caused by air pollution. But what about the fact that 44% of Hong Kong's children suffer from rhinitis — that is a form of inflammation of the nose? Shame to Hong Kong, we have the highest rate in the whole of Asia. What about the fact that one in eight Hong Kong people reports asthma symptoms? And what about the fact that 70 to 90 people die of asthma complications each year in Hong Kong with a third of them aged five to 34? If these numbers are not enough, there has been a 200% increase between 1991 and 1997 on the number of chronic bronchitis patients. Studies conducted by the Government confirm that the annual health costs associated with air pollution are equivalent to 0.3% to 0.5% of gross domestic product. How much is that? Some \$1.5 billion in 1996 terms.

I repeat, smoky vehicles, while not the only culprit of air pollution, is a major and highly visible offender. It is precisely smoky vehicles, that use diesel, that spill out some of the most harmful pollutants which I spoke about at the Second Reading yesterday. I will spare Members the details again.

Thus, is \$5,000 too high for such a repeated offender? No, I really do not think so. Why should my health be compromised every day as I walk the streets of Hong Kong? Why is our health so cheap that we do not fine severely those who pollute the air?

It costs annually approximately \$25,000 to maintain a diesel taxi so that it pollutes less. As a business cost this is not outrageous. This is also the case for other types of diesel commercial vehicles like mini-buses, large buses, lorries and container trucks. There is no excuse for vehicle owners not to maintain vehicles well. If we are soft on them, we will continue to compromise our own health. I appreciate again the ringing commitment from the Secretary for the Treasury and I look forward to the day when proposals are brought before us to increase smoky vehicle fines.

Thus, Madam Chairman, I will be back with my \$5,000.

CHAIRMAN (in Cantonese): Members may now debate the amendment moved by the Secretary for the Treasury as well as the amendment by Miss Christine

LOH.

MR JAMES TIEN (in Cantonese): Madam Chairman, the Government intends to withdraw four of its proposals. I support the withdrawal of three of them, that is, the fixed penalties for driving in excess of speed limit, unlawfully entering box junction and carrying goods of excessive weight. All Members from the Liberal Party will also support their withdrawal. However, regarding the withdrawal of the amendment on increasing the fixed penalty for smoky vehicles, Members of the Liberal Party have divergent views. Therefore, I have decided that Members of the Liberal Party can vote on this question as they wish.

Madam Chairman, it is a pity that the Democratic Party has withdrawn the amendment proposed by Mr Albert HO. He has proposed to freeze the other three fixed penalties, while increasing the fixed penalty for smoky vehicles to \$1,000. Miss Christine LOH's amendment proposes an increase in the penalty for smoky vehicles to \$5,000 along with the other three fixed penalties. However, as Miss LOH said, her amendment is not even included in the voting procedure. It is just empty talk. Nevertheless, if I support the Government's withdrawal of this amendment today, it would mean that I agree that the fine for smoky vehicles should not be increased. Therefore, I will oppose the Government's withdrawal, as this will put some pressure on the Government. Yesterday, Secretary Denise YUE said that the Government would introduce this amendment again in the next financial year. However, a Legislative Session lasts one whole year. If the amendment is introduced into this Council in October, we have to study and discuss it, not to mention the meetings of the relevant Panel. I do not know whether it can be passed by this time next year.

Madam Chairman, the actions of tackling smoky vehicles can be extremely controversial. It is a question of whether the stick or the carrot should be used. In my view, the stick and the carrot should be used together. However, should we use the stick first, or the carrot? The industry of course suggests using the carrot first and not the stick. In my view, if the stick is used first, the industry will certainly resist. If it resists, the Government will have to offer the carrot soon. As I said yesterday, in May and June, although there were reports on nearly 12 300 smoky vehicles, only 434 were fined after failing to pass the test. Each vehicle was fined only some \$400. If the 434 vehicles

were really fined \$5,000, I am sure that the owners of the 18 000 taxis, 10 000 trucks and the few thousand buses will take them for a service. However, the fine is only some \$400, while servicing costs over \$1,000. So why should they take their vehicles for a service, bearing in mind they do not get caught that often. Even if a driver is caught, he can still make up some excuses. In the end, he might not need to service the vehicle. Actually, servicing is quite easy. Why do some vehicles emit so much black fumes? If the engine runs faster and more fuel is fed, more black fumes will be produced. When servicing the vehicle, one just needs to turn the screw of the fuel injector a little tighter. Then less fuel will be supplied and black fumes will be reduced. Having passed the test, the screw can be loosened again. The engine will again run at 4 000 revolutions and a lot of black smoke will be produced when the vehicle runs uphill. If the engine only runs at some 2 000 revolutions, there will be no black smoke. Therefore, it is very easy to pass the test. If the fine is heavy enough, that is, the stick is big enough, then the carrot will be effective. Everyone will take his vehicle to the garage. The over \$1,000 service fee is indeed not costly. If one does not spend this sum, one might be fined \$4,000 or \$5,000. That will be even more costly.

Over the years, I have said the same thing. Many taxis all over the world use diesel and the majority of them use the same diesel as that in Hong Kong. It is diesel imported by the big multinational companies such as Shell and Mobil. However, why is it that taxis in other places are not as smoky as taxis in Hong Kong? Does Hong Kong alone have slopes? Many overseas cities also have slopes. It is not just vehicles in Hong Kong that have to run up slopes. Therefore, I believe that the situation can be improved. The only question is whether the Government has the determination to improve it. If the Government does not have the determination, the industry will not feel the urgency of the problem. I hope that today's debate will push the Government to use the carrot soon. Then, I believe that we will not really need to use the stick of a \$4,000 or \$5,000 fine.

Madam Chairman, I oppose the Government's amendment. I know that if I oppose it, we will not have the chance to vote for Miss Christine LOH's proposal for a \$5,000 fine, while Mr Albert HO's amendment has been withdrawn. Nevertheless, I hope that the Government will listen to our views and improve our environment as soon as possible. Thank you, Madam Chairman.

MR LAW CHI-KWONG (in Cantonese): Madam Chairman, with regard to the problem of smoky vehicles, the Democratic Party has always advocated increasing the fine to punish the irresponsible car owners and achieve a sufficient deterrent effect. This way, car owners will have to service their vehicles instead of saving their costs at the expense of other people's health. I am sure that many Members who drive know how annoying it is when the vehicle in front is an "inking squid". Whenever I see a vehicle that keeps emitting black smoke, I very much want the owner to be heavily punished. The Democratic Party has always deemed it necessary to increase the fine for smoking vehicles as soon as possible. However, in discussing this question, we feel that we should consider the question of balancing the responsibilities.

In fact, apart from the use of diesel, the problem of smoky vehicles also involves the question of the development of the automobile servicing industry and an effective method to test the vehicles. Hong Kong has not done enough in these respects. We can say that the Government has all along overlooked this question. If the fines are greatly increased, it will punish not only the irresponsible car owners, but also some owners who very much want to do something but are helpless to do so. What I mean is when some responsible owners try to have their vehicles serviced, no one could help them find out the problems of their vehicles or reduce the smoke of their vehicles effectively, because of inadequate technology. In view of this, we have to consider where the responsibility should be placed.

From another perspective, we consider that the fines for smoky vehicles should be raised. Therefore, the Democratic Party has tried through Mr Albert HO's amendment to increase the penalty to \$1,000. As for the \$5,000 proposal, it seems that a proper balance cannot be struck with it. This is because so far, we have failed to provide sufficient support to help responsible drivers improve their vehicles. However, why do we support the Government's withdrawal of this amendment in the end? It is because we feel that the Government is still discussing the questions of the testing and servicing of vehicles, and no concrete work has been done.

Just now, Mr James TIEN talked about the question of the carrot and the stick. In my view, both must be used at the same time. A government that only uses the stick to punish people while failing to provide sufficient support to them cannot be said to be a responsible government. Therefore, I hope that the Government could come up with supporting measures first to train people in the automobile servicing industry or provide sufficient training for automobile repairs workers, before considering the question of the penalty for smoky vehicles.

We believe that at present, \$1,000 is a more reasonable penalty level. However, in the eventual comprehensive review of the penalty for smoky vehicles, apart from increasing the penalty for first offenders, there should be even heavier fines for those who repeat the offence within a short time. If a driver repeats an offence shortly after being punished for a first offence, he is obviously being irresponsible. The fines should be even heavier to punish such irresponsible conduct. We hope that the Government can undertake to introduce the proposals for the relevant comprehensive supporting measures and the increase of fines into this Council for deliberation as soon as possible. Thank you, Madam Chairman.

MISS MARGARET NG: Madam Chairman, I am in principle opposed to using the increase of fixed penalties for revenue purposes. Penalties are a matter of criminal sanction. Their purpose is to deter. Their levels reflect the seriousness of the offences. To impose greater punishment so as to raise revenue is little better than making money out of crime. It is improper and unsupportable. Further, I cannot agree that "penalty" is "revenue" within the meaning of the Revenue Protection Ordinance. That penalties are paid into the revenue is simply a practical consequence. This does not alter the nature of penalties.

If penalties were to form part of the Revenue Bill, I am all for using the occasion to the only good purpose — that of striking a blow at smoky vehicles

by increasing the fine to \$5,000, where it starts to get serious.

It is not only those who had written to the Bills Committee. Many members of the legal profession had written and spoken to me vehemently of their frustration with rapidly worsening air quality. It is uncivilized. It is insufferable. It has to be stopped — before more people are driven to leave Hong Kong which they have made their home.

I was, frankly, astonished at the bad arguments and transparent excuses from the Administration and drivers and owners of motor vehicles for not complying with what are obviously just demands. How can they even suggest that the health of men, women and children in this community go on being exposed to risk, until they, the drivers and owners of vehicles, can be sure that anti-pollution measures will not add significantly to their business costs?

So I would have supported the Honourable Miss Christine LOH's amendment with enthusiasm.

However, the Administration has now withdrawn the whole fixed penalty clause. As between excluding penalty from revenue measures and using an increase in fixed penalty to strike at air pollution, my choice as a lawyer is clear. It must be to remove fixed penalty first, and look for another opportunity to support clean air measures. We are told that the next opportunity is September, when a whole basket of measures including stiffer penalties will be introduced by the Administration. Let there be no mistake about this. Delay or half-heartedness of those measures will not be tolerated.

Thank you, Madam Chairman.

MISS CHAN YUEN-HAN (in Cantonese): Madam Chairman, I believe it is the wish of every member of the community that we can have fine clean air. As a matter of fact, many a time when I saw vehicles emitting black smoke on the street, I just could not help but jotting down their plate numbers and pass them to the Administration for action. I think the air quality of Hong Kong just keeps

on deteriorating. This is particularly so for districts where we frequent most, such as Causeway Bay and Kwun Tong.

I have discussed the issue with professional drivers from the transport trade and found that they also shared my feeling regarding the air quality. However, when it came to increasing the relevant penalty substantially, they raised quite a number of questions. For instance, they have questioned the service standard of the vehicle servicing industry as a whole. Noting that their newly serviced vehicles would be emitting smoke again in just a couple of days, they have considered that the problem might be attributable to the substandard skill of the repairers. Besides, they have also queried the vehicle testing standards. As regards the question of whether the vehicle owner or the driver should be responsible for paying the fine, so far the Government has not given any clear definition in this connection. Perhaps the drivers also agree that the smoky vehicles deserved to be fined, but what if the owners of the vehicles concerned are unwilling to shoulder the responsibility? I think these are questions that the Government must address.

We all love to have fine, clean air, and professional drivers are no exception. We can hardly bear living in polluted air, and we all the more cannot bear letting small children live in polluted air. But how are we going to implement the series of measures? I agree very much with some of the Honourable Members who spoke just now in that whenever we speak of the need for cleaner air, the Government would repeatedly stress its plan to commence work in this respect. In fact, I am also a member of the Bills Committee. The impression I gathered was that the Government had been dealing with the matter in a rather flexible manner, but when we pressed it further, it then told us that some proposals would be submitted to this Council by October. I just hope the proposals will contain more than just the level of fines, and that they would include a package of relevant measures, including stipulation on whether the vehicle owner or the driver should be liable for the fine concerned. This is a point that the Government needs to clarify. Provided we have a high standard automobile repairs industry, quality vehicle inspection equipment, and rules laid down by the Government setting out who should be liable for the fine payments, I am sure all the professional drivers in Hong Kong will put in their efforts to strive for fine clean air, just like anyone of us does.

Madam Chairman, I support the Government's proposal to withdraw the amendment today. As regards the original amendment proposed by the Honourable Miss Christine LOH, I could understand that very well; besides, I also fully agree with the views of the professionals concerned after listening to their explanations. Nevertheless, I hope that they will wait patiently for the government recommendations which should be due in October when we should have a clear picture of the entire package of measures. After all, there is no hurry to apply the stick if no carrot has been offered yet. Thank you, Madam Chairman.

MRS MIRIAM LAU (in Cantonese): Madam Chairman, I have made it clear during the Second Reading debate that I support the Government's withdrawal of its fixed penalty increase proposals, including the penalty for moving offences. I do not wish to repeat my points here. I am going to speak mainly on the amendment proposed by Miss Christine LOH to increase the penalty for smoky vehicles. Although Miss LOH does not have any confidence in her proposed amendment being passed by this Council, I still wish to take this opportunity to discuss with Honourable Members my views on the proposal to increase the penalty for smoky vehicles.

In the face of Hong Kong's current air pollution problem, we should never concentrate on strongly criticizing vehicle owners for not having their vehicles properly serviced, on blaming the penalty for not being heavy enough and advocating enormous increases in fine levels, on claiming that the 6.7 million population could not stand it any more, or on stressing the harmful effect of suspended particulates on people's health. Further still, we should neither concentrate on the above without looking into the source of all those problems, without spending some time to do the necessary research work or listen to the views of other people, nor refuse to seek other ways out other than fines. Otherwise, we would never be able to genuinely resolve the problems. The air pollution problem resulting from exhaust emissions by vehicles is actually a long-standing problem. In this connection, I should like to make a brief response as follows.

To begin with, I wish to point out a few facts. Just now the Honourable James TIEN said the Government did not have the determination to resolve the problems. However, I think it should be more accurate to say that the Government has never done anything to resolve the problems. Before 1992, there was not any vehicle emission standard for new imports of diesel vehicles; neither was there any government standard for diesel engines, albeit the sulphur content of diesel fuel stood at 0.5% before 1995. As regards chassis dynamometers, the Emission Testing Centres have to wait until September to have the equipment installed. It is a fact that the Government has never taken any measures to help or guide owners of diesel vehicles to resolve or alleviate their smoke emission problems over the past years.

As a result, for the diesel vehicles legally imported into Hong Kong before 1992, they were already emitting a considerable amount of exhaust gases when they were new, to say nothing of the amount of emissions when the vehicles turned old. Even if the vehicles are sent for servicing regularly, they still cannot comply with the stringent requirements of the present days. Vehicles would need fuel with low sulphuric content and suitable engine technologies if they are to effectively reduce the amount of black smoke emitted. However, it was not until 1995 that Hong Kong began to import diesel fuel with 0.2% of sulphuric content and adopted the Euro II engine standards. In other words, for diesel vehicles imported into Hong Kong before 1995, even if they use diesel fuel with 0.2% of sulphuric content, or the present type with only 0.05% of sulphuric content, their emissions will never be comparable to that of the Euro I or Euro II diesel vehicles. Nevertheless, does it follow that we have to abandon all those old diesel vehicles and replace them with new ones? I am afraid it is easier said than done. The fact that these substandard vehicles are running on Hong Kong roads, I must stress, is not a fault of their own. Actually, they were legally imported into Hong Kong with the approval of the Government granted under the relevant policies. Now that environmental protection has become the concern of everybody, people all tend to put the blame on the owners of these diesel vehicles. Is that fair?

All along, the Government has used the so-called "three stamps on the throttle" method to check if vehicles are emitting excessive black smoke. However, this method could not find out if the vehicle concerned has any problems except for the amount of black smoke it emits. What is more, as mentioned by Mr James TIEN earlier, some unscrupulous vehicle owners could do some tricks by "tightening" and "loosening" the screw of the fuel injector and get their vehicles passed the emission test easily. Fortunately, the chassis dynamometers to be introduced by the Government shortly can effectively test the performance of the diesel vehicles to enable the vehicle owners to find out the problems with their vehicles, in particular the reason why their vehicles are emitting excessive black smoke. In addition, the chassis dynamometers can also prevent people from using any tricks. Hence, once the chassis dynamometers have entered into operation, such tricks mentioned by Mr James TIEN as "tightening" and "loosening" the screw of the fuel injector would vanish forever. But when will the chassis dynamometers be introduced into Hong Kong? Well, the equipment will be installed for trial runs at the five Emission Testing Centres starting from September. As regards the question of whether the equipment will be introduced to the transport industry for extensive use, it is still too early to tell.

On 5 June this year, the Government published a paper entitled "Purifying the Air of Hong Kong" to give an account of the comprehensive actions which the Government is taking or has planned to take in the future. From this paper we can see that whereas the measures taken by the Government in the past concentrated on treating the symptoms but not the illness, the Government seems to have realized the importance of curing the illness now.

In recent years, the vehicle emission standards for diesel vehicles have been tightened continuously, alas, without a commensurate upgrading in vehicle servicing techniques. Actually, many vehicle owners are willing to have their diesel vehicles properly serviced, the problem is that some of the garages in Hong Kong are just too small in scale and poorly equipped. Besides, the servicing technicians in Hong Kong also vary dramatically in quality. As a result, although the vehicle owners have paid to have their vehicles serviced, the diesel vehicles concerned will still be emitting excessive exhausts within a short

time after they have been serviced. Moreover, vehicle owners have been unable to secure a copy of the relevant servicing manual to date. By that I do not mean the servicing manual which can be bought at £12 in Britain and teaches people how to change the headlight or engine oil. What I am referring to are those manuals published by the vehicle manufacturers which set out clearly how the engine can be correctly adjusted, how other parts of the vehicle can be maintained and so on. Without such manuals, servicing technicians are unable to repair the vehicles in accordance with the information provided by the vehicle manufacturers. Hence, they cannot but do their job by trial and error. Naturally, the result will not be satisfactory.

The transport industry has always been criticized for not being environmentally minded. Is that really the case? In 1995, when the Government introduced the plan to convert diesel vehicles to petroleum, the industry was of the opinion that petroleum would not be any more environmentally friendly than diesel fuel. As such, the industry dug into its own pockets and organized an inspection visit to Japan to look into the LPG taxis in use there. I also joined the visit to Japan. Thanks to the effort made by the industry, the Government finally agreed to switch to LPG, the environmentally friendly fuel. In addition, the taxi trade has also sponsored a research project conducted by the Hong Kong Polytechnic University to develop particulate filters suitable for use by small diesel vehicles. As a matter of fact, the transport industry is more active in promoting environmental protection compared to a great many people who do no more than paying lip service for this cause.

Like the rest of the 6.7 million population of Hong Kong, the environmental protection awareness of the transport industry has also been on the rise. And like many environmentalists, the industry has also come to realize that a confrontational attitude will not help promote environmental protection. On the contrary, environmental protection should be promoted through partnership efforts, as they have learnt. In this connection, a Transport Industry's New Millennium Environmental Protection Action Group comprising representatives from taxi companies, minibus operators, light goods vehicles owners, school light bus operators, bus companies, lorry owners, and container trucks owners has published on 4 June a paper entitled Proposals by the Transport Industry for Environmental Protection. In this paper, members of the Action Group have put forward 21 proposals pinpointing the roots of the

problems on the basis of their practical experience in and understanding of their relevant trade, with a view to solving once and for all the problem of excessive emission of black smoke by diesel vehicles. While owners of diesel vehicles definitely have the responsibility to ensure that their vehicles are properly serviced, it is not possible to rely solely on their efforts to resolve the smoke emission problem. For this reason, they hope that the Government, the commercial sector, the community, as well as the environmental protection organizations will collaborate in resolving the air pollution problems of Hong Kong.

To ensure that each and every imported diesel vehicle can always comply with the environmentally-friendly smoke emission standards until it ceases to run on our roads, the transport industry has suggested tackling the matter from an omni-directional approach that covers fuel, importation of vehicle, vehicle inspection, servicing, environmentally-friendly installations, life of vehicles, publicity and educational work. I understand that the transport industry has started negotiating with the Planning, Environment and Lands Bureau to find out ways to further develop the proposals. All in all, both the industry and the Bureau have agreed to strike a partnership relationship and collaborate in resolving the black smoke problem. As a matter of fact, many of the proposals put forward by the industry do coincide with the ideas of the Government. Given time, I am sure that they can come up with the right measures to further promote environmental protection efforts. In the past, the stick was the only means with which the Government tried to resolve pollution problems; but now, it finally understands that relying on the stick alone will not achieve its purposes. As such, it has changed its policies and decided to abandon the stick for the time being. Instead, the Government has taken out its carrots to invite the transport industry to collaborate with it in tackling the smoke emission problem at source. Is it because Members are unable to understand the good intention of the Government that they want to apply an even bigger stick instead?

The problem before this Council today is long-standing and complicated problem. If we should believe that we could resolve the problem and improve the air quality by pressing the button in support of the amendment proposed by Miss Christine LOH to increase the level of penalty to \$5,000, or even by supporting the penalty of \$10,000 as suggested by the Honourable Bernard CHAN, we would be deceiving not only others but also ourselves. I hope that Members could lay down their "butcher's knife", but I am not asking them "to

become the Buddha" as the saying goes. I just hope Members could show some patience and listen to our explanations. I am sure Members are all very understanding, that is why I wish to urge them to lend us an ear and try to understand the problems that other people have. The transport industry is willing to resolve the problems, why would Members not willing to spend a little time listening to their pleas? I just hope Members and the industry could sit down together for discussions, with a view to formulating both long-term and short-term strategies for resolving the air pollution problem. It is through our joint effort that the air quality of Hong Kong could be genuinely improved.

I believe that if we should rely solely on a substantial increase in penalties for smoke emission to improve air quality, we would be getting nowhere.

With these remarks, Madam Chairman, I support the amendment proposed by the Government and strongly oppose the amendment proposed by Miss Christine LOH.

MRS SELINA CHOW: Madam Chairman, when this Council debated on the Honourable Edward HO's motion on environmental improvement measures some months ago in this Chamber, I was taken to task by some environmentalists for opposing the Honourable Miss Christine LOH's amendment which obligated the emission test for all motor vehicles, old and new, some 4 000 of them, as a means of identifying and taking smoky vehicles off the road. I felt much misunderstood and maligned. As I made it quite clear at the time, I was and am totally committed to the purpose but not the means that Miss Christine LOH advocated. I remember stating at the time that the only people who were likely to benefit from the policy she advocated were those working in the garages, and it was doubtful whether it could guarantee clear air.

Madam Chairman, I happen to live up a hill, and whenever I drive up it, more often than not, I would follow some disgusting vehicles fuming at the rear end. So I can well sympathize with those who feel that \$5,000 is a more befitting fine for such culprits.

However having heard the Miss Christine LOH — who could not be persuaded by the Honourable Mrs Miriam LAU — and the Government, it is quite evident that those who drive such vehicles are at present not yet able to

control the situation. Professional drivers who rely on their occupation for their livelihood are in a fairly helpless state being squeezed and short changed by delinquent garages. To slap a harsh fine on them while we are fully conscious of their hardship is not going to solve the problem, nor is it fair.

Having said that, I have to point out that from the figures quoted yesterday by the Honourable James TIEN, and here I recapitulate, that is: For the months of May and June, the number of reports processed amounted to 12 317, while a third of them were regarded as not actionable. So at least two thirds of them were in fact tested. Now out of these, only 434, that is out of a total of 12 000-odd reports, only 434 vehicles failed the test.

Something is very wrong. Only 3% of the reported cases, and 7% of the actionable cases have failed the examination. Either something is wrong with the examination, or something has been allowed to be done to the vehicles between the time the report was filed and the time the examination was conducted. Whatever the reason, this reflects that the present enforcement on procedure is totally flawed. If the enforcement is so ineffective, one just cannot logically arrive at a conclusion that the existing fine of \$450 is inadequate as a deterrent. I dare say that if such fines are passed out at the point that vehicles emitting black smoke are instantaneously tested, it will go a long way to prevent such emission, such as other fixed penalty tickets are effective in preventing drivers from breaking other traffic laws. Madam Chairman, since the \$5,000 fine idea was mooted, I have certainly received requests to support the proposal. Being one of those who are attacked by black fume almost everyday, I must confess that I do have the inclination to support it. But this easy way out would be totally unfair to motorists, and would let the Government off the hook, and would also have very little guarantee to achieve the ultimate objective of eliminating smoky vehicles.

In exercising my free vote, therefore, I support the Government's amendment which in effect freezes the fixed penalties in question, including that for smoky vehicles, only to give the Government the opportunity and time to present its package within the next few months, and I hear that it is going to be in September, which will hopefully have the genuine effect of stopping the emission of black smoke.

After that is done, then may be by then and only then, should we be looking at a stiff increase of this particular fine because by then, there will be no reason whatsoever not to punish heavily all motorist's who in spite of adequate help equipment and maintenance, still fail to live up to the responsibility expected of them.

DR YEUNG SUM (in Cantonese): The Democratic Party supports the Government in withdrawing its original amendment. However, we hope that when the Government makes its reply later, it will make a pledge to move the relevant amendment as soon as possible in the next Legislative Session. We support the proposal to raise the fine on owners of smoky vehicles. We agree with Mrs Miriam LAU's point that fines are not the only solution. But I think they do have a deterrent effect. Of course we need to have a lot of matching measures such as support for technicians in testing the emission of black smoke from vehicles and so on. Though fines are not the only method, they are still a method.

I often think of the past when I was a child. At that time most of the people in Hong Kong were poor. My family was no exception. When I had free time, I would walk up the Victoria Peak. From there I looked down at the gorgeous scenery. The air was clean and fresh in the Victoria Harbour and I could see very clearly from the Peak. With the economic development of Hong Kong, people are getting richer and there are more cars running on the roads. The smoke these cars emit is getting more and more serious. Yesterday, Miss Emily LAU said that she had the experience of standing in front of the Sogo Department Store many times. I think the number of times which I stood there would not be in any way less than hers. For in the past 10 years, many of our members of the Democratic Party and the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China often stood there to hold signature campaigns or raise funds. Every time when we stood there, a lot of feelings would come up to our mind. The weather was fine but when we went home, our nose was very uncomfortable and our eyes were red and dry — the air was so polluted that it was unbearable.

Mr LAW Chi-kwong was right when he said that it was entirely unacceptable for car owners to care nothing about their cars to the detriment of public health. I wish all Honourable Members can give their support and raise the penalty on the emission of black smoke. As to the question of how

much should be raised and whether it should be raised to \$10,000 as Mr Bernard CHAN has suggested, it remains for us all to consider carefully. However, the Democratic Party will definitely not consider a fine of as much as \$10,000, when a suggestion to raise it to \$1,000 should be considered together with other factors.

I hope that the Government can come back with its amendment to the principal Ordinance as soon as possible and that the Secretary for the Treasury should make a pledge for the records that the Government will submit the legislation on the fines and other subsidiary legislation to the Legislative Council for deliberation in the next Legislative Session. I hope that the views of the transport sector as presented by Mrs Miriam LAU should be taken seriously by the Government. There is one point which Mrs Miriam LAU has said and which I think is true, and that is, the Government has all along overlooked its effort in this area. But that does not mean we can allow vehicles running about on the streets emitting black smoke. I think both the industry and the Government have a responsibility for this. They should co-operate and that the Government should listen to the views of the sector. We in the Democratic Party support raising the fines. Thank you, Madam Chairman.

MR LEUNG YIU-CHUNG (in Cantonese): Madam Chairman, I would become very worried whenever winter comes, for my son would be very prone to get an asthmatic attack. It happens sometimes that I would have to take him to the emergency and accident department in the middle of the night. Once I asked the doctor how my son's asthma could be cured. He said the only way was for us to emigrate to another country. The problem can be solved easily when we are away from Hong Kong. I trust that among the thousands of people who left Hong Kong for another country, there might well be some people who decided to emigrate just because the air in Hong Kong was so bad.

As a matter of fact, the problem of environmental pollution is nothing new to us. It has been here for a long time. I can recall in the mid-1980s, the Kwai Ching area where I lived faced a very serious problem of environmental pollution. At that time, the factories there gave out a lot of exhaust gases and black smoke. The Kwai Ching District Board at that time spent a lot of money to try to find solutions. We thought of numerous ways but in the end the most effective measure was legislation introduced by the Government to reduce the

sulphur content in industrial fuels. Since then, the black smoke in the Kwai Ching area has reduced obviously substantially.

Therefore, the Government cannot shirk its responsibility in the problem of environmental pollution. Of course, I also agree with what some Honourable colleagues have said, and that is, the relevant sector should also bear some of the responsibilities as well. Recently, I have spoken with many people in the sector who said that if the Government should really take up the responsibility and implement the measures which can help them, then they will accept an increase in the relevant fines, for this will punish those irresponsible people and really improve the environment. So I think the people in the sector are really not being unreasonable. They are not asking the Government to work on this without taking up any responsibility themselves. If the Government has done what it should do, then there is no reason why the sector will not do its part. But the question remains: there are things which the sector cannot do by itself, such being for example the issue of sulphur content which I have just mentioned. If the Government can legislate to control this, the situation can be improved. That is something which the sector cannot do. Another example is vehicle inspection. I do not wish to repeat the example which I cited yesterday. The car with the licence plate LC3 is owned by the Legislative Council. It started to emit black smoke again after an inspection a few months ago. Why? This is not because people are unwilling to do anything. It is simply because the problem will remain even if something has been done. Though the Government has introduced legislation to control sulphur content, the situation will not improve even if the sector is determined to make improvements, without a commensurate upgrading in vehicle maintenance and repairs techniques.

We all know that the pollution problem has become much worse than before. I just want to repeat what Mr LAW Chi-kwong has said earlier, that is, if we are only doing things in a piecemeal approach, then that is very irresponsible of us. All along the Government has been acting in a very irresponsible manner. Why is that so? Because the Government has been

trying to tackle the problem only in a piecemeal approach. As I have said, the problem of pollution is not a new thing, it has been with us for decades. In the 1980s when we raised the issue of pollution, the Government said that it would tackle pollution in the industries and leave other things aside. That is what I mean by adopting a piecemeal approach to the problem. Like when the issue is brought up again today, all the Government has in mind is only making the fines heavier and it would not do anything else. This kind of mentality is tantamount to a refusal to tackle the problem in a long-term and comprehensive manner. The consequences so created would be very serious indeed. If the Government is really being responsible, then it should look at the problem in a comprehensive way and stop taking a piecemeal approach to it as it has done in the past. Madam Chairman, I so submit.

MISS EMILY LAU (in Cantonese): Madam Chairman, I speak in support of the Mr James TIEN. I agree that we need to exert more pressure on the Administration and ask it to do something as soon as possible. It is a pity that neither Mr Gordon SIU, the Secretary of Planning, Environment and Lands nor his successor Mrs Lily YAM, the Commissioner for Independent Commission Against Corruption who will step into his shoes are present today, and it is unfair that Miss Denise YUE, the Secretary for the Treasury should be the only one left to listen to our views. Nevertheless, I hope that the Secretary will relay our message to the relevant Secretary.

I am rather pessimistic about the whole issue but since I spoke at length on this subject yesterday, I am not going to repeat myself today. I share Mr TIEN's opinion that if the level of penalty is even lower than the cost of repair, then how can there be any incentive for vehicle owners to repair their vehicles?

The Honourable LEUNG Yiu-chung said yesterday that no one would purposely pollute the environment if they had any alternatives. It is true that some vehicle owners and drivers may not wish to do so, but who can guarantee that all drivers will have the same sense of responsibility? The Honourable Mrs Selina CHOW has earlier quoted some figures. She said she could not understand why only a few among over ten thousand vehicles reported failed the test? Is this the result of any form of cheating? I think we should not rule out

such a possibility. Madam Chairman, I agree that everyone has a share in the pollution problem, and this is not a time for us to shirk our responsibilities. In fact, members of the public are quite indignant with us, and they think that our Executive and Legislative Councils should work together.

Why do I agree with Mr TIEN that the situation is rather pessimistic? Madam Chairman, this is because our term of office will expire on 30 June 2000. Mr TIEN has talked about "this time next year", but the sad fact is that this Council will be dissolved by this time next year, and I am afraid that by that time, this issue will still remain unresolved. Madam Chairman, I totally agree with Mr TIEN and hope that Members will put more pressure on the Administration, and I mean the whole Government, not the Secretary alone. We should really do something. Though everyone fully recognize that air pollution is a problem, I am still concerned that by the time the Administration puts forward this issue, it will still be a point of contention within this Council. Madam Chairman, I think time will tell whether my concerns are justified. Some Members may say that the level of penalty should be fixed at \$1,000, while others may think that it should be \$2,000, \$10,000 or even \$20,000. Some Members may say that it is impossible to introduce complementary measures and members of the trade may find those measures unacceptable. I am afraid that nothing can be done if we carry on this way.

I agree with Mrs Miriam LAU that concerted efforts are required in resolving this issue. I am more than willing to listen to those in the trade. So, if members of the trade talk to me, I will be willing to listen and I think we should all listen. However, we should also try to persuade members of the trade that they have to work with us if they want to resolve this problem. We are not trying to impose a hefty penalty to make their lives difficult. We have to make them understand that this is a very serious matter, and let them know why we have to impose a hefty penalty.

On the other hand, complementary measures should also be introduced, and the Executive Authorities should be condemned for failing to do anything over the past years. I hope that we can send a unanimous message to the Administration to tell them it is our wish that this issue be resolved as soon as possible. So, it is fine with us even if the Administration has decided to put forward this issue and convene meetings during the summer recess. I am sure

that the press will report that the Legislative Council is divided again and that we have failed to do anything about the pollution problem, and we will also be criticized by the public. So, I hope we can exert more pressure on the Administration, and no matter who is in charge of environmental affairs in the future, the relevant Secretary should really do something about the pollution problem. I totally agree with Mr TIEN that we should put pressure on the Administration. If Members of this Council support the Administration and let it have its way this time, we will only have the matter before us again after four years. Several tens of thousands of people may die, and the pollution problem will still be unresolved. I hope that the Secretary will relay this message to her colleagues, and I am sorry that I have to vote against the Secretary's proposal.

MR JAMES TIEN (in Cantonese): Madam Chairman, since the Honourable Mrs Selina CHOW has quoted part of my speech, I am speaking for the second time to clarify some of the points made in my speech. Of the 12 317 vehicles being reported in May and June for excessive smoke emission, I mentioned that the Government had not taken any actions against 3 000 of those vehicles. This was actually because those 3 000 vehicles had already been reported in the previous month. The second point is, why was it that of the 8 000 vehicles sent for inspection, only as few as 400 vehicles were actually fined? This was because under the existing arrangement, after the vehicles were reported by people like us, the Government will allow for a grace period of three weeks before the vehicle will be inspected, so that the owners of the vehicles can make necessary repairs to the vehicles after they were reported. In fact, the 6 000-odd vehicles passed the test not because they did not have any problems. What really happened was that the owners had made some quick repairs at a low cost, so that their vehicles could pass the test. As to the other 400-odd vehicles, their owners thought that since the fine was only some \$400, they had chosen to pay this fine instead of fixing their vehicles.

Thank you, Madam Chairman.

MR HOWARD YOUNG (in Cantonese): Madam Chairman, more than 20 years ago, I liked to go hiking on the Lantau Island. I remember that one of the greatest attraction of those trips was the magnificent view of the whole Hong Kong Island, including its buildings and harbours, clearly visible from the top of the Sunset Peak. However, the view was no longer the same, with the whole

Hong Kong Island being wrapped in a veil of black smog, when I visited Lantau Island again recently. Nowadays, we do not have to go hiking to discover that we can no longer see the outline of the Hong Kong Island from the top of a hill. When we come back to Hong Kong on a plane, we will find that Hong Kong is no longer visible even if the plane is on the right course and we are in a window seat. This is really sad and members of the tourism industry are really gravely concerned.

I have asked members of the tourism industry repeatedly what their main concern about Hong Kong is. They all told me that they are most concerned about environmental pollution. This is really a very serious problem. We have often talked about the problems of poor water and air quality, and of these two, the poor air quality is a greater concern. Though, it was mentioned earlier that the central harbour reclamation project will have a great impact on Hong Kong, members of the tourism industry think that the problem of poor air quality is even more serious. In our recent report to the Commissioner for Tourism on the tourism industry of Hong Kong, the Liberal Party has talked about the problems of poor water and air quality, but we think that the more serious of the two is the problem of our air quality. A few years ago, I used to be a "spotter", monitoring smoky vehicles. Later on, my wife also became a spotter. In those days, whenever we saw vehicles emitting black smoke, we would immediately jot down their licence number and faxed that information to the department concerned the next day. We have been spotters for some time, but have now quit, because from the figures that were sent to us every month, we found that we did not achieve very good results. Mr James TIEN explained just now that the figures might only reflect a problem in the method or procedure being employed, but many a time the problem cannot be resolved. I really wonder whether the tests can be improved? In the future, perhaps immediate testing can be done at certain black spots on the streets, so that penalties can be levied on smoky vehicles immediately. This may be a more effective method that merits our consideration.

I think we should adopt a comprehensive approach in resolving this problem, and we cannot just look at one aspect. Mr TIEN has asked whether the carrot or the stick approach should apply, but I think there should be more to this issue. The Administration should really look at this problem as a whole. In Hong Kong, in addition to taxis, trucks, public light buses and buses also run on diesel. Since buses have already used new engines, the condition of buses

may be improved, whereas the air pollution problem caused by trucks will be more difficult to resolve. At present, we are more concerned about the conversion of the taxi fleet so that liquefied petroleum gas (LPG) fuel can be used instead of diesel. As a result of our repeated urges, including those of the members of the trade over the past years, the Government has finally promised to do something about the air pollution problem. However, there is still one more issue which very few people have talked about, and that is the problem caused by public light buses. How are we going to solve the problem caused by public light buses? I understand that at least two Hong Kong companies have launched electric public light buses. It was said that when fully charged, these public light buses could run for 80 km to 100 km without recharging their batteries. I wonder whether the Government will encourage the implementation of such forward looking measures? As LPG fuel is the solution to the air pollution problem caused by taxis, electric public light buses may be the solution to the problem of the few thousand public light buses.

Of course, though other problems, such as the fact that some polluted air are being blown over from the Pearl River Delta area, are outside the scope of today's debate, still I do not think that a simple solution like hefty fines or sticking out carrots as an incentive would be sufficient to solve the problem. We really have to solve the problem with a comprehensive package, otherwise Hong Kong will lose a lot of its competitive edges. It is a pity that the Democratic Party has withdrawn its amendment to increase the fine to \$1,000. Some time ago, we have debated on whether we should keep the fine at its present level, adjust the level of fine in accordance with inflation, or increase it to \$1,000 or \$5,000. I think that the option of retaining the current level of fine will not achieve the necessary deterrent effect, but whether it is really necessary to raise the level to \$5,000 or \$10,000 is also debatable.

However, the Democratic Party has withdrawn its amendment. Perhaps they are just being pragmatic. They may have realized that even if they do not withdraw their amendment, they still will not be able to obtain a sufficient number of votes, after listening to the speeches of other Members for only Mr TIEN and the Frontier have indicated that they will vote against the Administration's amendment. After listening to the speeches of other Members, the Democratic Party might have done a head count and realized that it is futile to oppose the Administration. However, I think that we should exert some pressure on the Administration, and it means that we really have to do something.

Since members of the Liberal Party can vote liberally today, I do not wish to let our Chairman to be the only member of the Liberal Party to vote against the Administration, thus letting the Frontier to have more opposition votes than the Liberal Party. So, I will follow our Chairman's lead in voting against the Administration to show that we do take the air pollution problem seriously. My opposition vote does have a very significant symbolic meaning.

MR BERNARD CHAN: Madam Chairman, I was not prepared to spend any time on this same subject that I spoke on yesterday. But I was a bit amused by some of the comments made by my colleagues here. There is a comment in an article of the *South China Morning Post* that how surprisingly all Members of the Legislative Council have instantly become environmentalists overnight.

I am new to this Chamber. I am the youngest and newest Member in this Chamber, and I was told that this subject on environmental issue has been around for quite many years. And where did we go? We are still here in this Chamber, debating on the same subject.

I would like to share with you something. I am sure that I can guarantee this. I am probably the only Member in this Council who spends at least two to three hours each day outdoors on sports. I think I probably spend more time than all of you, collectively put together, each morning. And let me tell you, I literally get up at 5 am in the morning to do my sports, partly it has to do with the work schedule and partly, with our air quality. I have to get up at 5 am and I do not want to lose my time schedule. I at least leave my house at 5.30 am to go running. The reason is that I have to make sure that I get back before 7 am. If I come back at any time after 7 am, I will hit with all these school buses. I live in the area where there are a lot of school buses that take students to classes around 7 am to 7.15 am. After that one and a half hours of running, the fresh air, the clean air quality will instantly be destroyed by that 10 minutes of buses swinging by on my way home. That two to three hours of exercise in the morning for the last 10 years has given me a clear indicator of how the air quality and our environment in Hong Kong have deteriorated. You can be speaking in this Council if you have to get out there and feel it and see it. I am sure some of you do that on weekends, but that is just a one-off occasion. I am

talking as someone who has done this everyday for the last 10 years. So, until we have a mind-set change, nothing will happen. I am telling you this. Until you put yourself on that position everyday and you feel the changes and the deterioration, you will know that the level is going down.

And I am also speaking for the business sector. I have so many friends, particularly the expatriates. They have the choice, they do not have to be in Hong Kong. They can move their business elsewhere. For people in Hong Kong, like myself, we will probably say, "Well, we do not have the choice. We are stuck here." Well, too bad. But for the expatriate community, they do have the choice, and I am sure the Honourable Miss Christine LOH shares that point with me. I have so many friends from that community who are telling me that they will be leaving Hong Kong for the same reason.

So, we can be arguing, like some of our colleagues said, that we will be here for the next couple of months, and I am sure that beyond our term and somebody else's term, we will still be talking about the same subject. I hope not, and I hope that Hong Kong will not one day turn out into another Bangkok, where I also have my residence for many years. I hope that this will not be the case.

Thank you, Madam Chairman.

MR LEE WING-TAT (in Cantonese): Madam Chairman, since the Honourable Howard YOUNG has mentioned a few times the fact that the Democratic Party has withdrawn the amendment, I would like to explain our position.

I have discovered that in addition to political issues and matters concerning the rule of law, another issue which will easily lead to a division within a political party is environmental protection. Though, this has not yet occurred within the Democratic Party today, this is somehow happening in the Liberal Party. In fact, we did have a lot of heated arguments at our internal

meetings when we discussed this issue. This is actually a question of striking a balance between the interests of the trade and the community at large. Though, I share some of Mrs Miriam LAU's opinions, I still think that polluters should rightly take up most of the responsibility. During our discussions, we thought that the Administration had made its objective very clear by proposing to increase the level of penalty to \$1,000 in the Revenue Bill 1999, therefore, Mr Howard YOUNG needs not have any doubts or worries on the Democratic Party's position on this issue. The Administration may rest assured that when it proposes its amendment to the fine level at the first meeting of the next Session in October, the Democratic Party will definitely support its amendment without any hesitation. Since we have taken up our present stance on the issue of the \$1,000 fine only after repeated discussions at our internal meetings, we are not going to change our stance on this matter now. Though, we know that those in the trade do have reservations about our position, I still think that it should be acceptable as long as our target is only those who are at fault. Mrs Miriam LAU and I differ in that I do not think that all members of the trade are "inking squids" that are emitting black smoke. I know that only some of them do so and others do not. If we think that all members of the trade should be held responsible, then we are being extremely unfair to those who do not emit black smoke. I know that members of the trade are being accused of polluting the Hong Kong community in radio programmes, in the newspapers or even on other occasions. I think a fine in itself is a suitable way to deal with the pollution problem, for it could alert, quoting Mrs Miriam LAU, the "black sheep" to the pollution problem.

Of course, we will also support other measures proposed by the Government to tackle the air pollution problem. That is why the Democratic Party has repeatedly urged the Administration to re-introduce the amendment of raising the level of penalty to \$1,000 at the earliest opportunity after the summer recess. We will definitely support the Administration. Thank you, Madam Chairman.

MRS SOPHIE LEUNG (in Cantonese): Today, we should be here discussing the question of fines, but it appears to me that the whole debate has been focused on environmental protection issues. There is no doubt that the environment

awareness of Hong Kong is now at its highest, compared to years past.

I only want to share my views with Members. Were it not for the Industrial Revolution of the 19th century, we would not be arguing over the environmental protection issues today. Other advanced countries have also gone through the same process, and the more advanced the country is, the higher will be its environmental awareness. Those countries did have a hard time when they implemented environmental protection measures. If we study this problem, we will find that people tend to point an accusing finger at others during the process. Very often, we will also find that some of those who claim to be environmentalists actually come from those trades which are doing the greatest harm to the environment. These so-called environmentalists will accuse other trades of obstructing the environmental protection cause, saying that they have harmed the environment. If we take a look around us, we may find that certain trades which caused great harm to the environment, such as those which produce a lot of waste paper, wasted materials or use styrofoam, are also members of the environmental groups in Hong Kong. I have not done any research, so I do not know whether this is true. Perhaps my colleagues can conduct some research to see whether Hong Kong should still be using styrofoam?

I would like to talk about the division problem which is commonly found among various sectors at this stage of taking forward the cause. Some sectors really know how to protect themselves, and they will divert the attention of others by pointing an accusing finger at other sectors. I hope that we can bear this in mind today. I do not want Hong Kong to go through the same process of division among different sectors in the community. I also appreciate what Mrs Miriam LAU has done. She really practises what she preaches, and she works not only for the interest of her own constituency. She has actually done a lot over the past years. If we asked Mrs Miriam LAU how she divides her time lately, she will tell us that she has divided her time between oil companies, the taxi and public light bus trades and the Office of the Commissioner for Transport. I think she has done a lot and we should follow her example. We should not just pay lip service to the issue and point an accusing finger at others.

Furthermore, I would like to talk about the fact that many Members have

accused that the Government, in particular, the Environmental Protection Department (EPD), of not doing enough over the past years. The EPD has only been engaged in empty talks and accusing others, instead of really doing more, according to these Members. I would also like to talk about "spotters", that is, the smoky vehicle reporters. Am I right? Are they known as "spotters"? About a month ago, there was an article in the "Lai See" column of the *South China Morning Post* about a group of young people who were invited by the Government to be "spotters". The article was written in an ironic tone, and I hope that in addition to making fun of these young people, the writer of this article would commend them for their work. This group of young people are very successful people who are only about half the age of most of our colleagues. Taking their job seriously, they have especially conducted a training course to provide serious training for their 20-odd members on how to carry out the duties of "spotters". And the "Lai See" column of the *South China Morning Post* has made fun of these young people for taking their job too seriously.

Madam Chairman, I want to tell you that most of these young people apparently to have failed in the test for "spotters" mainly because they are not well-known in the community. Most of these young people are university graduates who are also quite successful, so why have they all failed in the test? The reason is because our executive authorities are too "bureaucratic" and they have replaced these young people with their own "spotters". Since these young people are more agile than most of us, why should the Administration ask people who are twice their age to be "spotters" and let them pass the test easily? Why have these young people failed in the test? We really have to ask the EPD this question.

Madam Chairman, I only wish to talk about these two issues.

MR EDWARD HO (in Cantonese): Madam Chairman, the Honourable Bernard CHAN said that he woke up every day at 5 am to jog for three hours, and returned home every day at about 8 am. This reminds me of the Secretary for Planning, Environment and Lands, Mr Gordon SIU, who woke up at 4 am every day to play golf. Of course, Mr SIU is not playing in the dark with a "black golf ball" for I think his golf ball must be white. I also do not think that he

wakes up so early for fear of air pollution, but anyway he should be concerned about the pollution problem.

Today, I am not going to talk about the issue of environmental protection, because some time ago, I have already moved a motion debate on environmental protection in this Council. In that motion debate, I made a list of all the things which I think the Government should be concerned about and which I think the Government should do. As regards the pollution problem, I agree that we should adopt an omni-directional and comprehensive approach as suggested by the Honourable Howard YOUNG, and we should not focus our attention on smoky vehicles only. I have also mentioned that we should be concerned about the town planning aspect, so I am not going to repeat those points now.

Today, I only want to say that the Liberal Party is a truly liberal party for we can cast our vote according to our own wishes. (*Laughter*) Since we are truly liberal, I will have the opportunity to criticize the Chairman and fellow members of our Party. I think what Mr James TIEN and Mr Howard YOUNG have said may be flawed in terms of logic. Why? This is because they said we can exert pressure on the Secretary, if we oppose the Secretary for the Treasury's proposal on withdrawing her amendment. In fact, if the amendment of the Secretary is not passed, it will mean that we do not support her amendment and we have to vote on the level of the fine. Some Members may not be in favour of Miss Christine LOH's amendment to increase the level of fine to as high as \$5,000. I originally intended to support the Democratic Party's amendment to increase the level of fine to \$1,000. Some people point out that a fine of \$400-odd is not enough. So, somehow we have to make a decision today. I think if we have decided on the level of fine, then the Government may slow down its work in other aspects, and the Secretary for the Treasury will also feel less pressure. Why? Given that we have already made a decision to increase the level of fine, and the decision has been passed, then the Government will feel that there is no need for it to take other actions. So, I think if we want to exert pressure on the Government, then we have already done enough by voicing our opinions today.

I think we should support the Secretary for the Treasury's proposal on withdrawing her amendment and ask her to come back to us as soon as possible with a comprehensive plan. I would also like to take this opportunity to say that though I do not always agree with the Honourable Miss Emily LAU, I fully share her opinion today, and that is, we are all responsible for protecting our

environment, and we should all work together to solve the pollution problem.

Thank you, Madam Chairman.

MISS CHOY SO-YUK (in Cantonese): Madam Chairman, in regard to the voting inclination of the Hong Kong Progressive Alliance (HKPA), I want to point out that, even if we support the Administration, it does not necessarily mean that we believe that the air quality of Hong Kong does not have to be improved. In fact, the HKPA does believe that we should all work harder to improve the air quality of Hong Kong, but we do not think that the only solution to this problem is increasing the level of penalty. We think that a reasonable level of penalty can be considered, but the Administration should take an overall view and consider the rate of increase in relation to other related issues. Under such circumstances, we feel that we should support the Administration's proposal for we understand that it is going to come back to this Council with a comprehensive plan. I originally intended to consider the amendment of the Democratic Party to raise the level of penalty to \$1,000, but now we are inclined to wait for the Administration's comprehensive plan before we will consider the matter any further.

CHAIRMAN (in Cantonese): Though I understand that many Members would like to respond to other Members' speeches, I do not think that we can go on in this manner. Miss Christine LOH, do you wish to speak again?

MISS CHRISTINE LOH: Madam Chairman, let us face that the stick is effective. It is the threat of the stick that has brought us this far. I am totally in favour of working with the transport trade to help us to upgrade its industry and to help the mechanics trade, as the Honourable Mrs Miriam LAU suggests. As she represents the Transport Functional Constituency, she has a pivotal role to play in this regard and I am sure that she is and has been playing this role vigorously to ensure that Hong Kong will have an environmentally friendly transport trade at the earliest moment.

She was absolutely right in referring to the fact that sellers of motor

vehicles to the taxi trade do not give out their detailed maintenance manuals. A member of the public has come before us in the Bills Committee on the Revenue Bill and explained that he thought that this manual could be purchased in the United Kingdom, for example, for £12. I indeed tried to go and buy it in Hong Kong, but I was unsuccessful. In the end, I end up speaking to someone very senior within one of the major companies that sells Japanese vehicles to Hong Kong for taxis. And he admitted to me that this manual indeed is not given out freely or easily to the mechanics trade.

How appalling is this, Madam Chairman. How can that be allowed? It is morally indefensible. It will take a public hearing over a Bills Committee in the Legislative Council for details like that to come out to the public. Now that we know. We think that it is appalling. And I hope that the Transport Bureau and the Commissioner for Transport will do something about it. This is purely unacceptable.

The Honourable Mrs Selina CHOW referred to a previous debate where I called for all vehicles to be tested annually. I must say that I continue to hold this view. Well, for commercial vehicles which are mostly diesel driven, they already have been tested annually. The problem is just that the testing so far has been unsatisfactory to ensure minimum emission. The Government has given us some undertaking that they want to do something about that. This is the fault of the Transport Bureau and the Transport Department over the years. For some reasons, they have really not seen themselves as having an environmental mission. And I hope that this is going to change.

That leaves petrol driven vehicles. I see no reason why they should not be similarly tested. After all, this is done elsewhere in the world. Perhaps what we can do is to limit cars over three years old for annual emission testing. Mrs Selina CHOW said that this would not benefit anyone except the mechanics trade. But surely not. It would benefit you and I. It would benefit members of the public, so that we can enjoy cleaner air.

The Honourable Bernard CHAN talks about going running at 5 am in the morning. When I was his age, I also used to go running at 5 am in the morning.

And I could tell him that at 7.30 am, even when the school buses were beginning to run some 10 to 15 years ago, the air was considerably better in those days. But I sympathized with him today that whatever time you actually go out, the air is pretty appalling.

Madam Chairman, Members have not been kind to the Government, of course, for its lacking in commitment and co-ordination internally to reduce vehicular emission over the years. Members are surely right. But let us not allow vehicle owners to be so irresponsible. Many people have responsibilities. Let them grasp their responsibilities now rather than leave us to gasp for clean air.

I would like to make a final observation, Madam Chairman. People in Hong Kong, including members from the media, have traditionally seen environmental issues as a soft issue. People have not regarded environmental issue as a hard-nosed political issue. I certainly have many members of the press come to me saying that they really did not see the environment as a political issue and as an important issue. I hope that we have laid that view to rest completely by now. Cleaning the air is political. There are many vested interests. There are private interest and public interest. And it is an issue about making choices, about making public and political choices, as we can see that very clearly today in this debate.

Madam Chairman, I only wish to say that the stick works.

SECRETARY FOR THE TREASURY (in Cantonese): I hope that the Chairman will understand that I can only give a brief reply because the Secretary for Planning, Environment and Lands and the Secretary for Transport will respond to the remarks made by Members later.

I have listened carefully to Members' remarks and I appreciate that Members have made various remarks, in particular, members of a particular party have discussed the problem and expressed their views liberally. I deeply believe that Members who have not spoken are also concerned about the air pollution problem, and they also think that the air quality needs improvement badly. I also understand that no matter whether Members vote for or against the motion, it does not indicate that they are not concerned about the air pollution problem or do not think that the air quality needs improvement

urgently.

I can pledge that the Government will put forward a comprehensive package of measures against air pollution in the coming Legislative Session. I also hope that I can exchange this pledge for Members' support and consent that they will discuss without delay the measures to be submitted by the Secretary for Planning, Environment and Lands, as well as reach a consensus within the shortest time possible to enable the Government, the Legislative Council and the departments concerned to expeditiously implement measures to protect our environment and improve the air quality in particular. Thank you, Chairman.

CHAIRMAN (in Cantonese): Before I put the Secretary for the Treasury's amendment to the vote, I would like to remind Members that Miss Christine LOH cannot move her amendment if the Secretary for the Treasury's amendment is passed.

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

(Members raised their hands)

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

(Members raised their hands)

Miss Christine LOH rose to claim a division.

CHAIRMAN (in Cantonese): Miss Christine LOH has claimed a division. The division bell will ring for one minute.

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

CHAIRMAN (in Cantonese): If there are no queries, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr David CHU, Mr HO Sai-chu, Mr Edward HO, Mr Albert HO, Mr Michael HO, Dr Raymond HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Eric LI, Mr LEE Kai-ming, Mr Fred LI, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Miss Margaret NG, Mrs Selina CHOW, Mr MA Fung-kwok, Mr James TO, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr Andrew WONG, Dr Philip WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr Lau Kong-wah, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr LAW Chi-kwong, Mr TAM Yiu-chung, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Mr James TIEN, Miss Cyd HO, Mr Ronald ARCULLI, Miss Christine LOH, Mr Bernard CHAN, Mr Howard YOUNG and Miss Emily LAU voted against the motion.

THE CHAIRMAN announced that there were 55 Members present, 47 were in favour of the motion and seven against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CHAIRMAN (in Cantonese): Members, I declare that the meeting will be suspended for me to handle certain matters. I would give Members an explanation when the Council resumes.

4.44 pm

Meeting suspended.

4.49 pm

Council then resumed.

CHAIRMAN (in Cantonese): Members, I had to clarify some procedural matters just now before we could move on. Please do not be mistaken.
(*Laughter*)

As the amendment moved by the Secretary for the Treasury to delete clause 25 has been passed, clause 25 shall be deleted from the Bill.

CLERK (in Cantonese): Clause 37.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That clause 37(b) stands part of the Bill.

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 clause 37(b) stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Mr Andrew CHENG and Mr CHAN Kam-lam have separately given notice to move an amendment to clause 37(d).

Committee shall proceed to a joint debate. I would call upon Mr Andrew CHENG to move his amendment first.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I move that clause 37 (d) of the Bill be amended as set out in the paper circularized to Members.

Madam Chairman, clause 37 of the Revenue Bill 1999 proposes to raise the tunnel tolls for private cars and motorcycles using the Hung Hom Cross-Harbour Tunnel (CHT) to \$20 and \$8 respectively when it becomes a government tunnel on 1 September. This measure of imposing an 100% increase in tolls will bring \$120 million to government coffers for the year 1999-2000.

I move the amendment on behalf of the Democratic Party. The aim is to lower the proposed increase in tunnel tolls for private cars and motorcycles using the CHT by 50%. That is to say, the tolls will become \$15 and \$6 respectively.

The Democratic Party thinks that the determination of tunnel tolls should be made from a perspective of traffic management and tolls should not be too high or unreasonable. Therefore, we do not think it is acceptable for the Government to seek to increase its revenue by raising tunnel tolls substantially. This approach is not correct in principle.

We notice that the three cross-harbour tunnels in Hong Kong, that is, the CHT, the Eastern Harbour Crossing (EHC) and the Western Harbour Crossing (WHC), do not have an even traffic volume. The WHC has the greatest capacity but the lowest utilization rate. It cannot do anything to ease the congestion of the CHT. The reason behind it is not that the latter has lower tolls, but that the tolls of the former are so unreasonably high that drivers are not induced to use it.

Madam Chairman, to fully utilize these three cross-harbour tunnels, the best way is to narrow the gap in tunnel tolls between them. Nevertheless, it will be extremely unreasonable to raise the CHT tolls substantially to compensate for the lower utilization rate of the WHC. It will also be very unfair to the drivers. On the other hand, if we raise the tunnel tolls at private cars using the CHT to \$20, it may make traffic more congested at the EHC or induce an increase in tolls for that tunnel. These two results are the last things that the Democratic Party wishes to see.

We have taken into account the affordability of the drivers of private cars and we hope that through a moderate increase in tunnel tolls some of the traffic at the CHT can be diverted to the other two tunnels so that traffic will be less congested at the CHT. Therefore, the Democratic Party suggests that the tunnel tolls for private cars and motorcycles using the CHT should be revised to \$15 and \$6 respectively in order to bring them in line with the tolls for the EHC.

Madam Chairman, if we want to achieve a better utilization of the WHC, I think the Government should try hard to convince the tunnel company to lower its toll from \$30 to \$20 so that a streaming effect can be more pronounced. The Government has often said that the determination of tunnel tolls for the

WHC is a commercial decision of the company concerned. I think this statement is open to question. For the WHC is not only a project for business syndicates to make money, more importantly, it is an infrastructure of Hong Kong. If it cannot bring the desired social benefits, then it will only waste our resources. Land is the most precious asset and resource of Hong Kong, but it is incredible that the Government should allow a tunnel which has a capacity of 120 000 vehicles to be used by just a few drivers over such a long time when the CHT is so congested. This is a most absurd thing. Moreover, given the WHC is such a waste of resources about which the Government is doing nothing but planning to build a fourth harbour crossing instead, I cannot see any sense in the traffic policy of our Government.

What the Government must do is to study seriously how to spread out the traffic flow of the three cross-harbour tunnels evenly. It must not raise the charges of the CHT and the EHC in such an arbitrary manner or to expect the WHC to lower its tolls unconditionally on its own initiative. Both of these approaches are not feasible, nor are they practical too. Maybe the Government can consider the experience of some overseas countries. These foreign countries set the tolls of tunnels located in proximity to one another at the same level. The revenue of the tunnels will be put into an account and distributed to each of the tunnel companies according to a formula based on the investment, costs and traffic throughput of each tunnel. I am aware that the three tunnels in Hong Kong are under different ownerships and it would be very complicated if this approach is adopted. But I still hope that the Government can spend more time to consider the feasibility of all options and solve the problem in its entirety. I cannot see how the construction of another cross-harbour tunnel will serve to solve the problem of a low traffic flow at the WHC and ease the congestion at the CHT.

Lastly, I wish to point out that the amendment proposed by the Democratic Party can bring an additional income of \$60 million to the Government. That is still a very substantial sum.

Madam Chairman, we have just received a paper from the Legal Service Division of the Legislative Council Secretariat on the comments made by the Secretary yesterday. She stated that if the two amendments that we have today,

that is, those proposed by Mr CHAN Kam-lam and I, and the original motion proposed by the Government, were all voted down, then a vacuum in law might be created. A two-page paper in English from the Legal Services Division has been given to Members. I would like to use some time to respond to the comments made by the Secretary yesterday. She said that if the two amendments and the motion were all voted down, then a vacuum in law would be created. This I think is a kind of intimidation, one which aims at making Honourable Members give in. Many Honourable Members from the Democratic Alliance for the Betterment of Hong Kong (DAB) met together at last night's meeting as well as just now to discuss how to deal with the situation. At the last minute, I learned that they would consider how to deal with the original motion proposed by the Government after listening to the response of the Secretary to the legal advice of the Legislative Council. I hope that the Government can understand that the Legal Service Division has raised two points to refute the idea of a vacuum in law as stated by the Government.

There are two ways we can get round the problem. First, as suggested by our Legal Adviser, the Government can resume the Second Reading of the Road Tunnels (Government) (Amendment) Bill 1999 next Wednesday, that is, on 14 July and propose tunnel tolls by way of subsidiary legislation. If in the debate today, proposals of setting the tolls at \$10, \$15 and \$20 are all voted down, there will be no problem as long as the amount of tunnel tolls proposed by the Government does not fall into any of the above-mentioned three amounts. In other words, it can be \$14, \$13, or even \$8 or \$9. We are not bidding for any amount, but I do wish that the Government would be aware of the legal advice we have sought, that is, if only the proposed tolls are not one of the three amounts that have been suggested and debated today, then the Government can make use of a piece of subsidiary legislation and table this in the Legislative Council next Wednesday when the Road Tunnels (Government) (Amendment) Bill 1999 goes through Second Reading. Then the Bill can be discussed and debated in the Council.

The second way has also been used by the Government before. This is to set the tolls by way of an order made under the Public Revenue Protection Ordinance. This point was raised by the Government yesterday. For when the CHT is reverted to the Government, under the existing policy, it can only collect tolls to cover the operational costs. According to what I have heard,

though I may be wrong, the cost is only \$1.5. Many drivers would of course be glad to pay just \$1.5 to use the CHT. However, both the Government and Honourable Members should act in a responsible manner, and I do not want to see drivers pay just \$1.5 to use the CHT. Legal advice to us suggests that an order might be made by way of a resolution. If we set the toll as \$12, when the cost of \$1.5 is taken away, then we will have more than \$10 as public revenue. This is permitted in the law. Our legal adviser uses the Public Revenue Protection (Dutiable Goods) Order (No. 2) 1998 as an argument. At that time the duty on diesel oil was reduced from \$2.89 per litre to \$2 per litre for the period from 23 June 1998 to 31 March 1999. According to our legal adviser, this is also workable. In other words, all we need is approval from the Chief Executive in Council. Our legal adviser is of the view that the Chief Executive must discuss this matter in the Executive Council and its approval must be obtained. Someone may say that the Executive Council is in recess, but I think the Government should be prepared to deal with it for this is such an important issue.

One point I wish to make is that the Government should not presume that any motion that it has submitted to the Legislative Council will be passed. And so the Government can just sit there and do nothing. Then in the end, the Government threatens us with the legal vacuum argument. I think if the Government has made preparations before hand, Members of the Executive Council will certainly do their part to support the Government and hence prevent such a vacuum from being created with the result being the CHT will be unable to collect tolls after 1 September.

I hope the Government will know that we are not rubber stamps. We are not obliged to pass all motions submitted by the Government. We may introduce our own amendments. Should our amendments be voted down and so is the motion moved by the Government, I hope the Government can be prepared to consider the views of our legal adviser. I also wish the Government to know that if its motion is voted down, that means it does not have enough votes to get the motion passed, and it implies that there is not enough support for it.

Lastly, I wish to appeal to Honourable colleagues from the DAB. I

heard something unpleasant yesterday and that is Mr CHAN Kam-lam said that if the vacuum in law which the Government warned really happened, then he would be compelled to support the motion moved by the Government because no other option was available. I wish to stress again, if my amendment is voted down, the Democratic Party will certainly support the amendment to freeze tunnel tolls as proposed by the DAB. In other words, if we count the votes now, I think the DAB will know very well after counting the votes, that if they know that their votes are not enough to get their amendment passed and if they think that they are really threatened by the Government and they are afraid that a vacuum in law will appear and so they feel compelled to support the proposal for a \$20 tunnel toll, then please consider supporting the amendment moved by the Democratic Party. For we are suggesting that the tolls for the CHT should be set at \$15, as opposed to \$20 suggested by the Government. If they feel that they are compelled, please be compelled by us for just one time. Please support our amendment to set the tunnel tolls at \$15, which is better than the Government forcing them to accept its proposal to set the tolls at \$20. Today happens to be the seventh anniversary of the founding of the DAB. The DAB used to say that it would take the approach of a ruling party. If the breadth of mind and an adherence to principles as required of a ruling party can be shaken so easily by intimidation of the Government, and if your principles can be abandoned so readily, then please think again whether you still have the breadth of mind of a ruling party.

I heard clearly in a news programme produced by the Television Broadcasting Corporation last Sunday in which Mr CHAN Kam-lam reminded us not to be swayed by the lobbying of the Government so easily. But if today the DAB is doing exactly this, then I cannot help but have doubts on the integrity of the party and its professed principles.

Apart from Honourable Members of the DAB, those of the Hong Kong Progressive Alliance also say that they will support the Government. It is my wish that other Honourable Members will also see the reasons behind the Government's argument. I hope the Secretary can also respond to the idea of a vacuum in law. I recall Mrs Selina CHOW once said that there would be 10 views held by 10 lawyers. Mr Andrew WONG even said that there would be 11 views. The Legal Adviser of the Legislative Council has expressed two

points of view. I guess the Secretary will present her own later. She will use some intimidation tactics again. I hope Members will understand that since the Legal Adviser of the Legislative Council has presented his views so clearly, Honourable Members of the DAB should not succumb to the intimidation of the Government.

Madam Chairman, the thrust of my speech is to urge all Honourable Members to support the proposal made by the Democratic Party for a milder increase in tunnel tolls, because it has taken into consideration the affordability of the drivers and that it can exercise traffic regulation while at the same time generate additional revenue for the Government.

Madam Chairman, I so submit.

Proposed amendment

Clause 37 (see Annex VIII)

CHAIRMAN (in Cantonese): I will call upon Mr CHAN Kam-lam to speak on the amendment moved by Mr Andrew CHENG and his own amendment. However, Mr CHAN Kam-lam cannot move his amendment at this stage.

MR CHAN KAM-LAM (in Cantonese): Madam Chairman, traffic between Hong Kong Island and Kowloon and the New Territories 30 years ago mainly relied on the ferries. Since the opening of the CHT, ferries began to lose their importance. In recent years, with the completion of the EHC and the WHC, the curtains fell on the vehicle ferries as their services were no longer needed.

Traffic congestion has become a great problem with the economic development of the territory, the migration of the population into the New Territories and the huge increase in the number of vehicles over the last 20 years. The major factor contributing to the problem is the inadequacies of the road networks. The CHT in Hung Hom is endowed with a lot of advantages. It is located at the heart of the city's economic activities, a hub of the Island's traffic, coupled with this, the tunnel was built in the 1960s at a time when construction

costs were inexpensive. The income from the tunnel tolls has long since covered the building costs and brought lucrative returns to the contractors. It is a tunnel which drivers like to use.

It is beyond doubt that the building of the EHC and the WHC was meant to ease the traffic congestion at the CHT. But that objective cannot be achieved so easily with the provision of one or two more options. On the other hand, the traffic volume at the CHT has been on the increase for more than a decade. Only in 1997 when the WHC launched a series of concessionary measures that the traffic flow of the CHT saw a slight drop, but only a limited drop at that. Facts have shown that driving habits and the geographical location of the CHT cannot be changed so easily by other external factors in competition. Experience has also shown that even if tunnel tolls for the CHT are increased, drivers will not be induced to use other tunnels. So the effect of the increase of tunnel tolls on the reduction of traffic volume is only transitory. For only after a short while when traffic becomes smooth with the reduced traffic volume, drivers will use the CHT again. And so traffic congestion appears again.

Owing to the above reasons, the DAB thinks that the Government should not use economic measures, that is, by increasing tunnel tolls, to solve the problem of traffic congestion. In our opinion, the inadequacies of the road networks on both sides of the CHT are the culprits of traffic congestion during the peak hours. A journey from the CHT to Tsim Sha Tsui should only take about five to 10 minutes, but traffic congestion near the Polytechnic University causes the same trip to take 20 to 30 minutes. Traffic movement is slow in the tunnel. On the other hand, we can see that traffic is very smooth even during the peak hours from the CHT to Kowloon Tong and Kwun Tong. As to the traffic congestion at the island entrance of the CHT, it only occurs during the peak hours, that is, from about 5 pm to 7.30 pm when people are going home from their offices. But the congestion only lasts a very short time. The trip from the CRC Building to the entrance of the CHT takes about 15 to 20 minutes when traffic congestion is most serious and only about five to 10 minutes are spent in traffic congestion. Under such circumstances, if we make the drivers pay \$10 more to go from Wan Chai to the WHC, I think they are unwilling to do so. Therefore, the question reason leading to the excessive traffic flow of the CHT is a question of road networks rather than tunnel tolls. Moreover, the

duration of traffic congestion is very short during the peak hours. Now the Government proposes to increase tunnel tolls to compel the drivers to use other road tunnels at all times, it is grossly unfair to drivers of private cars and motorcycles because they need to pay double the amount of tolls. It will not serve to solve the traffic problem.

From a taxation perspective, the increase in tolls is also unfair as it targets only at owners of private cars and motorcycles. Why are they singled out? Since public transport cannot meet the needs of every member of the public and since the crowded living conditions in the city have made many people move to the New Territories where it is not so readily accessible by many means of transport, these people have to use private cars or motorcycles. And these means of transport have become a very important part of their lives. If the Government is aiming at the owners of private cars, we think it has to solve the problem of public transport first. It is not an easy thing to keep a car, given the great expenses involved. I do not think people will want to keep a car if public transport can meet their needs. Another point is that over the past year or two, the middle class has already suffered a lot during the process of economic adjustment. The proposed increase in tunnel tolls for the CHT will only add to their burden and it is not fair to them.

The DAB will of course consider whether or not we should support the amendment proposed by the Democratic Party. However, due to the adverse economic conditions, and given the fact that we have joined hands to urge the Government to freeze some charges and even reduce the rentals not long ago, we fail to see why they should suggest that the tunnel tolls should be increased. Therefore, we will not give our support to their amendment.

Another point, if we think that fiscal measures can be used to solve traffic problems, then it will become a very serious thing. Take the example of Tuen Mun where traffic has now become less congested, if we agree to the idea that we should divert the traffic when traffic congestion becomes more serious again by increasing the fees charged, will that be a practical idea? If this is really the case, then there will not be any need for the Government to build more roads. If traffic is congested in Tsim Sha Tsui, are we going to ignore it and just put up some road blocks or toll stations and ask the users to pay? Will that be a workable idea? No, not at all. A few years ago when the Mass Transit Railway Corporation wanted to levy a surcharge during the peak hours, the political parties and the public staged a massive protest, for we thought that was not a right thing to do. So how can we possibly support the amendment moved

by the Democratic Party? The amendment is in itself self-contradictory and weakly based.

Mr Andrew CHENG said that it was very expensive to increase the tolls by \$10, so he said that we could only agree to an increase of \$5 which should be affordable by car owners. But then he said that he hoped the increase would divert the traffic. How can traffic be diverted when car owners find the toll increase affordable? Mr CHENG also said that he doubted whether the increase of \$10 as proposed by the Government could divert the traffic. Given his suspicion if substantial diversion effect could be achieved by the government proposal, his proposal for a \$5 toll increase is all the more groundless. Therefore, we think that the request made by the Democratic Party to solicit the support of the DAB was only wishful thinking on their part.

Some Honourable Members are of the opinion that since the CHT has not increased its tolls for over a decade, the present proposed revision is generally acceptable. But we can say that the tunnel has brought a substantial amount of profit and income for the Government and the contractors during the same period, it follows that an increase in tolls is obviously not necessary. Moreover, any proposal to increase the tolls would be oriented in the direction of the WHC, the toll of which is considered to be on the high side. So there are no grounds justifying an increase in tolls although the CHT has not raised its tolls for over a decade. Moreover, starting from this September, the CHT will be reverted to the Government and it will have more say over the tunnel and it can plan the distribution among the traffic flow among the three cross-harbour tunnels. If the CHT toll is kept at \$10, there is still a lot of room for the Government to manoeuvre. For example, the Government will get a huge income because the CHT will be reverted to the Government. Discounting the management costs, the Government will reap the profits that used to be made by the tunnel company. Therefore, it is illogical to think that the car owners will be able to afford a mild increase in tunnel tolls.

Madam Chairman, the DAB is opposed to the idea of using fiscal means to divert traffic. Owing the reasons given, it would be quite useless for the Democratic Party to persuade us to support their amendment.

At the meetings of the Transport Panel and in the briefings organized by government departments, the DAB has urged the Government to think of ways to solve the traffic volume of the existing three tunnels. But sad to say, no specific proposals have been presented by the Government to date. Some time

ago we heard that the Government was planning to build a fourth tunnel. But that is only hearsay. Nothing concrete has come up so far. Today when we discuss this issue again, I hope that the Government will not think that the matter will be solved simply by an increase in tolls. Both Mr Albert HO and Mr Andrew CHENG have talked about the voting stance of the DAB just now. We are considering the issue very seriously. We are not intimidated or convinced by the Government as Mr Andrew CHENG has said. For we have to think about a very crucial matter, no matter we support \$15 increase or a freeze of the tolls. And that is: If my amendment is voted down, there is also a possibility that the Government's motion will be voted down as well. If this happens, there will be no way which the CHT can collect any tolls. That possibility cannot be dismissed at all. So we have consulted a lot of people on that, including government lawyers, the legal adviser of the Legislative Council and the lawyers of the DAB. The advice we have got varies from one to another. Today we have received a paper from the legal adviser of the Legislative Council. We have read it and we know that should the Government's motion be voted down, there should still be one or two remedies available. Madam Chairman, please allow me to continue

CHAIRMAN (in Cantonese): Mr CHAN, I am sorry I have to stop you because we have to stick to the rules.

MR CHAN KAM-LAM (in Cantonese): Then I will raise my hand later to speak. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Members can now debate on the amendments moved by Mr Andrew CHENG and Mr CHAN Kam-lam respectively.

MRS SELINA CHOW (in Cantonese): Madam Chairman, unfortunately, the bell rang at the most crucial moment. For everything that Mr CHAN Kam-lam has said is music to my ear. I agree with him on almost every point, but almost everything which he has said is not agreeable to my party. The Liberal Party thinks that tolls for the CHT in Hung Hom can be raised. I am the only one in my party who applied for an exemption from the party stance.

I agree completely with Mr CHAN Kam-lam in what he has said. But I do not see why Mr CHAN Kam-lam can argue that the Government can raise the tunnel tolls to \$20. That is a great uncertainty. I am waiting for him to speak again. Just now Mr Andrew CHENG said that I once made the remark that 10 lawyers had 10 different views. In fact, what I said was three lawyers had three different views. But there is one thing which is not a view and that is, the Public Revenue Protection Ordinance. That is a fact. I really want to hear what the Government has to say on this. Since such an ordinance does exist, as a responsible government, how can it say that a vacuum in law would be created if we do not pass the bill that it has introduced? That is something we cannot figure out. For a vacuum would not appear. As a responsible government, public expenditure can be protected. If the Government does not invoke that piece of legislation, then it has done nothing which is its responsibility, that is, to protect public expenditure.

I believe no Member of this Council would tell the Government that we will vote down the Bill introduced by the Government so that there is no way it can collect tolls. And we can cross the harbour free. That is not what a responsible Member would say. And that will make the Government place the responsibility onto the Members. What I wish to discuss is that since different political parties and different Members have different views on the tunnel tolls, the Government has the responsibility to deal with this state of affairs. In the end, we have to put it to the vote. But I would like to know, should we proceed to a division, what will the Government do if the majority of us support maintaining the status quo, that is, no increase in the tolls? If there is an equal number of votes on the Government's motion, then the motion will be passed. Then what will this imply? Should the amendment proposed by the DAB gain the approval of the majority but it cannot be passed, and if the DAB supports the Government's motion, then what will come out of it and what does it imply? The reason why I have raised all these questions is that I just want to speak out what I have been hoping for so many years. I talked about this yesterday, and today I really hope that there is no need for the CHT to raise its tolls.

MISS CHAN YUEN-HAN (in Cantonese): The three Members of the Council from the Hong Kong Federation of Trade Unions (FTU) do not agree to the proposal to increase the tolls of the CHT by 100% upon its reversion to the

Government. First of all, we can find no problem with the operation of the CHT and it is even making profits. I fail to see why the Government is proposing to increase the tolls by 100% upon its reversion in September. That is unreasonable. The Government also says that the increase in tolls is to ease traffic at the CHT. This strikes me as not only being unreasonable but also putting the cart before the horse.

We all know that traffic congestion at the CHT does not start today. The congestion there has prompted the Government to build the WHC. But because of the situation at that time, the Government had to accede to the request made by the contractors to charge an expensive toll of \$30. Now we all see that the WHC is not very effective in easing traffic. Even if traffic is very congested at the CHT, the traffic flow at the WHC is still very low. If it can lower its tolls, I think many people, especially those who live in Tuen Mun, would be very pleased to use it. Many people prefer to use the CHT instead of the WHC because the former is much cheaper. Some people even use the Tate's Cairn Tunnel and then the Eastern Harbour Crossing (EHC) because they obviously think that the tolls for the WHC are too expensive. Although I am not a member of the Transport Panel, sometimes I would attend its meetings and I am aware that Honourable colleagues have been criticizing the expensive tolls of the WHC. Now the Government is not trying to do anything about it, but proposing instead to increase the tolls for the CHT by 100% in order to ease the traffic congestion there. That sounds very unreasonable to us, though it is proposed that the increase applies only to private cars and motorcycles. Just as I have said, the most important thing is to deal with the matter of the tolls charged by the WHC rather than to increase the tolls of the CHT by 100%. As the CHT is making profits, the need to ease traffic congestion there seems to be not the most important reason behind the proposed increase in tolls.

Another reason is a very important reason why the FTU is opposing the Government in that issue. As many Honourable colleagues have said, despite the improvements in the local economy, we are still in a downturn. Earlier on the Government proposed an increase in the fees and charges for as many as 3 000 items of public services. But then there was much opposition in the community and at last the Financial Secretary denied that there was any plan to raise the fees and charges, saying that the Government was only gauging public opinion and the proposal would be withdrawn. Earlier, the Government said that the rental for public housing would be frozen until this September. After

the efforts we made, the Government announced that rentals would continue to freeze after September. That indicates that the Government is taking an approach of freezing the fees and charges related to the people's livelihood. The salary of the civil servants has been frozen as well. Then what justifications does it have to increase the tolls of the CHT in such difficult times? The FTU therefore opposes the proposal to increase tunnel tolls for the reason that they have not been raised over the past 14 years and because traffic congestion has to be eased. The 100% increase is unreasonable. Because of this, the FTU opposes also the proposal to reduce the increase from \$20 to \$15 made by the Democratic Party. They should not be led to believe that an increase of the tolls to \$15 can ease traffic congestion at the CHT. I hope everyone of us can stand united in our opposition to any proposal to increase the tolls, including the Honourable Members of the "Breakfast Group". We should support the amendment moved by Mr CHAN Kam-lam to keep the original tolls of \$10. I think this is a strong opinion from the FTU and we do not care what will happen. All we care is that the Government must not increase the tolls at this point in time.

Madam Chairman, the three Members of this Council from the FTU are in full support of Mr CHAN Kam-lam. I also urge the Democratic Party and other Honourable Members to support Mr CHAN Kam-lam's amendment. Thank you, Madam Chairman.

MR SIN CHUNG-KAI (in Cantonese): Sorry, Madam Chairman, just now I have to attend to some business and so I went out for a while. Today we are like playing a game of "15, 20 and 10". The Government is for 20, the DAB is for 10 and the Democratic Party is for 15. The Democratic Party has proposed a middle-of-the-road option and that is \$15. The DAB "appears to be on the left but is actually on the right". Why is that so? Because the DAB appears to support the proposal for \$10 but in actual fact they will support the \$20 proposal in the end.

I wish to stress one point. As Mr Andrew CHENG and my colleagues have said, we would give the DAB a hug. We will support their proposal for \$10, but I wish them all to know, when the proposal for \$10 is voted down, then

what are we going to do? There may be a crisis or some legal problems will arise. So the most effective and simplest way would be to take a middle-of-the-road approach and suggest \$15. I hope that Honourable colleagues of the "Breakfast Group" will join hands with us. For if there are only us and the DAB, we can never hope to succeed. Therefore, I wish Honourable colleagues of the "Breakfast Group" will think about my middle-of-the-road proposal.

I know that the New Century Forum stresses that it is sensitive to the middle class sentiments. I am sensitive to their sentiments as well. We all drive. But we are also aware of the financial difficulties of the Government. Therefore, I hope all of us can support a middle-of-the-road proposal, that is, \$15. Then there will be a win-win situation for both Honourable colleagues and the Government. At least the Government can expect a certain amount of revenue. That would be a better option than \$10 or a political crisis and a vacuum in law.

Just now Mr CHAN Kam-lam exclaimed why he was picked among everybody else. Actually, when the Government proposed the increase in tunnel tolls, I also had such a feeling. I was baffled as to why the penalties, tunnel tolls and parking fees all had to be increased. But fortunately some of the proposals were later withdrawn. The Democratic Party in fact does not support an increase in fees and charges, we want the Government to impose a freeze on these. Later on Mr Kenneth TING will ask for a freeze from the Government and we support that request. However, as the Government puts it, its coffers are full of holes and there is a deficit of more than \$30 billion. So we have to consider this. We do not support any increase in fees and charges in principle, but if the increase is moderate, then we can lend the Government our support. So we have taken a middle-of-the-road approach.

How on earth can the DAB think of such a masterpiece proposal? This option which appears to be one thing but in fact is another. It is really ingenious. You shouted with your loudest voice, you gave out fliers criticizing the Democratic Party for proposing to increase the tunnel tolls to \$15. But in fact in this Chamber you are not using words from your mouth but tricks to forbid people from supporting the \$20 proposal. This stalemate is meaningless to the Government and it simply pours the months of hard work by the colleagues in the Treasury down the drains. All these are done in the name of the motion we have today. The best option is still the \$15 proposal. If we

lose, the Democratic Party would give you a big hug. We will vote for your \$10 proposal. But I hope you will not say that the Democratic Party will also support your \$10 proposal. I wish you will understand that even if we have given the DAB our support, there will still be insufficient votes to pass the amendment. The Hong Kong Progressive Alliance has already indicated that they will support the \$15 proposal. Then if we can count on your votes, we just need two or three more votes, and we will have enough votes to pass it. We must make this epoch in history. We must pass the \$15 proposal in one go. That is a win situation for everyone. We must make apology this time. If the Democratic Party takes the \$10 stand, then the Government will make an offer of \$20, then the DAB will make a counter offer of \$15. Then the Government will say, "okay, give the DAB a big hug." Then the \$15 proposal is very likely to be passed. So I want you all to know this point and do not put this political game on the table and on this issue as well. We will see who is the final winner in November. Then how are we going to look at this issue? We are playing a game of "10, 15 and 20". What will be the final outcome? If the DAB does not support the \$15 proposal today, in the end they will have to support the \$20 proposal. Just think of this: Are we going for \$15 or \$20? Thank you, Madam Chairman, I so submit.

MR JAMES TIEN (in Cantonese): Madam Chairman, although I have been listening to the debate, I think that it seems to be none of my business. Therefore I did not notice that you had called upon me to speak. The debate between the Democratic Party and the DAB flared up all of a sudden. I do not want to say that they are exchanging harsh words, but I feel as if I am watching a play.

Madam Chairman, apart from Mrs Selina CHOW who has got an exemption, the stand of the Liberal Party is consistent. We are not talking about whether we should bring in some revenue for the Treasury but we are looking at the matter from the perspective of traffic congestion and investment. We all remember that the WHC cost us more than \$7 billion to build and costs are expected to be recovered in 30 years. If the 30-year period includes the construction period, there are only 26 years to collect the tolls. I am sorry, I do not mean to say cost recovery, but cost recovery plus profit. The internal rate of return is about 15%. At that time the projected traffic flow was 70 000 cars daily, but there are only 38 000 at present. The annual report

of the WHC is accessible to the public so we know that over the past two years, it recorded a loss of \$700 million. So apart from \$7 billion spent in investment, the WHC also lost \$700 million. Should the Government say, "Why did you believe in me in the first place?" The reason is that the Government has been making promises to raise the tolls of the other two tunnels and to make sure that the WHC will have a substantial traffic flow. From the perspective of the investors, the Government will also make a lot of these promises when it invites the business sector to make investments while the Government itself will save the taxpayers' money and choose not to invest. There is also another opinion, which was also mentioned by Honourable colleagues of the Democratic Party. Sorry, I think it was mentioned by Mr LEUNG Yiu-chung. He said that we should make small profits and aim at a quick turnover. But making small profits do not imply that we will charge nothing. If it is for free, then we will have no income. Even if we can afford to let people use the WHC on two Sundays for free, we can not afford to let this go on forever. Though there are more cars using the tunnel, there will be no income. Then how can we get small profits and a quick turnover?

Madam Chairman, with regard to this issue, we agree with what the Government has said. If the CHT toll is increased to \$20, the Government would think that the traffic volume of the WHC will increase from 38 000 to 50 000. Then traffic congestion in the CHT can be alleviated. Then how will this affect the economy? Often we say that we are in an economic downturn and we urge the Government not to raise charges as we are moving towards economic recovery. The motion which Mr Kenneth TING is going to move later is to ask the Government to freeze all government fees and charges relating to the commercial and industrial sectors. Although the toll for the CHT will be raised to \$20, this will only apply to private cars and not the goods vehicles and taxis. Therefore, I think it will not affect the commercial and industrial sectors. It will not affect the operation costs of the trucks, nor will it increase the burden of the taxi passengers. What remains to be discussed is the question of the 90 000 trips made by private cars which use the tunnels. If all of them will return to Kowloon after going to Hong Kong Island, and vice versa, and that they use the same tunnel, then actually there are only 45 000 of these cars. Now there are 300 000 private cars in Hong Kong and 45 000 out of these 300 000 have to commute between Hong Kong Island and Kowloon. Do these cars belong to the middle class as the Democratic Party or the DAB often say? I have some doubts on that. I do not think that the grassroots will be affected if the tunnel

tolls are raised to \$20. It is because the cross-harbour bus services will not be affected. I do not think the middle class will be affected either. For most of the cars owned by these people are parked at their residences. I would think there are 200 000 out of the total number of 300 000. These can truly be called the cars owned by the middle class. I do not believe that of the 300 000 cars owned by the middle class, 250 000 of them do not use the CHT. Then where have these cars gone? I think people of the middle class do not drive to work, they may use the Mass Transit Railway or the buses. That leaves the well-off people, who will not have any financial problems. There is proof that I am right. Despite the economic downturn in the past couple of years or so, traffic volume at the CHT has not shown any decrease. If we say that we are in an economic downturn, then why has the daily figure for cars using the CHT remained the same, that is, 90 000 or so for last year, the year before, and this year? If the economy is so bad, then why is there not even a slight drop in the figures? It only shows that they do not mind paying the \$10 tolls at all. They find it affordable. So I think no one will be affected in any way.

Madam Chairman, the Liberal Party will stay away from the "10, 15 and 20" contention between the Democratic Party and the DAB. Thank you, Madam Chairman.

MR LEE WING-TAT (in Cantonese): Madam Chairman, is it true that no one will want to speak?

Madam Chairman, I wish to respond to a few points. First, I wish to talk about what Mr James TIEN has said on the rate of return for the investors. The Democratic Party knows very well that ours is a commercial society and that investors will seek returns on the investments. I do recall the Government making no guarantees on returns. What the Government has pledged to the company managing the WHC is that it will have a mechanism of raising the tolls automatically. We are opposed to this and we hope that the Secretary will respond to this later. I recall the Government has not made any pledge that there will be an internal rate of return of 16% within 30 years. In the course of deliberating on the Western Harbour Crossing Bill, the Government said that tolls for the CHT and the EHC would not be determined by making reference to those of the WHC. The company managing the WHC is fully aware of this. Of course, when the investment return of the WHC is lower than a certain level,

the company will have the right to make a number of proposals to raise tolls within the 30-year period, though I have forgotten the exact number of times permitted. I therefore would like to clarify one point, that is, I do not agree with what Mr James TIEN has said. The Democratic Party does not oppose the idea that commercial investments should expect returns. But the fact is: no one, including the Government, has made any guarantee on returns.

Just now many Honourable colleagues have talked about traffic flow. I doubt if the number of vehicles can exert such a great influence on the decision. I recall when Mr Gordon SIU and Mr H BARMA were the Secretary for Transport in 1994 and 1995-96 respectively, they discussed with the Transport Panel headed by Mrs Miriam LAU on the issue of raising the tolls for the CHT almost every year. If my memory does not betray me, I would think the issue has been on the agenda for three or four years. The highest traffic flow at that time was about 125 000 to 130 000 vehicles daily, far higher than the figure now. Proposals for raising the tolls were not approved in those years. I think we can put it this way: of the 120 000 vehicles using the CHT every day, the current proposal made by the Government can only divert about 10 000 vehicles. At what time of the day will these 10 000 vehicles appear? The Government has not made any in-depth study on this, and so the effect of charging \$20 will only be marginal. Of course, I would also say that the \$15 proposal made by the Democratic Party is also marginal. So I do not want to say that the Government's proposal is useless, nor do I want to say that it is very useful. The proposal made by the Democratic Party will be of some use, but it will not be very useful either. When we had a discussion on that issue among ourselves, we considered factors such as income, traffic management and affordability. In other words, I think if we over-emphasize a certain effect, our argument would become unconvincing.

Once I had this conversation with Miss Denise YUE, the Secretary for the Treasury. I said to her that she took three weeks to work on some \$100 million and that was a chore. Mr Ronald ARCULLI's motion managed to get \$1.2 billion without having to undergo any debate. Since the Democratic Party did not put up any opposition, the \$1.2 billion motion was carried. The \$1.2 billion which I talked about was the stamp duty. He did not make any efforts and even the Revenue Bill was not discussed. Of course I appreciate her efforts,

but I do not think that spending three weeks of hard work just for a mere sum of more than \$100 million worth it. From the perspective of transport, affordability and income, I think the Democratic Party's proposal has struck a rather sensible balance and so we think this proposal is most appropriate. I urge all Honourable colleagues to support it. On the other hand, there are a few points to which I would like the DAB and the FTU to respond. It is because the current issue seems to be only concerned about public revenue. And when a political party makes a decision, its viewpoints and arguments are very important. There is also the problem of too much coverage in the mass media. Like for example today we read reports that Mr TUNG Chee-hwa made an appointment to see Mr TAM Yiu-chung and Mr Jasper TSANG and succeeded in swaying the stand of their party. Had Mr TUNG made his lobbying earlier, Miss YUE and Mr NG, the policy secretaries, would not have found themselves in such an embarrassing position. The shifting of positions for \$10 and \$20 for the tunnel tolls would not have to undergo such a complicated process had the lobbying been made earlier.

I was shocked to hear Mr CHAN Kam-lam say that no economic means should be employed to control traffic flow. I think Mr CHAN should stick to his convictions unless he feels that they cannot be realized. I hope Mr CHAN would remember this. He has said this so categorically. In future, any means such as revenue, taxation or any measures imposed to discourage the use of private cars would be regarded as economic means and he may want to oppose to them as well. I am of course not a member of his party and I do not have to worry for him. Mr CHAN, as you have made such a remark, then please remember whenever we talk about traffic in future and about fees and taxation, you should know that you have got a very clear-cut stand. I just feel that since you have such a clear-cut stand and you have put it so frankly, then you should not be persuaded by the Government to agree to the \$20 proposal, unless you think that the advice given by our legal adviser is not practical at all. I personally believe that the legal advice given by our legal adviser is a result of careful discussion in the Legal Service Division of the Legislative Council. And this Council has a very good tradition, and that is, we usually take the advice of the Legal Service Division. I also wish that Honourable colleagues from the DAB would do the same. They should accept the views advanced in the Division's paper and come to know that the Government is not without any way out or remedy in this issue. Even if we all lose today, there is still a

chance next Wednesday. But I think this is only my wishful thinking, for we are all acting in a play in one sense or the other. After staging a horror film of 1.67 million immigrants, the Government is staging another one this time. They tell us and the public that there will be a vacuum in law. I hope Miss YUE can explain to the Legislative Council in detail the legal advice that she has got. What the Government is saying is a kind of intimidation. Unless the Government is one hundred per cent sure, otherwise, this kind of approach is very inappropriate. For the Government is not trying to convince us by any open debate or reasons, it is instead using a crisis which it calculates to threaten our colleagues. It is trying to force us not to formulate a policy which is beneficial to the people. It is a matter of grave concern, more so than the \$10, \$15 and \$20 which are being debated. It is about the prestige and integrity of the Government. If the Government resorts to intimidation tactics every time, it will lose its prestige and integrity, and it will no longer be trusted by the people. A play of course cannot be performed without actors, and there are also other people involved. The DAB is readily persuaded by the Government. Yesterday they talked to the media that their position had changed. That is a very graceful way to back off and make others believe that they have a very good reason to shift their position. But is this really so? No.

Miss CHAN Yuen-han has made an impassioned speech to urge the Democratic Party to support the DAB. We agree with what they think. But I would like them to state clearly, (and later on two of their party members will speak), that when their amendment is voted down, how they are going to vote on the Government's proposal. As Mrs Selina CHOW said just now, some people make impassioned speeches in the name of the livelihood of the people, but when the \$20 proposal is submitted to the Legislative Council, they will take what the Government says and support it on some self-righteous or self-deceptive grounds. This is also play-acting. I have seen too many of my Honourable colleagues acting in this Chamber. Whenever it comes to an issue related to the people's livelihood, they will make impassioned speeches, but when it comes to the vote, they will turn to support the Government. Mr Andrew CHENG was right when he said that some political parties handed out fliers criticizing the Democratic Party for supporting the increase of tunnel tolls to \$15. But now they are shifting their positions between \$10 and \$20.

Madam Chairman, I earnestly hope that Miss YUE can explain to us in great details the legal advice and grounds she has been talking about during these past few days. This is a very crucial debate. I would like to know what kind of difficulties which the Government is having so that it is prevented from doing anything in this remaining week. Should the Government have any need, it can ask for the approval from the President of the Legislative Council — though I cannot discuss the issue on behalf of the President herself — she has the authority to decide to hold a meeting on the 21st or at any other time slot. That is actually workable. Some time ago when we were discussing the bill on the right of abode, I heard someone say that the Government had planned to apply for holding a special meeting on the 21st. But later the idea was put aside because it was thought that a meeting was not needed. By looking at the *prima facie* as presented by the Government, it cannot be established that there is no other alternative to deal with the situation should the amendments moved today be negated. As for other explanations given, I think these are merely excuses made by the Government.

Therefore, Madam Chairman, I cannot make myself agree to the DAB's argument, that is, should their amendment be voted down, they will be compelled to turn to support the Government instead no matter how unwilling they are. The DAB simply does not need to do so. Thank you, Madam Chairman, I so submit.

MISS CHAN YUEN-HAN (in Cantonese): Madam Chairman, a point of order. Just now Mr LEE Wing-tat speculated on the stance of the FTU. I think that he should not have done so. He should look at the facts before he makes any comments on the FTU, in all fairness to the FTU. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): According to the Rules of Procedure, Members may speak more than once at the Committee stage. That is not considered as a clarification. That was a speech.

MISS CHAN YUEN-HAN (in Cantonese): Madam Chairman, although I was acting according to the Rules of Procedure just now, I forgot that point. You have kindly permitted me to speak a number of times, but please do not regard what I have said as a speech. Thank you, Madam Chairman.

MR LEE WING-TAT(in Cantonese): Madam Chairman, actually Miss CHAN Yuen-han does not need to argue over this point any more. My question is very simple and she can clarify it. I have not said that she is certainly like what I have said. I was just saying if she wished the Democratic Party to support the DAB, we would give our support. It is also true that the FTU will support the DAB. I wish to ask her this question on behalf of the Democratic Party: Should the amendment moved by the DAB be negated, will the DAB turn to support the \$20 proposal put forward by the Government? Miss CHAN has not mentioned that point, so I hope she will talk about this. She does not need to make a clarification now as she can speak any time. Thank you, Madam Chairman.

MISS CHAN YUEN-HAN (in Cantonese): Madam Chairman, I am not making a clarification, I am making a speech.

CHAIRMAN (in Cantonese): Miss CHAN Yuen-han, please stay calm.

MISS CHAN YUEN-HAN (in Cantonese): I am not be agitated. Just now I went out to attend to some urgent business, but I heard Mr LEE Wing-tat say that the FTU was this and that. He said that many people had made impassioned speeches in the past on the people's livelihood and other matters. I think he should make himself clear because when he was saying these, he was insinuating. I do not want this decision by the FTU to be overshadowed by such remarks. Therefore, I hope that the Democratic Party will wait until we all have cast our votes on all the motions before making such hypothetical remarks. Thank you, Madam Chairman.

MR LEE WING-TAT (in Cantonese): Madam Chairman, I wish to ask the question a third time. I do not think there is anything we need to hide in an open debate. My question is very simple: Should the amendment proposed by the DAB be voted down, would the Honourable colleagues from the FTU

support the \$20 proposal by the Government? That is a very simple question and I was not speculating. Miss CHAN has a lot of opportunities to state her position in this Chamber, but she does not want to do it. I will not ask this question again any more. Thank you, Madam Chairman.

MISS CHAN YUEN-HAN (in Cantonese): Madam Chairman, I would still want to speak because I think I have already answered his question. I do not need to give him a yes or no answer. I have stated the position of the FTU clearly. He should wait until all of us have cast our votes on all of the motions before he draws any conclusion. He should not make a rash conclusion at this point in time. Thank you, Madam Chairman.

MRS MIRIAM LAU (in Cantonese): Madam Chairman, if Honourable Members wish to speak, they must wait for their turn. *(Laughter)*

Madam Chairman, my position is very clear. I support the Government's proposal to raise the tunnel toll to \$20 and oppose all the amendments proposed. I explained during the Second Reading debate that the increase in tolls will serve to divert the traffic from the CHT to other tunnels. If we take this as the objective, the effect of \$15 is definitely smaller than \$20. Therefore, I think the Government's proposal of charging \$20 should be supported. Madam Chairman, since 1991 I have been the chairman of the Transport Panel. I agree with Mr LEE Wing-tat's observation earlier that we have been discussing the issue of the CHT tolls every year. Before the completion of the WHC, I was the person who opposed the increase in tolls for the CHT most strongly. At that time, I used to join hands with Mrs Selina CHOW, now we are not and we each go our own ways. At that time our argument were very simple indeed: before the completion of the WHC, even if the tunnel tolls were raised to \$20, \$30 or even \$40 or \$50, there would be no diversion effect. For there were only two cross-harbour tunnels at that time and no matter how much was to be charged, there were still two tunnels. There was no other choice. The problem of congestion would not be eased. When the WHC was completed, I did not agree to the idea of raising the tolls for the CHT right away. After two years, what is the effect of traffic diversion? Let

us look at the figures. Before the WHC was completed, I remember the daily traffic throughput of the CHT was about 123 000 vehicles. After the WHC was completed, the daily number of vehicles using it dropped to 110 000. The drop was not significant and so the effect of diversion was not so great. Now the Government tells us that when the toll is increased to \$20, the traffic flow would drop by 10 000 vehicles. That is quite a substantial drop for when there are 10 000 less vehicles using the CHT every day, the traffic flow would come very close to the original designed capacity, that is, 100 000 vehicles daily. If this target can be met, the long lines of cars at both ends of the tunnel will be shortened or even disappear.

We have discussed a lot on the scenario when there is congestion at both ends of the tunnel and vehicles have to line up for their turn to go into the tunnel. The time it will take is long and there may be congestion and danger. Vehicles on emergency service will be delayed when there are queues of cars at the tunnel entrances. The WHC has been commissioned for almost two years but there is no effective diversion of traffic. Shall we start to think of other ways? So I will support the Government's proposal to increase the toll to \$20.

Apart from that, when the toll is raised to \$20, does it mean that owners of vehicles will have to pay \$20 when they want to cross the harbour? No, they have other choices. The EHC still charges \$15. There is in fact yet a better choice, or two in fact. The first one is not to drive at all. The other one is to take a public means of transport when you want to cross the harbour. Public transport has improved enormously over the past few years. In the past we used to complain that there was not enough public transport and we had to wait a long time to get on a cross-harbour vehicle. But now the taxis and minibuses are always there waiting for passengers. The buses are comfortable and air-conditioned. Then why do we not use public transport more often to cross the harbour? The various means of public transport have not sought to raise their fares this time. I think we ought to give them a chance to do more business and the whole transportation sector will be grateful for our patronage. It is for this reason that I support the Government's proposed increase in tunnel tolls.

Just now Mr CHAN Kam-lam suggested making some improvements to the traffic at both ends of the tunnel in order to solve the problem of traffic congestion. Ever since 1991, we have been discussing the issue until 1995 and 1996, and despite the application of all workable traffic management measures, we have been unable to find a good solution. If it is such an easy problem to solve and given the loads of work that we have done, I think the Honourable Members involved should resign because of their incompetence. The root of the problem is that we have tried all we can think of and all we can do. The only thing left is to divert traffic through the imposition of higher tolls. What else can we do?

There are two points on which I wish to respond to Mr Andrew CHENG. He said that if we allow the CHT toll to be raised to \$20, the EHC might be induced to propose an increase in tolls as well. As a matter of fact, the EHC cannot raise its tolls at its will. There is a mechanism regulating it. Members may recall that when the EHC raised its tolls from \$10 to \$15 last time, it was done through an arbitration procedure. Under such a procedure, the EHC had to prove to the arbitrator that its internal rate of return was unable to reach a certain level before the arbitrator agreed to the increase to \$15. The reason for not being able to meet the internal rate of return is insufficient traffic flow. When tolls for the CHT have been raised, some of the vehicles may be diverted to using the EHC. That will help postpone an application for an increase in tolls by the EHC. If traffic flow increases and the internal rate of return improves, there is no reason why it should apply to raise its tolls. That is the first point. The second point I wish to make is that although I do not agree to the amendment moved by Mr Andrew CHENG to raise the toll to \$15, I agree very much with what he has said just now. He said that the toll equalization mechanism is the best way to achieve an optimal effect in the traffic flow for each tunnel. We have raised that point in a question asked in the question and answer session in the Legislative Council. But we do not know why the Government has not taken any follow-up action but proposed to build a fourth tunnel instead. I do not understand that given such strong opinions which Honourable Members have on the third tunnel which has cost more than \$7 billion to build and is charging \$30, how much are we going to spend on the fourth tunnel and how much are we going to charge? Will the existing problem

be solved with the building of this tunnel? Will it merely become another white elephant? I hope the Government can seriously consider this proposal of toll equalization in order to solve the problem of the traffic flow of the tunnels. I am also grateful to the Democratic Party for lending their support to this idea. Thank you, Madam Chairman.

MISS CHOY SO-YUK (in Cantonese): Madam Chairman, I shall be brief.

Honourable colleagues have put forward many reasons to oppose the Government's proposal to increase tunnel tolls. As I agree with these reasons, I would not repeat them here.

On the question of diverting traffic, I wish to ask whether it is really necessary to do so. For if no diversion is made, the existing arrangements does allow drivers to have an additional choice, that is, if they do not want to be caught in a traffic congestion and if they are willing to pay little a bit more, then they can choose the WHC. If they do not want to pay more in tunnel toll, then they have to put up with the traffic congestion for some time. This is my view on the diversion of traffic, which may be different from the other Members.

Madam Chairman, when the Secretary makes her response later, I would very much hope that she will try her best to clarify what will happen when we have a "three-loss" situation. That is: When the amendment proposed by the Democratic Party on the increase of tunnel tolls for the CHT is voted down, the amendment proposed by the DAB is also voted down and so does the motion moved by the Government. Although I support the two amendments, my voting decision will certainly be affected if the above "three-loss" situation is very likely to happen. In that case, I will vote in support of the Government's motion; otherwise, I will vote against it.

MR AMBROSE CHEUNG (in Cantonese): Madam Chairman, our debate about tunnel tolls today has two objectives, revenue and diversion.

In respect of revenue, I believe the Government is not asking for an increase in tunnel toll to \$20 and diverting traffic for generating revenue of a few hundred million dollars.

If we look at it from the angle of traffic diversion, freezing the toll as suggested by the DAB and increasing the toll to \$15 as suggested by the Democratic Party will not divert traffic at all. Therefore, I will not support them. If I support the proposal of the Government, I think we need to explore some more issues. The debate today is not final and I believe we still have to consider a number of questions policy-wise in future.

If the tunnel toll of the CHT is increased to \$20, a few situations may emerge. First, the WHC may increase its toll from \$30 to say \$35. As we cannot control the toll increase mechanism of the WHC, it can consider applying for a toll increase once it has incurred losses. I believe the WHC has incurred losses throughout these years. Will it apply for a toll increase? While the WHC seeks a toll increase, will the Government further increase the toll of the CHT for continuous diversion? I do not think the Government will do so because it is so difficult to ask for an increase from \$10 to \$20, I do not think it will get the support of this Council if it asks for a further increase on \$20. We discussed a toll increase long ago and it has been more than a decade since the last toll increase. I think the Government will not ask for a further increase in the toll of the CHT. But the Government must discuss with the operator of the WHC to see if it can maintain its toll at \$30, if so, it would be fine but the Government should consider asking the WHC to reduce its toll to below \$30 instead of asking it to maintain its toll at \$30. We need to make financial considerations when we ask for a toll reduction, and one of these considerations must be subsidy. We may discuss this in the future.

Let us consider another situation that may emerge. The current difficulty lies in that the toll mechanism, ownership and management of the three tunnels differ. If the Government really considers building a fourth tunnel, regardless of whether the feasibility report concludes that a tunnel or a flyover should be built, the Government should start considering unifying the tunnels. Besides toll equalization as mentioned by a Member, the Government can consider toll

management and income pooling. For example, the Government can take the rate of return of the EHC as a basis, for reasonable profits can be reaped when the rate of return is attained. The Government may apply this basis to the CHT, the fourth tunnel or flyover or its discussion with the operator of the WHC and further consider if this is a reasonable rate of return. If so, it can consider unifying the tolls charged. Yet, the Government can also consider establishing another mechanism for pooling the income of the four tunnels for profit distribution. The measures to be taken are similar to those for the aviation industry. This way, the management, traffic flow, toll and rate of return of the four tunnels will gradually attain a reasonable goal. Madam Chairman, I hope that the Government will continue to explore these issues. I will support the Government and oppose the two amendments.

Thank you, Madam Chairman.

MR CHAN KWOK-KEUNG (in Cantonese): Madam Chairman, I originally did not intend to speak but in response to Mr LEE Wing-tat's call for two more Mr CHAN to speak, I, another Mr CHAN, will express my views.

I oppose the Government's proposal of increasing the toll of the CHT to force vehicles to use other roads. In fact, the Government should have other options.

First, the Government is indifferent to the serious traffic congestion of a tunnel while almost no vehicle go through another tunnel. The tunnels are just like two intestines, one is full while another is empty. However, we can only look on unconcerned in an indifferent manner. Why does the Government not do some calculations now that another tunnel has incurred a \$700 million loss? The Government can consider permitting a reduction in the toll of the tunnel so that the toll it charges is the same as that charged by the CHT or extending the term of its franchise to divert the traffic. The Government can appoint an actuary to do some calculations. With a \$30 tunnel toll, it takes 30 years for the tunnel to achieve full cost recovery. Can it achieve it in less than 30 years' time after a toll reduction? If so, we should shorten the term of its franchise. If the tunnel cannot achieve cost recovery within 30 years, we should extend the term of its franchise to divert the traffic. This is better than having lengthy

debates here. I do not think it is correct to solve the problem by substantially increasing the toll of the CHT to benefit another tunnel and enable it to achieve cost recovery.

Thank you, Madam Chairman.

DR YEUNG SUM (in Cantonese): Madam Chairman, I shall be brief. I will focus on the remarks made by the Government recently through the media that if all the amendments proposed today are not passed, the Government will have no legal basis to raise tolls. I think the Government was probably trying to make a verbal trick (please excuse me for using such an expression but I have no other implications). Was the Government trying to use this to influence Members' voting inclination? Since 1991, we have accumulated much experience in this area. We have also consulted our legal adviser for the purpose of conducting a specific study. Basically, the preliminary advice offered by our legal adviser is that although we are not allowed to move a bill twice in a Legislative Session, we can still be able to move the bill again as long as there is a slight difference. For instance, we can ask for an increase of \$14.5 instead of \$10, \$15 or \$20. It will already be different from the original bill. Of course, the Government said its legal advice was that the only option would be to charge \$1.5 for cost recovery. But is it our wish to pay \$1.5 to use the tunnel?

In any case, I think the Government should be careful in using such a tactic. Of course, I understand that the Government is anxious to get some of its policies passed. However, in conducting business in this Chamber, we should follow the rules of the Council. Is it justifiable for the Government to use tricks to try to influence some Members to throw them into confusion and panic by saying something like we cannot, anyhow, cross the tunnel without paying anything? The Government was trying to use excuses like this to lobby Members. However, when the relevant Members find out what has really happened, their voting inclination may probably change. I hope the Government can be more careful with this and refrain from using such tricks so often. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Does any Member wish to speak? If not, I will ask Mr CHAN Kam-lam to speak again. Mr CHAN, please excuse me for having interrupted you just now. You may now continue.

MR CHAN KAM-LAM (in Cantonese): Madam Chairman, Mrs Miriam LAU remarked earlier that what could be done to improve traffic on both ends of the CHT had already been done. As a matter of fact, I do not agree to it wholly. This is because if we look at the traffic in the vicinity of the Polytechnic University in Tsim Sha Tsui, we will find that there is still much we can do. We can even carry out works to extend flyovers or ease traffic at interchanges again. These are things we can possibly do. We are actually accepting a very dangerous practice if we allow the Government to achieve traffic regulation by means of raising tolls.

Mr LEE Wing-tat said our argument was extremely dangerous. Actually, our argument is not dangerous. All of us understand it very well that, insofar as traffic is concerned, it is most important to build extensive road networks and exercise control, rather than collecting tolls. If we consider the matter solely from the angle of collecting tolls, the Government can do absolutely nothing in other areas. Therefore, I think we should hold firmly to this point. Mrs Selina CHOW remarked that what I said coincided with what was in her mind. Actually, my remarks just reflect what the public in general or vehicle owners have in their minds. As for Mrs Miriam LAU, I think it is unrealistic of her to have asked us not to drive. This is because many people are actually living in remote areas. It will be basically difficult for them to move around without using their cars. If we do not buy any cars, motor car companies will have no business. We will definitely object to that. Therefore, I hope Members can lobby the Liberal Party to support my amendment by all possible means. This is because the CHT can then at least collect a toll of \$10 if my amendment is approved. Right? (*Laughter*) But Members must excuse us for what we will do in future.

In fact, many Members have been condemning the DAB just now. I think this is not fair. This is because before we condemn someone, we must investigate and find out clearly why someone is doing something like that. Earlier in the debate I have explained that we have been trying to seek legal advice yesterday and even several days ago. After the meeting yesterday, Mr

Martin LEE told us that the case was not really like that and asked us not to be bluffed. Actually, we have not been bluffed by the Government or convinced by anyone, we are actually considering to what extent we can do from the perspective of reasons and law. We must, first of all, secure sufficient support.

As a political party, the DAB must act in a responsible manner. We can definitely not allow confusion to arise in the community or something that we do not want to see happen just because certain legislation is not passed. According to our understanding yesterday, if my amendment or the Government's proposal is not passed, a legal vacuum may arise. If such a situation should really arise, will Members be pleased to see that we can use the CHT for free? I believe Members in the Chamber will not wish to see this happen. This is why we were still continuing with our efforts to seek legal advice and figure out solutions yesterday to see if there were other options available for consideration should the Government's proposal be vetoed. The view we held yesterday is that we must ensure that the CHT would not be caught in a position not being to collect tolls, lest in that event the DAB might be forced to accede to the Government's proposal. By then, we will have to decide whether the CHT should collect tolls or not, rather than whether we should support or oppose the Government. Our position is very firm. We oppose the Government's proposal to raise tolls.

Today, we received a document from the legal adviser of this Council. It is clearly stated that apart from invoking the Public Revenue Protection (Revenue) Order 1999, the Government can actually do something by way of subsidiary legislation next week to ensure that the CHT can continue collecting tolls. I believe this advice given by the legal adviser of this Council will definitely work. We have also sought other legal advice, which considered this solution to be feasible too. Today, I heard many Honourable colleagues say that the Government can use this as the last resort. Of course, the DAB considers it not the best solution because we do not want the Government to abuse this in the future. Actually, it is not the best solution for the Chief Executive in Council to promulgate certain orders or for the Government to table some orders for our endorsement hurriedly. But given our firm position against the Government's proposal to raise tolls, we are left with no alternatives. Therefore, if my amendment is not passed at the end, we will continue to cast negative votes. Thank you, Madam Chairman.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, the Government opposes the amendments of Mr Andrew CHENG and Mr CHAN Kam-lam to clause 37(d) of the Bill. The purpose of Mr Andrew CHENG's amendment is to reduce the tolls of the CHT for private cars and motorcycles to \$15 and \$6 respectively. The Government will incur \$200 million loss in revenue annually, and this will not effectively help traffic management. Given the location of the CHT and the EHC, the proposed increase in the CHT toll for private cars to \$15, on a par with that of the EHC, will not be able to divert some traffic from the CHT to the EHC to relieve traffic congestion at the CHT and the adjacent areas. On the contrary, the Government's proposed increase in the CHT toll will help divert some traffic to the other two harbour crossings and this can best relieve traffic congestion at the CHT and the adjacent areas. According to our estimation, if the Government's proposed increase in tunnel toll is accepted and implemented, the vehicle trips of the CHT will be reduced by 10 000, around 8%. At peak hours, the hourly traffic flow of the CHT will be reduced by 500 vehicle trips, and the vehicle queue will be shortened by 300 m, about the length of 100 vehicles. About 40% of the 10 000 vehicle trips so reduced will switch to the EHC and the remaining 60% will switch to the WHC. With the present traffic flow of these two tunnels, they can accommodate the traffic diverted from the CHT.

The purpose of Mr CHAN Kam-lam's amendment is to maintain the tunnel tolls for private cars and motorcycles at their existing levels. With this amendment, the Government will lose about \$400 million in additional revenue that could have been generated as a result of the proposed increase and this goes against the Government's target to achieve fiscal balance in the medium term through selective measures of revenue raising. With the amendment, we cannot effect traffic diversion by means of a toll increase. Some Members have questioned why it is necessary to increase the tolls while the current toll levels can let the Government continue to reap profits after it takes over the ownership of the CHT on 1 September. I have to remind Members again that we have a \$36.5 million budget deficit this financial year and, I worked out this deficit on the assumption have estimated that the Legislative Council would support the Government's proposal for an increase in the CHT tolls. Therefore, if the Government's proposal is rejected today, I project that our deficit this year will exceed \$36.5 billion.

Chairman, many Members accused in their speeches the Government of

bluffing, not making preparations and shirking responsibilities onto Members. I solemnly declare that these accusations do not tally with the facts. First, if clauses 46 and 47 of the Revenue Bill 1999 are passed by the Legislative Council, the Cross-Harbour Tunnel Ordinance, (Cap. 203) and the Cross-Harbour Tunnel (Passage Tax) Ordinance, (Cap. 274) will be repealed on 1 September 1999. Without these Ordinances, there will be no legal basis for the tolls levied for the CHT. According to some Members, we might as well retain clauses 46 and 47 of the Revenue Bill rather than repealing two existing ordinances related to the CHT. Yet, this will not solve the problem. When the Government takes over the CHT on 1 September, the franchise arrangement will be terminated and the law will not permit the Government to base on the Cross-Harbour Tunnel Ordinance and the CHT measures (Passage Tax) Ordinance concerning franchise operations to continue to charge vehicles for the use of the CHT owned by the Government from 1 September onwards.

I can explain again to Members that besides having considered this proposal, we have also considered some other proposals. One of the proposals has also been mentioned by Members today. According to this proposal, when the Second Reading debate on the Road Tunnels Bill 1999 resumes next week, and the various amendments are proposed, the Government can add, with the permission of the President, a clause identical to clause 37 of the Revenue Bill at the Committee stage. The legal advice to us is that this is not a feasible method because it is stated in Rule 32(2) of the Rules of Procedure that "Where the Council has taken a decision on a specific question and the question has been decided in the negative, no further motion shall be moved in relation to that question during the current session". Therefore, when the Second Reading debate on the Road Tunnels (Government) (Amendment) Bill 1999 resumes on the coming Wednesday, we cannot move an addition of a clause identical to clause 37 of this Revenue Bill.

The third proposal we have considered was mentioned by Mr Albert HO last night. According to Mr HO, on the coming Wednesday, the Government can make use of the amendment proposed to the Road Tunnels (Government) (Amendment) Bill 1999 Excuse me, Chairman, my script

CHAIRMAN (in Cantonese): Please take your time.

SECRETARY FOR THE TREASURY (in Cantonese): Excuse me, Chairman. The second proposal we have considered is to prescribe the tolls of the CHT anew after the Government has regained ownership on 1 September by way of subsidiary legislation made with the power vested in the Chief Executive in Council under the Road Tunnels (Government) Ordinance. I believe this is the first proposal made in the paper prepared by the legal adviser of the Legislative Council for Members. The proposal will not work because the maximum level of toll we can prescribe by subsidiary legislation is the level at which costs can be recovered generally. It is clearly stated in paragraph two of the legal adviser's paper that "the only restriction is that the level of toll prescribed by this regulation must be conducive and incidental to the use of the tunnel". It is a common law principle that the level of toll prescribed by subsidiary legislation should be the level at which costs can be recovered generally. Isn't it fine if the toll is prescribed at the level at which costs can be recovered? Can the problem be solved? The difficult point is that the CHT has been operating for more than 20 years and the investment costs have more or less been recovered. Therefore, if we introduce a toll mechanism by subsidiary legislation, the toll we prescribe will be greatly different from the existing toll level. In fact, the toll level we can prescribe by subsidiary legislation will be no different from not charging any toll at all. And this will make drivers very happy. I believe Mr CHENG mentioned this too. But if we ponder this over, if all drivers drive their cars to the CHT, there will be traffic chaos in the CHT and the adjacent areas, and the traffic conditions all over Hong Kong will be affected. I believe responsible Members will agree that this is unacceptable.

I have also considered the third proposal. The third proposal is similar to the proposal just made by a Democratic Party Member. If an amendment cannot be made on the coming Wednesday in accordance with the Rules of Procedure as it is identical to clause 37 of the Revenue Bill, can we solve the problem if we do not propose charging private cars \$10, \$15 or \$20, and motorcycles \$4 or \$8? If Members should look at clause 37(d) of the Revenue Bill carefully, they would see that this particular clause has listed out the tolls for eight other types of vehicles than private cars and motorcycles. In other words, if we employ the method proposed by a Member and adjust toll amount, say, prescribing \$9.9 for private cars, \$14.9 for light goods vehicles and public and private double-decker buses, \$19.9 for medium goods vehicles, \$29.9 for heavy goods vehicles and \$9.9 for each additional axle of vehicles having more than two axles, it is legally and technically feasible to do so. However, I hope that

responsible Members will consider if this is their consensus on this complicated and obscure method that evades the regulations. Are Members and the Government who are responsible prepared to accept this disturbing arrangement?

The last proposal is the second proposal made by the legal adviser of the Legislative Council. It is about using the power vested in the Chief Executive in Council under the Public Revenue Protection Ordinance to prescribe the toll of the CHT from 1 September onwards. We have also consulted our colleagues in the Department of Justice and we find this legally feasible. But is it appropriate for us to invoke the Public Revenue Protection Ordinance in respect of a proposal for toll increase or toll determination which has been rejected by the Legislative Council? We do not need to resort to this until the amendments of Mr Andrew CHENG and Mr CHAN Kam-lam and the Government's amendment in clause 37(d) have been rejected. In other words, we need only consider invoking the Public Revenue Protection Ordinance only in that eventuality. But we have never invoked the Public Revenue Protection Ordinance to re-introduce toll proposals that have been rejected by the Legislative Council. The Legislative Council may vote to reject Mr CHENG's amendment this afternoon. In other words, (let me cite the example of private car), we cannot charge a \$15 toll on private cars. Assuming that Mr CHAN Kam-lam's amendment is rejected, we cannot collect \$10 for private cars. If the Government's proposed increase in the toll for private cars to \$20 under clause 37(d) is rejected, we cannot charge \$20. At that time, what rate can we charge by invoking the Public Revenue Protection Ordinance? If the Government prescribes the toll at \$10, it appears that the Government is re-introducing a \$10 toll by invoking the Public Revenue Protection Ordinance although the Legislative Council has categorically rejected the proposed increase in the toll for private car to \$10 from 1 September onwards. I would like to explain to Members that we have consulted our colleagues in the Department of Justice and they find this legally feasible. However, should the Government do so? What are the consequences and will they become causes of worry to Members in the future?

Therefore, Chairman, I stress that the Government has indeed made preparations for tackling the situation if the three proposals are not approved. In fact, if my counting is correct, we should actually have at least four proposals. We have examined them one by one and we think that two of them are not

feasible. The first proposal is to introduce an amendment identical to clause 37(d), to propose a schedule of tolls in another Bill on the coming Wednesday. This is not feasible because it will violate the Rules of Procedure. The second proposal is not feasible because if we invoke an existing ordinance and introduce a schedule of tolls by subsidiary legislation, the toll levels can only allow the Government to recover costs generally, albeit only a small sum. The CHT may be very congested with 120 000 vehicle trips now but the low tolls may increase the traffic flow to almost 150 000 to 160 000 vehicle trips. I believe the traffic conditions will be chaotic, and this warrants our consideration. As to the other two proposals, one proposes that we can move an amendment under another bill with the permission of the President on the coming Wednesday. If so, the 10 toll items must be amended, and the existing toll levels will not be applicable after 1 September. The fourth proposal proposes invoking citing the Public Revenue Protection Ordinance. It is legally feasible, but should the Government use another bill to re-introduce to the Legislative Council toll levels that have been rejected by the very same Council? We must account for these to Members. The Government has no intention of bluffing. But we have indeed carefully considered what preparations we can make, and drawn a conclusion as stated above.

Therefore, Chairman, for the above reasons, I earnestly hope that Members will reject Mr Andrew CHENG's amendment because his amendment cannot achieve the aim the Government would like to achieve insofar as revenue is concerned. Nor can it achieve any effect in traffic diversion. I also hope that Members will reject Mr CHAN Kam-lam's amendment because it does not allow the Government to achieve the same revenue and traffic diversion purposes. Lastly, I hope that Members will vote in support of the Government's proposal made under clause 37(d) of the Revenue Bill to increase the toll for private cars to \$20 and that for motorcycles to \$8, while other vehicles will remain unaffected. Thank you, Chairman.

MR ALBERT HO (in Cantonese): Madam Chairman, I definitely have no intention to repeat what my colleagues said just now. I only want to respond briefly to several of the very concise analyses provided to us by the Secretary, Miss YUE, earlier on. There are several analyses that I share. For instance, we can consider invoking the legislation related to the Executive Council by way of administrative instructions to probably recover operating costs, that is, to

recover costs. But this might lead to an effect that Members will probably not want to see. Another point is, as Members have mentioned, if the Bill is tabled to this Council again next week, the proposal contained therein must not be the same as what is proposed in the current Bill or the amendment likely to be negatived this time. Therefore, we can only propose a different amount, such as \$14.9, \$9.9 and so on. Although the Secretary agrees that this Council can do something like this, she warns that it will then give rise to the question of disturbing the public, rather than a problem of legal vacuum. Therefore, the Government is now issuing one more warning to Members, saying that we will be disturbing the public if we do so. And if we do something like this, we will be acting in an irresponsible manner and so on. Thank you for reminding us. But I would also like to remind the Government that when it, being a responsible government, tables a motion to this Council, it is obliged to ensure that the motion can secure Members' support as much as possible. If the motion is not popular or it runs the risk of being vetoed, the Government should make an effort to propose a second best option in order to gain Members' support. It should not put Members in a situation in which they feel compelled to vote against a motion completely. Consequently, Members will be accused of disturbing the public. In other words, the responsibility is shirked onto Members. What Members should do is to consider how to safeguard the rights and interests of the public, and we deem this essential. Of course, the Government has its own consideration. But I believe even if there should be such an effect of disturbing the people, the Government should absolutely not shirk its responsibility onto this Council.

When it comes to the revenue protection order, if we are given the power by order, we can actually do so accordingly. But the Secretary said that would mean disrespect to this Council. In other words, if some proposals are negatived by us and then we are asked by the Administration to reconsider a toll of \$10 or \$15 as originally proposed, we will indicate disrespect to the Council. I really find it laughable on hearing something like that. Madam Chairman, we can see a moment later that it is highly probable that the amendment proposed by the DAB can secure support from a majority of Members. Therefore, if we go back to this amount, how can we say that this will mean disrespect to this Council? If our proposal is negatived, this is actually due to the fact that we are being suppressed by the separate voting practised in Council, where the majority

view is not represented through a simple majority vote. If the Government is so broad-minded that it can accept the view held by the majority of Members, it should then incorporate this suggestion into the government motion today and seek approval from the President immediately. I believe Members will not object to that. The Government can immediately seek leave from the President to adjourn the Meeting so that the Government can adopt the DAB's proposal as an amendment made by the Government. Perhaps Members can wait for the Government by having a meal and we can then indicate our support upon our return. If the Government does not want to do that, it can put forward a new proposal next week or anytime by virtue of the revenue protection order and on the basis of the items agreed upon by most Members today. In that case, there will be no complaint. The DAB will definitely not complain. As for us, we will of course give our support. Let us see how many votes the DAB's amendment can secure today. If a majority of Members attending this meeting today vote for it, it shall be taken as a decision with due respect to this Council and this can thus be used as our basis. In that case, we can then invoke the revenue protection order.

The last point is, in any case, if all Members in the end are forced to vote against the Bill, Members should definitely not be held responsible. The Secretary was still trying to lobby Members to vote against the Democratic Party's amendment or that of the DAB as a last ditch attempt: Why should she do something like that? Was the Government worried that its motion might be negatived? Lastly, I am, of course, very pleased to hear the long-awaited remarks made by Mr CHAN Kam-lam. This is because he said they would eventually vote against the Government's amendment. This is perfectly all right and I will not make any more criticisms. The last point I want to make is that I have no intention to make any more criticisms, but I think there are some problems with the process of thinking. Although the decision they made is correct, what about their process of thinking? They always harbour the worry that the Government will be unable to collect any toll and then the proposal will turn to nothing. If that really happens, there will be a danger according to them. What is it? If all the three proposals are negatived, will Members be forced to give support if the Government comes back with a proposal to raise the toll to \$30 or \$50? This is because, without Members' support, the Government will be left with nothing and that is something we will not allow to happen. Therefore, Members will have to give support. In that case, Members will more often than not force themselves to stand in the Government's position and

think for the Government, is there really such a need? Why should we worry for the Government when it is not worrying at all? We should hold on to our position firmly. This is what Members should do, and this is what I want to say. Thank you, Madam Chairman.

MR LEE WING-TAT (in Cantonese): Madam Chairman, I should like to speak on a few issues.

First, on the issue of disturbing the public. Certainly, it was the fault of the Honourable Andrew CHENG. He should not have suggested setting the toll level at \$14.5; indeed, it would be fine if he had suggested \$10 instead. If I have not remembered it wrongly, the toll of the Lion Rock Tunnel would be increased from \$6 to \$8 upon the passage of the Bill. To pay the toll of \$6, one would need a \$5 coin and a \$1 coin; when the toll is increased to \$8, one would need yet one more coin, a \$2 coin, in addition to the \$5 coin and \$1 coin. As regards the Cross-Harbour Tunnel (CHT), if the toll should be increased to \$11, we would need two coins, a \$10 and a \$1. I really cannot see why such an arrangement should be considered disturbing. It would of course be a disturbing measure if this Council should set the toll at \$14.999. However, there is no logic in setting the toll levels this way. As such, I am afraid it was not very wise of Secretary Denise YUE to advance such an argument. As a matter of fact, not all of the existing fees and charges are set at \$10, \$20 or \$15, some have been set at \$8 or \$6 instead. Indeed, we have paid fees and charges at the latter rates in the past.

Second, on the Rules of Procedure. Rule 32(2) was cited earlier. With your permission, Madam Chairman, I should like to read out the English version of the Rule: "Where the Council has taken a decision on a specific question" — please note the word "specific" here — "and the question has been decided in the negative, no further motion shall be moved in relation to that question during the current session." So, this is the Rule cited by the Legal Adviser. In this connection, the crux of the matter lies in the "question". Bearing in mind that the "question" referred to in the Rule is a "specific" one, when applied to the matter before this Council, it should mean the exact rates of tolls instead of the collection of tolls in general. For this reason, the Secretary agreed in the end with the Legal Adviser in that Rule 32(2) would not prohibit the Government

from putting forward another proposal within the current Session or before 14 July, provided that the toll levels proposed are not the same as before. Certainly, as prescribed under the Rules of Procedure, a notice of a motion shall be submitted to and approved by the President of the Council beforehand. All in all, I do not think there is any justification for the argument put forward by the Secretary in this connection.

Third, on a point raised by Secretary Denise YUE. Just now the Secretary referred to our proposal as legally feasible. This point was so pleasing to my ears that I had actually jotted it down. So our proposal is legally feasible, albeit not without difficulty. In that case, the Secretary should not have referred to any legal vacuum a day or two earlier, for legal vacuum is indeed a very scaring term. If Secretary Denise YUE should have told us two days earlier that our proposal was legally feasible although a number of problems would need to be dealt with, I believe Honourable colleagues, or at least my fellow Members from the Democratic Party, would certainly make an effort to find out ways to resolve the problems.

Madam Chairman, I have made it very clear that so long as our proposal is legally feasible, the problems involved would not be too big to be insurmountable. But certainly the Government would need to put in a lot more efforts then. Having said that, I believe that even if the \$20 proposal put forward by the Government should be negated today, this Council could still resolve the matter appropriately to avoid any legal vacuum. Thank you, Madam Chairman.

MR LEE CHEUK-YAN (in Cantonese): Madam Chairman, at the Second Reading debate of the Bill yesterday, I already expressed on behalf of the Frontier and the Confederation of Trade Unions our stance on the proposal to increase the toll of the CHT. We support the "\$10 proposal" put forward by the Democratic Alliance for the Betterment of Hong Kong (DAB), that is, to freeze the tolls at their existing levels. Our stance on this matter is very clear and I do not wish to repeat my points here.

We believe it is the common wish of the different strata of the community that the various fees and charges should be frozen at the existing levels to give

them a breathing space. Besides, we also notice an overwhelming proportion of profit in the tolls proposed. As pointed out by the Government earlier, the tunnel toll would be prescribed at only \$1.5 if the cost-recovery principle should be adhered to. Given that \$8.5 out of the existing \$10 charge are net profits, the profit margin would increase to \$18.5 if the toll level should be prescribed at \$20. As such, the toll increase proposal put forward by the Government should really be considered as profiteering.

Just now Mr James TIEN from the Liberal Party has explained his stance on the matter. However, I should like to remind him that the motion to be moved by the Honourable Kenneth TING later is on reduction of fees and charges, a step more advance than the call for a freeze on government charges. Therefore, if Mr TIEN should share the same stance as that of the motion proposed by Mr TING, he would agree that the tunnel toll be reduced from \$10 to \$8. I just want to remind Honourable Members from the Liberal Party of this point, although I do not know whether they would change their stance eventually. Since people are so used to making dramatic changes in stance, it really does not matter if they would change their stance.

On the other hand, I should also like to respond to the view raised by the Honourable Miss CHOY So-yuk. I wonder how she would vote after listening to the speech made by Secretary Denise YUE. The Secretary denied that she had resorted to scaremongering. I can hardly agree with her. As a matter of fact, the Government has obviously relied on scaremongering all along. In lobbying this Council, the Government has told us clearly that a vacuum in law would be resulted if the Bill should be negatived. If this is not scaremongering, how should we call such kind of tactics? What kind of tactics is "scaremongering"? Well, "scaremongering" in this context refers to the attempt of the Government to raise unjustified arguments to try and frighten Members of this Council or other people. Will the Government admit that it has not disclosed the whole truth to us? Government officials have talked about a vacuum in law, but facts tell us that a vacuum in law just would not appear, for there are other legally feasible arrangements to address the situation if clause 37 of the Bill should be voted down.

Is it not the responsibility of a credible government to make it clear that a vacuum in law would not be created when it seeks to lobby Members? The Government should inform us that it has looked into four possible options to

address the situation if the Bill should be voted down and considered two of them feasible, and that one of the feasible options is more complicated because the toll level has to be prescribed at \$9.9. Actually, the toll level does not need to be prescribed at \$9.9, as pointed out by Mr LEE Wing-tat just now; it could be prescribed at \$11 or any other amount. Should the Government not inform Members of all these? I think the speech by Secretary Denise YUE just now has made everything very clear to us, we could decide on how we should vote on this basis. If the Government should have furnished us with such information beforehand, we would not have accused it of scaremongering. It is regrettable that the Government has not done so then.

In my opinion, the credibility of the Government has gone bankrupt insofar as the present issue is concerned. I am particularly disappointed because what the Government did was open to suspicion of scaremongering. On hearing that a vacuum in law would be created, I just thought there should not be any problem that our amazing Government could not resolve. This Government of ours can think of practically all kinds of ingenious measures. Although the Basic Law has not provided for such a mechanism, it could still come up with a mechanism whereby the matter concerned would be resolved by an interpretation made by the Standing Committee of the National People's Congress. It just can invent anything out of nothing at all. Just do not forget that there are plenty of mechanisms available at its fingertips. Indeed, four options have just been picked up at ease and two of them were found feasible.

As such, I believe the Government has not handled the matter in a honest manner all along. I hope that the Government would review its performance in this connection and abandon the practice of resorting to scaremongering to reinforce its "executive hegemony".

As regards the four proposals mentioned just now, it was pointed out by the Secretary that the Government had never invoked the Public Revenue Protection Ordinance to re-introduce tolls that had been voted down by the Council. This is attributable to the weird voting system we have in Hong Kong. The weirdness of the system lies in that while the "\$10 proposal" would be passed if no Member should claim a division, it would definitely be voted down in a division. What is more, the same proposal would be passed if it should be put forward by the Government. And mind you, this weird voting system could be found nowhere else but Hong Kong! Given that weird voting system of ours, if the Government should re-introduce the "\$10 proposal" to this

Council, some Members would be compelled to accept and pass the proposal against their wishes. I am sure we would have enough votes to enable the "\$10 proposal" to be passed. We could certainly make it under the provisions of the Rules of Procedure.

From this we can see that the problems would be resolved in the end. I hope that Miss CHOY So-yuk will vote against the proposal put forward by the Government under clause 37 of the Bill after learning this point and the availability of legally feasible counter-proposals.

Nevertheless, I still wish to earnestly urge the Government to adopt the "\$10 proposal" should it really want to re-submit the Bill to this Council, for we would agree to the "\$10 proposal" to solve the problems.

I hope that the Government will on the one hand learn a lesson from this case and abandon the practice of scaremongering, and on the other hand seek to resolve the conflict between this Council and the Administration by legal feasible measures. In relation to the latter, the "\$10 proposal" should be an effective option.

Thank you, Madam Chairman.

MR HO SAI-CHU (in Cantonese): Madam Chairman, I did not intend to speak originally, but after listening to the speech made by Mr LEE Cheuk-yan just now, I think I have to make clear one point. Otherwise, the Honourable Member might think that we are going to give him a surprise by changing our stance on the issue. No, we will not change our stance.

The reason is very simple. When Mr Kenneth TING moves his motion later tonight, or tomorrow perhaps, Members could see very clearly that the toll of the CHT is not listed among the fees and charges the rates of which we urge the Government to reduce. On the contrary, we believe that by increasing the toll of the CHT, the traffic flow there could be eased. Moreover, since goods vehicles are not affected by the toll increase, they would naturally use the CHT more. That way, drivers should be able to cut back on costs. Actually, as pointed out earlier on by our Party Chairman, Mr James TIEN, saving on fuel is one way to cut back on costs.

For these reasons, we will not change our stance.

MR CHAN KAM-LAM (in Cantonese): Madam Chairman, according to the traffic diversion effect mentioned to by the Secretary for the Treasury just now, as 10 000 vehicle trips may switch to the two other harbour crossings, the vehicle queue at the CHT may be shortened by 300 m. Should that be the case, of the existing 120 000 vehicle trips daily traffic flow at the CHT, the owners of the vehicles making the remaining 110 000 trips will have to pay 100% more for the 10 000 vehicle trips so reduced. That is indeed too huge a price. It would be a lot fairer to the vehicle owners concerned if the Government should seek to alleviate the traffic flow through improvement to the road networks.

On the other hand, Mr Albert HO has referred to our way of thinking. I should say this is perhaps where the Democratic Party and the DAB differ. Naturally, an opposition party which is totally unmindful of the consequences of its actions will differ from a political party that deliberates its actions in a rational manner. If any of the laws made by this Council should give rise to situations beyond control, cause confusion among the community, or work against the interests of the community as a whole, we must handle the matter very cautiously. As such, the DAB has actually considered the issue in a very prudent and very careful manner; besides, we have also made our best effort to verify the findings. It was only after we had made sure that no confusion would be caused, nor any interests of the community as a whole would be affected that we made our wise decision.

So, Members have already referred to that possible consequence earlier on. In order to avoid the situation in which the amendment proposed by the Government still could not be passed after mine has been negated, I must urge Members to lend their support to my amendment after they have voted against the amendment proposed by Mr Andrew CHENG. That way, we should be able to avoid the situation in which this Council could only react passively.

MR MICHAEL HO (in Cantonese): Madam Chairman, I happened to be outside this Chamber looking for the Legal Adviser when the Secretary for the

Treasury was making her reply earlier. I do not wish to repeat the views already made to by Mr Albert HO. However, I should like to raise one point: I do not think there should be any legal vacuum at all. How could there be any legal vacuum? As we all know, the last meeting of this Session was scheduled to be held on 14 July. Perhaps the meeting might extend to 15 and 16 July, but it is unlikely that the meeting would last more than several days. In other words, the current Session of the first Legislative Council will end shortly after 14 July, most probably in a few days' time. According to the Rules of Procedure of the Legislative Council, the Government could actually submit another bill to this Council. According to the views raised just now, while it is not feasible to introduce the schedule of tolls by way of subsidiary legislation, introducing the toll levels by means of a public revenue protection order is not recommendable either. However, the Government could in fact achieve the purpose by submitting another bill to this Council. Since the current Session of the first Legislative Council will be concluded very soon, there should be no question of a bill containing substantially the same provisions as another bill being submitted to this Council in the same Session. After the conclusion of the current Session, the Council could consider anew any new bills submitted to it. In the run-up to 1 September, will this Council refuse to call any meetings after mid-July or even in the entire month of August, knowing that a legal vacuum will arise otherwise? Certainly not!

Madam Chairman, I should like to raise one more point. Just now the Honourable HO Sai-chu has referred to the issue of traffic diversion. According to Mr HO, if part of the traffic flow of the CHT should be diverted to the Western Harbour Crossing (WHC), more goods vehicles would be attracted by the lower toll levels and switch to the CHT. Certainly, the goods vehicles will not switch to the WHC which charges much higher tolls, but could the traffic diversion effect really be achieved if more goods vehicles should switch to the CHT? To the Liberal Party, the proposed toll increase is recommendable because it could enable business operators to cut back on costs. But how could Members of the Liberal Party say the proposal would help to divert traffic if the fact remains that the traffic flow of the CHT will not be diverted in the end?

Last but not least, Madam Chairman, I should like to speak on the so-called distriburance to the public. If the toll levels should be set at \$14.9, \$9.9 and so on, there would perhaps be some people who do not want to spend time waiting for that \$0.1 change. Nevertheless, there are a lot more disturbing arrangements in our daily lives. The Secretary for Transport is also sitting in this Chamber, and I hope he will stop shaking his head, for the way bus fares are

set these days could indeed be considered a disturbing arrangement as well. For some buses, the fare would be \$18.2; others, \$14.7. So, a great many commuters are making payments of \$18.2, \$14.7 and so on everyday. It is worth noting that the fares would never round down to the dollars like \$18. Instead, passengers always have to pay 20 cents more. For those who do not have 20 cents in small change, they cannot but pay more, say 50 cents. How about Octopus? Well, I do wonder if Members are aware that not all buses are equipped with Octopus payment machines, and that many of such machines always wear over their heads a big note which says "Out of Order". *(Laughter)* Although I am not responsible for district affairs, I still could hear from time to time housewives and elderly persons complaining about making payments in small change. I am sure a lot more people are being affected by such kind of disturbing arrangements every day.

Thank you, Madam Chairman.

MR MARTIN LEE (in Cantonese): Madam Chairman, I rise to speak because I want to play for time so that the Honourable Members from the DAB can hurry back and cast their votes. Just now I attended the seventh anniversary celebration party of the DAB and talked with the Honourable Jasper TSANG, Chairman of the DAB. I asked him how Members from the DAB would vote. He told me that if the amendments proposed by the DAB and the Democratic Party respectively should be negatived, they would vote against the motion. For this reason, I should like to play for a little time so that they could hurry back and cast their negative votes. *(Laughter)*

What should I have such a concern? This is because a senior government official asked me if the Democratic Party would vote against the proposal put forward by the Government — I am not going to disclose his name here, lest the relationship between us would turn sour. I said we would. Then he asked me how many of us would cast a negative vote. I said of course the 13 of us would all cast negative votes. At this juncture, he asked me what if some of us should happen to be answering a call of nature. In reply, I told him that even if we should heed that call, we would answer it in the first place and hurry back to cast our votes. Hence, I hope that friends from the DAB could hurry back in time.

Just now it took the Honourable LAU Chin-shek and I some four minutes to return here from the Furama Hotel, so I believe four minutes would be enough for them.

CHAIRMAN (in Cantonese): Mr Martin LEE, please speak to the question.
(*Laughter*)

MR MARTIN LEE (in Cantonese): Yes, Madam Chairman. Today I heard on Radio Hong Kong an interview with Secretary Denise YUE. The Secretary was inquired of what possible problems would there be if all the proposed amendments should be negated. All she had referred to were some legal and technical difficulties, without any mention of any unsolvable problems. Today, the Secretary has told us honestly that the problems could in fact be resolved. As regards the question of whether the public would find the relevant arrangement disturbing, I do not wish to explore any further into it here, bearing in mind the many disturbing arrangements introduced by the Government before.

On hearing one point raised by the Secretary in this interview, however, I was really caught between tears and laughter. For Secretary Denise YUE mentioned that the Government would not be showing respect to this Council if it should invoke the Public Revenue Protection (Revenue) Order. But when on earth has the Government ever shown respect to this Council?

As I recall, the Government submitted a motion to this Council on 18 May, urging us to give support to its proposal to request the Standing Committee of the National People's Congress to interpret the Basic Law. Yet we were not given any time for deliberation, since the motion was to be debated on the following day (19 May). Talk about showing respect to this Council! The Government is really not short of tricks, I cannot but admire it for its versatility. Nevertheless, I still do not believe the Government would refrain from taking any actions just because it wishes to show respect to this Council.

I have been a Member of the former Legislative Council and this Council for more than a dozen years. To be honest, I could not care less if other people show no respect to me. I often hear people refer to the title "Honourable Member" which I find superfluous. What makes one honourable or not honourable? I do not think one will automatically become an honourable person just because others call him the honourable so-and-so. As such, I do not need this title at all. I believe actions speak louder than words. If the Government thinks that it should take certain actions, then go ahead. Do not bother with the question of respect on our account, for that does not mean anything to us. To call a spade a spade, would elected Members care about being respected or not? We have grown used to being taken to task!

If the Government really respects this Council, it would not have resorted to scaremongering. The Government did have indeed resorted to scaremongering. There is no denying of that. Now that the Government has tried to scare Members into lending it our support, is it not fair to say that it has in effect shown disrespect for this Council?

I am sure Members could also see this very clearly. Hence the Secretary really should not worry about not showing due respect to us, offending us, or infuriating us. We just could not care less about being respected or not.

On political parties, Madam Chairman, my view is that if any party should decide to be the ruling party, it must always support the Government. To live up to its role, the ruling party must vote in support of the Government regardless of whether the Government is working properly or otherwise. On the other hand, the opposition parties should not worry about embarrassing the Government or making it unable to back down in good grace. Opposition parties just do not need to have such concerns. However, if any party which wishes to be the ruling party should try to act as the ruling party at certain times and as an opposition party at other times, or if it should wish to score points as an opposition party and as the ruling party on the same issue, it would just become the "rule-opposing" party in the end. Frankly speaking, this is not very good for a political party. *(Laughter)*

Hence, I my hope that Members will not bother too much about this

question, since being the ruling party or part of the opposition does not matter here. So long as we believe the Government should not impose any toll increases, we must hold fast to our belief and raise our objection all the way through. The Government will certainly take action if it so wishes, now that we know a number of feasible options are available.

At this crucial moment when the voting is about to take place, I just hope fellow Members from the DAB could return to this Chamber in time. If they should be able to make it, we would certainly have a very good chance.

MR JAMES TIEN (in Cantonese): Madam Chairman, I am not playing for time to wait for Mr Jasper TSANG to return.

Just now Mr Michael HO questioned Mr HO Sai-chu how he had come up with the analysis that by increasing the toll of the CHT to \$20 some traffic flow could be diverted to other harbour crossings. I will not blame Mr Michael HO for that, for he has never been a businessman before. Since goods vehicles will not be affected by the proposed toll increase of the CHT, they will not be diverted to other harbour crossings. For the goods vehicles, certainly they will not be diverted to the Western Harbour Crossing (WHC); but for the 90 000 private cars concerned, some of them may switch to the WHC. With less private cars using the CHT, the traffic flow of the tunnel would naturally be eased, thereby enabling the goods vehicles to cross the harbour faster. That way, business operators can save on fuel costs and on the wages paid to drivers; hence, they should be able to cut back on costs. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I really do not encourage Members to go on like this. This is not the manner in which the Committee stage of the Bill should proceed; the issues should have been discussed by the Bills Committee already. Nevertheless, I do not have the power to not allow Members to speak. Mr Michael HO, please keep your speech as concise as possible.

MR MICHAEL HO (In Cantonese): Madam Chairman, it does not matter if I

have been a businessman or not. The most important point is how we see the traffic diversion issue of the CHT. As such, I will concentrate my speech on the issue.

With fewer private cars using the CHT, naturally the traffic flow of the CHT would be eased. Certainly this is one incentive to increase the toll of the CHT. However, what I tried to point out earlier was that while many goods vehicles, being fed up with queuing at the CHT, would rather pay more and switch to the WHC. But they might switch back to the CHT should the traffic condition there be improved. Hence, the outcome may be different from what Mr James TIEN alluded to just now. For the goods vehicle drivers, speed is certainly an incentive, but another more important incentive is that they could travel faster and at the same time use a tunnel which charges less. If some of the goods vehicles which have already switched to the WHC should switch back to the CHT, the intended traffic diversion effect would not be achieved. This is indeed one possible outcome of the toll increase.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I am glad that so many Honourable Members have spoken and raised their invaluable views just now. Some of the views are very interesting. The game of "15, 20" mentioned by Mr SIN Chung-kai was one good example. Besides, Mr CHAN Kwok-keung has also described the analysis of the traffic flow of the CHT and the other two harbour crossings as the appointment of an actuary to assess the problem of diarrhoea and constipation. These are metaphors that I have never heard of before.

I should like to respond to the views raised by Members. As pointed out by the Honourable Martin LEE just now, the voting time is approaching and the division bell will ring for only one minute. Yet as I look to the left, the seven Members from the DAB are still not yet here. It certainly takes more than a minute to return to this Chamber from the Furama Hotel. Therefore, I am afraid the worry expressed by Mr Martin LEE just now would just come true.

The Honourable Miss CHAN Yuen-han asked us to show her some

evidence. I take regrets to inform her that there were indeed a lot of evidence in this connection, but since I do not wish to turn this debate today into a Legislative Council election forum, I am not going to repeat those "bad" records. I just wish to raise one point. While outside this Chamber Members from the DAB had promised to support to the full the collective bargaining right proposal put forward by the Honourable LEE Cheuk-yan, they either cast their negative votes or disappeared from this Chamber when the proposal was put to the vote.

I should like to thank Mr Gary CHENG, for he has just returned to this Chamber. I just wish Members from the DAB will return to their seats within this 10 to 15 minutes.

It appears to me that Mr CHAN Kam-lam has kept criticizing the Democratic Party, for being irresponsible, and for saying no to all proposed increases indiscriminately. My headache is now killing me, I just could not remember what he said about the major difference between the DAB and the Democratic Party. Ah, yes, just now he accused us of being unmindful of the consequences of our actions. I am afraid all these queries, descriptions or criticisms are just too serious.

The Democratic Party has never described the DAB as being unmindful of the consequences of their actions. I believe we all have our different roles. I could not care less if the DAB wishes to be the "rule-opposing" party, as suggested by Mr Martin LEE, or the ruling party, but we in the Democratic Party understand very clearly our role as an opposition party.

Moreover, we do not say no to all proposed increases indiscriminately. But the editorial of *Ta Kung Pao* today still accuses Members of the Democratic Party — to be exact, the term the editorial uses is "politicians", not "Members" — staging yet another show and indiscriminately saying no again to proposed increases.

Madam Chairman, I should like to point out that the proposal put forward in our amendment is to increase the tunnel toll by \$5, or to increase it from \$10

to \$15. Besides, we did not raise any objection to the proposal to increase the toll of the Lion Rock Tunnel by \$2. As such, we will not put on the label ourselves. We do not say no to all proposed increases indiscriminately, we are not unmindful of the consequences of our actions.

Just now Mr CHAN Kam-lam kept expressing his concern over the consequences of a vacuum in law to indicate how responsible and diligent the DAB has been, and that they would be compelled to support the proposal put forward by the Government to avoid the vacuum in law which would otherwise be created. If the DAB is so concerned about the creation of a vacuum in law, it could simply support the proposal put forward by the Democratic Party to enable the Government to collect at least \$15, and then to submit at a later stage another bill to put forward the "\$10 proposal" again.

In my opinion, the major difference between the Democratic Party and the DAB is that while we would not be scared by the Government so easily, the DAB was scared off by the Government on hearing the speech made by the Government last night.

After thinking over their claims, I do suspect whether the worry they have been referring to is an excuse for them to make a volte-face. However, I will not dwell on this point, since they have all along stressed that they would definitely support the proposal to freeze the tunnel tolls and vote down the proposal put forward by the Government. Now that a number of Members from the DAB have yet to return to their seats, I just hope they will not avoid showing up, since we are still short of the votes we need.

According to Mr CHAN Kam-lam, if drivers are able to afford the new tunnel toll as I have argued, the new toll level will not achieve the traffic diversion effect. I could not agree to his logic in this connection. The affordability of drivers and the traffic diversion effect are not mutually exclusive in my opinion. In talking about affordability, my concern is those drivers who must use the CHT; in talking about traffic diversion, my concern is those drivers who can use other harbour crossings in addition to the CHT. As a matter of fact, some drivers are now using a combination of the tunnels, for they would

use the CHT in the morning and use the WHC after work. If the amendment proposed by the Democratic Party should be passed, the increase of \$5 would certainly cause some people to switch to the other two harbour crossings. That way, some of the traffic flow of the CHT would be diverted.

Just now Secretary Denise YUE pointed out that 10 000 vehicle trips would be diverted if the tunnel toll were increased to \$20. If the Secretary's theory is correct, then the proposed increase put forward by the Democratic Party should be able to divert at least 5 000 vehicle trips every day, since our proposed rate of toll increase is equal to 50% of that of the Government. If the "\$20 proposal" of the Government is effective, why cannot our "\$15 proposal" be effective as well? Hence, I hope that Mr CHAN Kam-lam can understand that affordability of drivers and traffic diversion effect are not mutually exclusive.

I need to explain to Miss CHAN Yuen-han that we are not being fooled by the Government. On the other hand, I do not understand why the DAB considers the Democratic Party being fooled by the Government. Perhaps it is because we have put forward the "\$15 proposal" that the DAB urges us not to be fooled by the Government but keep objecting to any toll increase while striving for a freeze on all government charges.

We are not being fooled by the Government. On the contrary, we have taken into account the views of the Panel on Transport and the effectiveness of transport policies and transport management. Although we do not see eye to eye with Mrs Miriam LAU regarding transport policies, we certainly are not being fooled by the Government.

Mr James TIEN offered some figures and said that most of the drivers who use the CHT daily belong to the well-to-do class of the community, since the majority of the middle class take the Mass Transit Railway (MTR) to go to work. I admit that this is true. However, the problem is that other vehicle owners may need to use the CHT on weekends and Sundays, so the toll increase would definitely affect them as well. As such, I cannot follow the logic of Mr TIEN's argument.

Certainly, it does not matter if we do not share the same ideas. Mr TIEN believes the toll increase would not have any significant impact because all those drivers who use the CHT are the well-to-do members of the community. However, if he should pay a site visit to the tunnel, he would know that not all those who drive their vehicles through the tunnel every day are rich people. By "rich people" I mean the well-off people to whom Mr TIEN referred, the people who drive expensive cars. However, I think the reality is not like that. Actually, many of those drivers are wage earners who live very far away from their workplace. They have to drive through all three tunnels every day to cross the harbour simply because it would be too time-consuming for them to take the buses, the railway, or the MTR.

Mrs Miriam LAU said she was glad that the traffic flow of the three tunnels could be leveled. In regard to the leveling of the traffic flow of the tunnels, the Democratic Party has raised the issue at the Panel on Transport. As such, I hope that the Liberal Party and the Democratic Party can collaborate on this. Since the Secretary for Transport is now sitting in this Chamber, I hope he can understand what we mean. We strongly urge that the toll levels of the three tunnels be unified, with a view to enabling the traffic management measures to achieve their best effect.

Mr Ambrose CHEUNG stated that he would support the Government and vote against all the other proposed amendments. I suppose traffic diversion should be the major concern behind his decision. However, I just could not understand why he would only believe in the effectiveness of the proposal of the Government in diverting the traffic flow. I should like to reiterate that my "\$15 proposal" is also capable of diverting the traffic flow, albeit we do not have any scientific evidence to demonstrate the number of vehicle trips that could be diverted.

As regards the response made by Secretary Denise YUE, since many Members, including Members from the Democratic Party, have already spoken on the issue of a vacuum in law suggested to by the Government, I do not wish to repeat their points here. However, I should like to raise one point, and that is that the Secretary did state very clearly yesterday that if all the three proposals should be voted down, a vacuum in law would be created. While we can recall what she said yesterday, the government legal advisers have suggested today that

invoking the Public Revenue Protection Order should be one feasible measure. Perhaps they have taken note of the views from the Legal Service Division of the Legislative Council. Should that be the case, the quality of the government legal advisers is really questionable. On the other hand, would it be possible that the Government has all along tried to conceal this feasible measure; or that it has sought to intimidate us all along? I think the latter should be the case. In any case, I believe if the Government should have consulted its legal advisers earlier, the four options would have been laid on the table of the Secretary earlier on.

I earnestly urge the Government to understand that although the last one of the four options it has referred to today is very controversial, it still should not resort to selectively showing respect to this Council. The Government should indeed be held partly responsible for the antagonized relationship between the executive and the legislature.

Madam Chairman, I can see that Mr Jasper TSANG has resumed his seat, but I still do not see the Honourable WONG Yung-kan.

CHAIRMAN (in Cantonese): Mr Andrew CHENG, you should speak

MR ANDREW CHENG (in Cantonese): Madam Chairman I will concentrate my speech on the question, Madam Chairman.

I should like to reiterate that our proposal to increase the tunnel toll to \$15 has already taken into account the affordability of the drivers. We believe that the increased tunnel toll should be affordable to the drivers on the one hand, and capable of achieving traffic management effects on the other.

Last but not least, I should like to raise one more point which I have missed just now, that is, our proposal could also enable the Government to get additional revenue. The Secretary pointed out at the very beginning that if the relevant amendment should be passed, the Government would suffer a loss of \$200 million in revenue annually. I really cannot follow the Government's logic. According to our calculation, the annual loss in this connection would

amount to \$120 million only. Moreover, if my proposed amendment should be passed, the Government would still enjoy an additional \$60 million increase in revenue, since my proposed rate of toll increase is equal to half of the rate proposed by the Government. So, why would the Government incur an annual loss of \$200 million if my proposed amendment should be passed? Even if the amendment proposed by the DAB should be passed and the tunnel toll should be frozen, the annual loss to be suffered by the Government would only be \$120 million. That being the case, is that sum of \$200 million an exaggerated estimation by the Government?

Madam Chairman, I do not wish to waste Members' time. I just hope Members would vote in support of the proposed amendment of the Democratic Party. Thank you, Madam Chairman.

MR JASPER TSANG (in Cantonese): Madam Chairman, if Mr Andrew CHENG has deliberately lengthened his speech just to wait for we, Members of the DAB, to return to this Chamber from a DAB function, I should like to offer our apologies to Honourable Members. Actually, Mr Andrew CHENG did not need to do that, for we were holding our function in the vicinity of this building. If we should be informed that voting would be held in a few minutes, we would definitely make a 100-metre sprint and hurry back to cast our votes.

Yet regrettably, Mr Andrew CHENG has lengthened his speech. Earlier on the Honourable WONG Yung-kan informed the DAB that he would not be able to stay too late here because he needed to attend another meeting tonight. If Mr CHENG should have lengthened his speech further, I am afraid a Member or two might also need to leave before casting their votes. As such, I hope Members could keep their speeches as brief as possible, so that the question could be put to the vote expeditiously. Thank you, Madam Chairman.

MISS CHAN YUEN-HAN (in Cantonese): Madam Chairman, I am also in a hurry, but there is something I really need to say.

I could hardly accept what was said by the Secretary just now. If the Government does wish to avoid a legal vacuum, it should urge this Council to lend support to the amendment proposed by Mr CHAN Kam-lam, because his is

the best option available.

I should also like to raise yet another point. Since Mr Andrew CHENG has referred to the collective bargaining right issue in his speech just now, I wish he could recall that when Mr CHAN Kwok-keung moved a motion on the reform of the Civil Service on 9 June, the Democratic Party proposed to amend the wording of Mr CHAN's motion which set out clearly that the civil service reform must be supported and agreed to by the civil servants. I cannot but suspect the Democratic Party is "seemingly" leftist but "actually" rightist.

Madam Chairman, I so submit.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will now ring for a minute.

CHAIRMAN (in Cantonese): Voting shall now begin. Will Members please proceed to vote. The question now put is: That the amendment moved by Mr

Andrew CHENG, be passed.

CHAIRMAN (in Cantonese): Are there any queries? If not, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr SIN Chung-kai, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr Ambrose CHEUNG, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU and Mr Timothy FOK voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr David CHU, Mr Ambrose LAU and Miss CHOY So-yuk voted for the motion.

Miss Cyd HO, Mr LEE Cheuk-yan, Miss Christine LOH, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr TAM Yiu-chung, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 28 were present, seven were in favour of the motion and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 30 were present, 11 were in favour of the motion and 18 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

CHAIRMAN (in Cantonese): As the amendment moved by Mr Andrew CHENG has been negatived, I now call upon Mr CHAN Kam-lam to move his amendment.

MR CHAN KAM-LAM (in Cantonese): Madam Chairman, I move that paragraph (d) of clause 37 be amended, as set out in the paper circularized to Members.

Proposed amendment

Clause 37 (see Annex VIII)

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

CHAIRMAN (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for a minute.

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

CHAIRMAN (in Cantonese): Will Members please check their votes? We are still short of the head count. Are there any queries? If not, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Mr LEE Kai-ming, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mr Ronald ARCULLI, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung and Miss CHOY

So-yuk voted for the motion.

Miss Christine LOH, Mr Andrew WONG, Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-
kwok and Mr Ambrose LAU voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 28 were present, eight were in favour of the motion and 20 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 30 were present, 20 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

CHAIRMAN (in Cantonese): As Mr CHAN Kam-lam's amendment to paragraph (d) of clause 37 has been negatived, I now put the question to you and that is: That paragraph (d) of clause 37 stand part of the Bill. Will those in favour please raise their hands.

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

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

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

CHAIRMAN (in Cantonese): Are there any queries? If not, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr James TIEN, Mr David CHU, Mr HO Sai-chu, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Miss Margaret NG, Mr Ronald ARCULLI, Mr MA Fung-kwok, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Miss Christine LOH, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr Michael HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr SIN Chung-kai, Mr Jasper TSANG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr LAW Chi-kwong voted against the motion.

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

THE CHAIRMAN announced that there were 58 Members present, 31 were in favour of the motion and 26 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CHAIRMAN (in Cantonese): Honourable Members, before I put to you the

question that clause 37 stand part of the Bill, I should like to remind you that the Committee of the whole Council has already agreed that paragraphs (b) and (d) of clause 37 stand part of the Bill.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 37 stand part of the Bill. Will those in favour please raise your hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Ronald ARCULLI rose to claim a division.

CHAIRMAN (in Cantonese): Mr Ronald ARCULLI has claimed a division. The division bell will ring for a minute.

CHAIRMAN (in Cantonese): I should like to take this opportunity to clarify that the question being put to Members is: That clause 37 stand part of the Bill. Earlier on, the Committee of the whole Council has already voted on and agreed to the question that paragraphs (b) and (d) of clause 37 stand part of the Bill. Members will now vote on the question that clause 37 stand part of the Bill.

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

CHAIRMAN (in Cantonese): Are there any queries? If not, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr James TIEN, Mr David CHU, Mr HO Sai-chu, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Miss Margaret NG, Mr Ronald

ARCULLI, Mr MA Fung-kwok, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Miss Christine LOH, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr Michael HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr SIN Chung-kai, Mr Jasper TSANG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr LAW Chi-kwong voted against the motion.

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

THE CHAIRMAN announced that there were 58 Members present, 31 were in favour of the motion and 26 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Clause 2.

CHAIRMAN (in Cantonese): Excuse me, I have to clarify some points first. Given our progress, it is very unlikely that we will be able to finish handling all items of business on our Agenda today. If we can discuss and debate matters faster, we may be able to cover all items tomorrow. Today, I will declare that the meeting be adjourned at around 10 pm and the meeting will resume at 9 am tomorrow. But I would like to remind Members that we can only have a meeting in the morning because Members have to attend meetings of the Finance

Committee and the House Committee in the afternoon. Therefore, if we fail to finish handling all items before 12.30 pm tomorrow, Council shall resume on Saturday.

I now call upon the Secretary for the Treasury to move her amendment to clause 2.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I move that clause 2(e) of the Bill be deleted as set out in the paper circularized to Members.

The Legislative Council has passed earlier the amendment proposed by the Government to delete all clauses of the Bill related to fixed penalties for traffic-related offences. This consequential amendment seeks to delete the relevant provisions of the Bill concerning the implementation date of provisions regarding fixed penalties. I hope that Members will support this technical amendment.

Thank you, Chairman.

Proposed amendment

Clause 2 (see Annex VIII)

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

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the

Members present. I declare the motion passed.

CLERK (in Cantonese): Clause 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): Clause 43.

CHAIRMAN (in Cantonese): Mr CHAN Kam-lam and Mr Andrew CHENG have separately given notice to move amendments to clause 43.

Committee now proceeds to a joint debate. I will first call upon Mr CHAN Kam-lam to move his amendment.

MR CHAN KAM-LAM (in Cantonese): Madam Chairman, the purpose of my amendment is to delete the proposed car parking fee increase put forward by the Government, thereby restoring the rates to the original level.

I believe Honourable Members will all understand that the on-street parking meters do charge parking fees way below that of car parks located in

busy areas. In addition, we also admit that there are cases in which certain parking spaces have been abused and occupied by some people over a long period of time. However, instead of putting forward any complete planning for the issue, the Government has only proposed to increase the meter charge to not more than \$4 every 15 minutes. We cannot agree to this measure. Bearing in mind that car parks located in some other areas are actually charging parking fees lower than the new rates proposed by the Government, we are afraid that car parks located in certain areas would increase their charges should the proposal put forward by the Government be passed.

Therefore I very much hope that Honourable colleagues will lend their support to my proposal, which is to maintain the rates at their original levels. I also hope that the Government will put forwards other proposals in the future. For instance, the Government may put forward measures which will enable the on-street parking spaces located in busy areas to be utilized to the full, or it may even propose to increase the charges of certain metered parking spaces. We all understand that on-street parking spaces are very precious, and that in certain busy areas it is just impossible to park our cars at the roadside for 15 to 60 minutes to attend to some urgent matters. For this reason, I need to urge the Government to put forward specific proposals in the future to enable the on-street parking spaces located in busy areas to be utilized to the full.

I am sorry that we have to oppose the proposed overall parking charge increase put forward by the Government, but we hope that the charging rates of metered parking spaces in certain areas could be maintained at reasonable levels. It is also for this reason that I have moved this amendment. I urge Members for their support.

Thank you, Madam Chairman.

Proposed amendment

Clause 43 (see Annex VIII)

CHAIRMAN (in Cantonese): I will call upon Mr Andrew CHENG to speak on

the amendment moved by Mr CHAN Kam-lam as well as his own amendment. However, no amendment may be moved by Mr Andrew CHENG at this stage.

MR ANDREW CHENG (in Cantonese): Madam Chairman, the Government has proposed in clause 43 of the Revenue Bill 1999 to increase the maximum charge for a metered parking space from \$2 every 15 minutes to \$4 every 15 minutes, an increase of 100%. The purpose of the proposal is primarily to increase the revenue of the Government, and the additional revenue that this measure could generate in the 1999-2000 fiscal year is estimated at \$190 million. On behalf of the Democratic Party, I have proposed to amend the clause by cutting down the proposed rate of increase by 50%. In other words, the maximum charge of an on-street metered parking space would be increased to \$3 every 15 minutes or \$12 an hour.

Of the existing 15 000 parking meters throughout the territory, some 20% were charging a maximum hourly rate of \$4 before 1 April. As regards the remaining 80% which are located in busy areas, their maximum charge before 1 April was \$8 per hour. The present proposal of the Government is to gradually increase the maximum charge of these meters by 100%. As a matter of fact, apart from private cars and taxis, light goods vans and goods vehicles will also be parked at the on-street parking spaces. Hence, if the maximum charge should be increased, a great many drivers, in particular those engaged in the transport trades, would be affected. Given the existing economic downturn, an increase in the parking charge would cause the operating costs of the transport trades to rise, thereby making it more difficult for them to remain in business. For this reason, the Democratic Party cannot agree to the Government introducing at this juncture a tremendous increase to the maximum parking charge just to increase its revenue. This is simply not fair to the transport trades.

After taking into account the affordability of the transport trades and the parking fees charged by private car parks in general, the Democratic Party has proposed to cut down the rate of increase. At present, the hourly rates charged by the majority of private car parks range from \$14 to \$18, but the Government has proposed to increase the maximum charge for on-street metered parking

spaces to \$16 per hour, which is higher than the fees charged by most private car parks. This is just too unreasonable. What is more, the Democratic Party is afraid that the proposed increase would induce operators of private car parks to increase their charges. According to the survey mentioned by the Secretary yesterday, only one out of the 520 car parks territory-wide had increased its parking fees. However, I could assure the Secretary that other car park operators are just waiting for this proposed increase of the Government to be agreed to in this Council. Once the proposal is approved, I am sure the majority of the indoor car parks would raise their charges.

On the other hand, government officials refuted at the meetings of the Bills Committee that it was quite common for on-street metered parking spaces in many foreign countries to charge fees higher than that of indoor car parks. However, I should like to point out here that the situation in Hong Kong is not entirely the same as the situation in other countries. We should not make sweeping generalizations in drawing comparisons.

In the first place, with the exception of the downtown areas, the majority of the on-street parking spaces in many countries are free of charge, which means drivers simply do not need to pay any fees for parking their vehicles. Whereas in Hong Kong, free parking meters just do not exist practically. Besides, if drivers in the foreign countries should need to park their vehicles at the car parks in the downtown areas, they would probably leave their vehicles there for a longer time, and normally car parks will offer concessionary rates to vehicles parking there for a longer period of time. As regards those drivers who choose to park vehicles at on-street parking spaces, most of them would just leave their vehicles there for an hour or two. So, it is not surprising to find in other countries parking meters charging an hourly rate higher than the parking fee charged by car parks. For this reason, I hope the Government can explain the case clearly in making comparisons between Hong Kong and other countries. Further still, I have compared the on-street metered parking spaces in Hong Kong with the private car parks in terms of convenience, security, as well as the facilities available. And I cannot but ask the Government what strong reasons or special strengths of the on-street metered parking spaces it could raise to support its proposal to increase the maximum parking charge to a level higher than the fees charged by private indoor car parks.

The proposal put forward by the Democratic Party to set the maximum

charge at \$3 every 15 minutes can actually bring the charges of on-street metered parking spaces closer to that of private car parks. It should be able to reduce the drivers' need for on-street metered parking spaces on the one hand, and increase the number of parking spaces available on the streets on the other. Besides, by setting the maximum charge of on-street metered parking spaces at a level slightly below the parking fees charged by private car parks, we should be able to avoid inducing the private car park operators to increase their charges.

With these remarks, Madam Chairman, I urge Members to lend their support to the amendment proposed by the Democratic Party.

CHAIRMAN (in Cantonese): Members may now debate the amendment moved by Mr CHAN Kam-lam as well as the amendment by Mr Andrew CHENG. Does any Member wish to speak?

MISS CHAN YUEN-HAN (in Cantonese): Madam Chairman, taking into account the existing conditions of the economy of Hong Kong, the Federation of Trade Unions (FTU) finds it unacceptable that the Government should propose to increase the maximum charge for metered parking space tremendously by 100%. Drivers who park their vehicles at these metered parking spaces come from all walks of life, including professional drivers. If we take the matter numerically, the difference between the original \$2 and the proposed \$4 is but \$2. However, if we calculate the parking fee by the hour, the maximum charge would be increased from \$8 to \$16. Such an increase will certainly have an impact on the professional drivers. As I mentioned to in speaking on the previous amendment, the Government has frozen all government fees and charges in the face of the economic hardships confronting the various sectors of the community, there should be no ground for the Government to haggle with the professional drivers and other drivers over this issue. For this reason, we will not lend our support to the Government. And by the same token, we will not support Mr Andrew CHENG either. Now that the Government has frozen all fees and charges, why should Mr Andrew CHENG allow the Government to increase the parking fees by 50%? As such, the FTU will say no to the amendment proposed by Mr Andrew CHENG but give our full support to that of Mr CHAN Kam-lam.

In order to get a better understanding, we have discussed the issue with professional drivers over the past few months. We were told that if the maximum charge should be increased by such a high percentage, the parking fee would amount to the expenditure they spend on a meal. Perhaps some may wonder if \$16 would be enough to buy a meal. But for people eating at roadside food stalls, they could indeed buy a meal with \$16. That is why they believe that if the maximum charge should be increased by such a high percentage, people like them who are not so well-off would certainly be affected. Moreover, as they have told us, in addition to meal breaks, professional drivers also need to park their cars several times a day for visits to the lavatories. Added together, all these parking expenses would amount to a considerable sum. For this reason, I very much hope that both the Government and Honourable colleagues would lend us their support and maintain the charges at their original level. Let us defer any proposals to increase charges until the economy has improved significantly.

I am a member of the Bills Committee on the Revenue Bill 1999. I could recall the Government referring to the proposed increase as being necessitated by the fact that some people have been occupying the parking spaces over a long time and affecting others who need to park their vehicles. I am now learning how to drive, and I have asked my driving instructor whether he considered it an effective measure to increase the maximum charge. He told me that it should be an effective measure, since the increased charges would cause those people to vacate the parking spaces they have been occupying over a long time, thereby enabling other drivers to secure a parking space more easily than before. Nevertheless, he still believed the Government should not increase the parking charge. I should like to point out that the driving population comprises different kinds of persons. If the Government should try to convince us with the rationale it has put forward, I am afraid this would not be the right time to increase the maximum parking charge. Should we not wait until the economic conditions have improved to consider this again? In my opinion, the justifications offered by the Government at the Bills Committee were not convincing at all. As such, Members from the FTU hold that the charges for the metered parking spaces should not be increased in any way; instead, they should be maintained at their original levels. We therefore support the proposal put forward by Mr CHAN Kam-lam. Thank you, Madam Chairman.

SECRETARY FOR THE TREASURY (in Cantonese): The Government opposes the amendments to clause 43 proposed by Mr CHAN Kam-lam and Mr Andrew CHENG.

The purpose of Mr CHAN Kam-lam's amendment is to delete the clause to increase the maximum charge, as a result, the Government will not be able to get additional revenue from on-street metered parking spaces. This runs counter to the Government's measures for selectively increasing revenue to allow the financial position to restore to balance in the medium term. With this amendment, we cannot maintain the vacancy rate of on-street parking meters at 15% by increasing charges.

Chairman, the Government fully understands how drivers, especially car owners, feel. They may think that the revenue measures in the 1999-2000 Budget for increasing revenue are pinpointing at them, but this is not true. The Government has given a 10% salaries tax rebate to benefit employees at intermediate and higher levels, including most car owners and drivers. If they park their vehicles at on-street metered parking spaces in busy areas, once the Government's proposed charge increase is approved, they only have to pay \$2 more every 15 minutes. Therefore, our proposal to increase the charges of on-street parking meters is not targeted at the middle class or car owners.

As Members have said, even if the Government specifies by this proposal the meter charges in busy districts as \$4 every 15 minutes, professional drivers who have to park their vehicles at on-street metered parking spaces when they have lunch, dinner or go to toilets will not welcome it for they have to pay more if the meter charges are increased. Take having meals as an example, if a driver really wants to park his vehicle before having meals but he fails to find a parking space in a busy district even though he has been driving around, he has to pay additional fuel charges and be held responsible for worsening traffic congestion. If the driver really needs to go to the toilet but he fails to find an on-street parking space in a busy district, he will be uncomfortable and embarrassed. If he really needs to go to the toilet and he has found an on-street parking space in a busy district, even if the Government's proposal to increase charges is approved, he will find it worthwhile to pay \$2 more for 15 minutes' parking. But our view may be different from other people who oppose this proposal to increase charges.

Moreover, I stress that after the Public Revenue Protection (Revenue) Order 1999 came into effect on 1 April, we have adjusted the maximum on-street parking meter charge to \$4. I told Members yesterday that the result of a survey conducted by the Secretary for Transport showed that among some 520 multi-storey car parks or open-air lots, only the charge of one car park has been increased after 1 April while the charges of all the others have remained the same. Some Members have said that the operators of these car parks may wish to wait until a decision has been made at this meeting and see if the Government's Bill is passed before increasing their charges. The Government finds this argument untenable for two reasons. First, let me stress once and again that the Government has only proposed increasing the maximum charge to \$4. In other words, even if we gain the support of most Legislative Council Members for the Government's proposed increase, we will only prescribe the maximum meter charge in the busiest districts as \$4 every 15 minutes, and it does not mean that the charges of all meters in Hong Kong, Kowloon and the New Territories will be increased to \$4. In fact, the charges of thousands of parking meters in Hong Kong have not been increased to \$4 after 1 April. Even if there are car parks near these meters, the operators of these car parks cannot increase charges just because the charges of on-street parking meters have been increased. In fact, there is no car park near many on-street parking meters. Second, car parks in busy districts charge \$18 to \$20 per hour and some car parks collect minimum charges for two hours' parking. In other words, drivers have to pay \$36 to \$40 if they park their vehicles in these car parks for an hour. Even if we gain Members' support for the Government's proposed increase, the parking meter charge in the busiest district is only \$16 per hour, still less than the rate charged by car parks operators in such districts. Therefore, what I just said proves that even if the Government adjusts the meter charge to \$4 every 15 minutes with the permission of Members, it will not induce car park operators to increase charges. Car park operators will only increase their charges according to market demand after our economy has completely revived and private car users have increased. However, even if the Council does not approve an increase in the maximum charge for on-street parking meters, car park operators will still increase charges for they will certainly fight for the highest profits.

I would like to say that in the 1999-2000 fiscal year, the Financial Secretary has selectively proposed to the Legislative Council items on which the

Government can get a mild increase in revenue. The premise of the Financial Secretary, the Treasury and our colleagues in the relevant departments is to try their best to allow public finance to restore to balance in the medium and long term. The second premise is that they will consider the effects of an increase in charges on ordinary people. The measure we choose will have the minimal effect. As I said yesterday, the Government's request for increasing charges or taxes will not be supported by all people. Even if our measure will have minimal effect, some people will still be affected. Take increasing the charges of on-street metered parking spaces as an example, car owners who are financially more capable than ordinary people will be able to pay more for parking meters in busy districts among a total of 14 000 parking meters in Hong Kong. If a small number of people who can afford more can assist the Government in regaining fiscal balance in the medium and long term with the Government's proposal, it will benefit Hong Kong as a whole in the long run.

I have repeatedly emphasized that if the Government's proposal is approved, only the maximum parking meter charge in busy districts will be set at \$4 to attain a 15% vacancy rate of parking meters. The Secretary for Transport sitting next to me has agreed in advance that I can say something on his behalf. The Secretary for Transport will urge the Transport Department to review the actual utilization situation of these meters more frequently to ensure that the maximum charge of meters with a lower rate of utilization will not be set at \$4. The Secretary for Transport has also told me that the Transport Department will step up enforcement actions in the next few months so that a vehicle cannot be parked at the same on-street metered parking space for a long time. Finally, the Secretary for Transport has pledged to review the relationship between the utilization and charges of on-street parking meters by the end of the year as well as the rules related to the use of parking meters under the existing legislation. By so doing, we wish to ensure that on-street parking meters, our public resources, can be properly utilized to achieve the objectives of transport policies.

If Mr Andrew CHENG's amendment is approved, it is true that it can lead to a limited increase in government revenue but I regret that Mr CHENG's amendment will not help to solve the problem of the utilization of on-street parking meters in busy districts where we must adjust the charge of on-street parking meters in busy districts from \$3 to \$4 every 15 minutes.

Lastly, as I have been sitting here for four and a half hours, my mind is

not clear enough and I am afraid I may have missed some points, therefore, I hope that the Chairman will allow me to sum up my remarks. The Government's proposed increase in the maximum charge of on-street parking meters from \$2 to \$4 every 15 minutes is a mild increase and it has very little impact on the general public. Our major argument comprises four points. First, we have proposed an increase in the maximum charge, and the Secretary for Transport will determine the level of individual parking meter charge on the basis of the actual situation and demand; second, on-street parking meters in Hong Kong are available for use by drivers free of charge from the small hours to 8 am, therefore, the proposed increase Members have been discussing this afternoon will not affect those who use on-street parking meters from the small hours to 8 am; third, the proposed increase will not lead to an increase in car park charges because the maximum charge of a parking meter in a busy district after the adjustment is only \$16 per hour, still less than the rate at charged by a car park in a busy district; fourth, in regard to traffic management, the proposal helps to achieve the aim of maintaining the vacancy rate of parking spaces in busy districts at 15%. I hope that Members will object the amendments of Mr Andrew CHENG and Mr CHAN Kam-lam and support the Government's proposal to prescribe the ceiling of parking meter charge at \$4 every 15 minutes. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Andrew CHENG, do you wish to speak again?

MR ANDREW CHENG (in Cantonese): Madam Chairman, it is getting very late now, so I will make my speech a very short one. I just want to speak on the two points raised by the Secretary just now.

All along, the Secretary has kept stressing that it would only increase the maximum charge. However, an increase is an increase; by increasing the maximum charge to \$4 every 15 minutes, the charge for on-street metered parking spaces in busy districts will be raised to \$16 per hour. I should like to share my personal experience with Honourable Members. Last Sunday, I parked my car at the Immigration Tower in Wan Chai. The Immigration Tower is a government building, with a car park open to the public on Saturdays and Sundays as an hourly car park. I noticed that it charged \$6 for every half

hour's parking, or \$3 every 15 minutes, which happened to be the same as the rate I put forward in my proposed amendment. Mind you, that is an indoor government car park located in Wan Chai opposite the Hong Kong Convention and Exhibition Centre (HKCEC). It may be true that not many people will visit the place on Saturdays and Sundays, but as I understand it, many people would park their vehicles right outside the Immigration Tower should the HKCEC be holding any events. Speaking of increasing the maximum charge for an on-street metered parking space to \$4 every 15 minutes, the Secretary claimed that the increase would not induce car park operators to increase their charges. Well, let us just wait and see whether the government car park inside the Immigration Tower would increase the half-hourly rate to \$8 if the Government's proposed increase should be approved.

Second, the Secretary has referred to a minimum charge of two hours' parking fees payable to many car parks. Perhaps the Secretary has got too used to riding around in vehicles with "AM-prefixed" plate numbers and did not have much chance to park her own car at other car parks over the past six months. According to my own experience, not many car parks would collect a minimum charge of two hours' parking fees these days. A great many car park operators did adopt such a practice in the past, but in the face of an economic downturn, they do not dare to do so now. The practice is now part of history. According to the Secretary, car parks in busy districts still keep the practice. I cannot say the practice has vanished from all car parks, since some may have kept the practice. But given the existing economic situation, that would be extremely rare.

So, these are the two points to which I want to respond. And I hope the Secretary can understand that although the economy remains sluggish, we do not object to proposed charge increases indiscriminately. Having crunched the numbers, we consider it most appropriate to increase the maximum charge to \$3 every 15 minutes. This "middle-of-the-road" measure could serve to alleviate the burden on users on the one hand, and enable the Treasury to get half of the \$190 million additional revenue anticipated. I hereby urge Members to lend their support to the amendment proposed by the Democratic Party. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Mr CHAN Kam-lam, you may reply.

MR CHAN KAM-LAM (in Cantonese): Madam Chairman, I shall be brief. I do not think that it will be of any use even if I continue to lobby Members, because not many of them are in the Chamber now.

I have moved my amendment mainly because of the current economic downturn. A moment ago, even Mr Andrew CHENG himself queried whether it was advisable to increase fees and charges at this very time of economic difficulties. And, Mr Andrew CHENG repeatedly stressed that the Democratic Party would not oppose fees increases indiscriminately whenever they were proposed. But this is precisely where the problem lies; when our economy is in bad shape, and when people want the Democratic Party to oppose fees increases, they will instead support fees increases; but when our economic conditions are good, and when people are prepared to accept mild increases in fees and charges, the Democratic Party will oppose them. Their reasoning is simply incompatible with the wish of the general public. I think this is a very important problem because when our economic conditions are so bad now, even an increase of a dollar or two will not be appropriate. And, well, if the increase is so small, we really doubt whether there should be any increase at all.

As I said a moment ago, in some places, on-street parking spaces are improperly used. To address this problem, the Government should draw up some other measures; it simply should not increase metered parking charges across the board, nor should it raise the maximum charge to \$4, and then empower the departments concerned to apply it to different places on a selective basis. Honestly speaking, even if \$16 is charged in some busy areas, it may still be insufficient. That is why the Government should review the distribution of all metered parking spaces in Hong Kong and see what charges should be imposed. As long as the arrangements are reasonable, I am sure that we are all prepared to accept them. However, in view of our current economic situation, I hope that Members will support my proposal to maintain metered parking charges at their existing level. Thank you, Madam Chairman.

MR ALBERT HO (in Cantonese): I too shall be very brief. I wish to remind Mr CHAN Kam-lam of their position of support with regard to the item of fee increase which was passed just earlier today — the toll increase for the Lion Rock Tunnel from \$6 to \$8. I do not know why they did not oppose this item

of fee increase, but I think I can rightly presume that their having no objection should be taken to mean their support. Is this merely the oversight of Mr CHAN as the spokesman? Or, has his party overlooked this matter completely? Or, have they in fact chosen to totally disregard the interests of the residents concerned, thinking that they can afford it? Or, perhaps they do not hold any opinion in particular about this matter? If not, why did they support this item of fee increase?

What I mean is that we should not apply just one single standard to all matters. Today, we have actually seen the application of double standards.

CHAIRMAN (in Cantonese): Mr CHAN Kam-lam, do you wish to speak again?

MR CHAN KAM-LAM (in Cantonese): If I really speak again, I am afraid the meeting may have to continue very late into the night.

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

(Members raised their hands)

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

(Members raised their hands)

Mr TAM Yiu-chung rose to claim a division.

CHAIRMAN (in Cantonese): Mr TAM Yiu-chung has claimed a division. The division bell will ring for one minute.

CHAIRMAN (in Cantonese): We will have to wait until Members have returned to their seats. They were having dinner in the Dining Hall, and now they have to come back for the voting.

CHAIRMAN (in Cantonese): Voting shall now start. The question now put is: That the amendment moved by Mr CHAN Kam-lam, be passed. Mr CHAN Kam-lam's amendment is about metered parking charges.

MRS SELINA CHOW (in Cantonese): Sorry, I have pressed the wrong button. Can I cast my vote again?

CHAIRMAN (in Cantonese): Yes, you can. Please release your hand and press your desired button again.

MRS SELINA CHOW (in Cantonese): Madam President, are we now voting on Mr CHAN Kam-lam's amendment?

CHAIRMAN (in Cantonese): Yes, Mr CHAN Kam-lam's amendment.

CHAIRMAN (in Cantonese): Mr CHAN Kam-lam's amendment is about maintaining the existing charges of metered parking spaces.

CHAIRMAN (in Cantonese): Are there any queries? If not, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Mr LEE Kai-ming, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai,

Mrs Miriam LAU and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr Edward HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung and Miss CHOY So-yuk voted for the motion.

Miss Christine LOH, Mr Andrew WONG, Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok and Mr Ambrose LAU voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, nine were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 19 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

CHAIRMAN (in Cantonese): As the amendment moved by Mr CHAN Kam-lam to clause 43 has been negatived, it is not possible for him to move new clause 43A. I now call upon Mr Andrew CHENG to move his amendment to

clause 43.

MR ANDREW CHENG (in Cantonese): Madam Chairman, I move that clause 43 be amended as set out in the paper circularized to Members.

Proposed amendment

Clause 43 (see Annex VIII)

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for one minute.

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

CHAIRMAN (in Cantonese): If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr SIN Chung-kai, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong

voted for the motion.

Mr Kenneth TING, Mr Edward HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU and Mr Timothy FOK voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr David CHU, Mr Ambrose LAU and Miss CHOY So-yuk voted for the motion.

Miss Cyd HO, Mr LEE Cheuk-yan, Miss Christine LOH, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Andrew WONG, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr TAM Yiu-chung, Mr HO Sai-chu, Mr NG Leung-sing, Mr MA Fung-kwok, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted against the motion.

Prof NG Ching-fai abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 25 were present, seven were in favour of the motion and 18 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 11 were in favour of the motion, 16 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members

present, she therefore declared that the motion was negated.

CHAIRMAN (in Cantonese): As Mr Andrew CHENG's amendment to clause 43 has been negated, it is not possible for him to move new clause 43A. I now put the question to you and that is: That clause 43 stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

CHAIRMAN (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for one minute.

CHAIRMAN (in Cantonese): Voting shall now start.

CHAIRMAN (in Cantonese): If there are no queries, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr David CHU, Mr HO Sai-chu, Mr Edward HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Miss Margaret NG, Mr Ronald ARCULLI, Mr MA FUNG-kwok, Mr HUI Cheung-ching, Miss Christine LOH, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr Michael HO, Mr LEE Wing-tat, Mr LEE

Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr SIN Chung-kai, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Kong-wah, Mrs Miriam LAU, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr LAW Chi-kwong voted against the motion.

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

THE CHAIRMAN announced that there were 54 Members present, 27 were in favour of the motion and 26 against it. Since the question was not agreed by a majority of the Members present, she therefore declared that the motion was negatived.

CHAIRMAN (in Cantonese): Since the motion that clause 43 stands part of the Bill has been negatived, clause 43 shall be deleted from the Bill.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I ask your permission to move without notice the addition of new clause 43A, as set out in the paper tabled at this meeting. This amendment is based on the decision of the Committee to delete clause 43.

CHAIRMAN (in Cantonese): You have my permission.

CLERK (in Cantonese): New clause 43A No refund of excess fee.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I move that new clause 43A as set out in the paper tabled be read the Second time. In accordance with the Public Revenue Protection (Revenue) Order 1999, the highest charge of on-street parking meters has been increased from \$2 to \$4 every 15 minutes with effect from 1 April 1999. Section 6 of the Public Revenue Protection Ordinance provides that if the amounts collected according to an order made under this Ordinance exceed the fees payable immediately after

expiration of the Order, the excess fees paid shall be refunded to the payers. However, as there are technical difficulties in refunding the excess on-street parking meter charges to the payers, therefore, the Government needs to specify in the Bill that the excess charges collected by on-street parking meters from 1 April 1999 onwards need not be refunded. The object of the proposed new clause 43A is to specify this arrangement. Thank you, Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 43A be read the Second time. Does any Member wish to speak?

MR MARTIN LEE (in Cantonese): Should the Chairman now grant leave to the moving of this amendment? Or, does she need to resume the Council first?

CHAIRMAN (in Cantonese): This is a Committee stage amendment. Mr Andrew CHENG and Mr CHAN Kam-lam both wanted to move this new clause 43A, but since their amendments have been negatived, they are not allowed to do so now. Since clause 43 of the Bill has also been negatived, the consent of this Council must be obtained, so that over-paid metered parking charges do not have to be refunded. Can Members follow?

The Secretary for the Treasury has already moved the new clause. I now put the question to you and that is: That new clause 43A be read the Second time. New clause 43A states that over-paid metered parking charges do not have to be refunded. 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 43A.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I move that new clause 43A be added to the Bill.

Proposed addition

New clause 43A (see Annex VIII)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 43A be added to the Bill.

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 15A	Section added
	New clause 45A	Transitional.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I move that new clauses 15A and 45A of the Bill as set out in the paper circularized to Members be read the Second time. The purpose of the proposed new clause 15A is to amend the provisions of the Stamp Duty Ordinance concerning an instrument to be presented for stamping, specifying that the Inland Revenue Department can accept the certified true copy of the instrument when it is impracticable that the instrument be presented. This new clause is consistent

with the amendment to clause 16A just passed by the Committee. The proposed new clause 45A is a consequential amendment to the amendment to clause 18D deleting the clause related to the giving of a banker's undertaking. The purpose of the new clauses is to confirm that all matters done before the deletion of clause 18D will not be affected. This clause also specifies that upon the receipt of a written notice of a demand made by a body corporate in respect of a banker's undertaking, the undertaking shall be deemed to be discharged and shall be returned to the body corporate. Thank you, Chairman.

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 clauses 15A and 45A.

SECRETARY FOR THE TREASURY (in Cantonese): Chairman, I move that new clauses 15A and 45A be added to the Bill.

Proposed additions

New clause 15A (see Annex VIII)

New clause 45A (see Annex VIII)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council will now resume.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

REVENUE BILL 1999

SECRETARY FOR THE TREASURY (in Cantonese): President, the

Revenue 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 Revenue 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): Revenue Bill 1999.

MOTION

PRESIDENT (in Cantonese): Motion. Proposed resolution under the General Holidays Ordinance.

PROPOSED RESOLUTION UNDER THE GENERAL HOLIDAYS ORDINANCE

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I move the motion standing in my name on the Agenda.

The purpose of this resolution is to appoint 31 December 1999 as a general holiday in addition to the existing general holidays specified in the Schedule to the General Holidays Ordinance.

The resolution is in response to an earlier request made by the Hong Kong Association of Banks to appoint 31 December 1999 as a general holiday so that banks may close for business on that day and complete all the year-end clearings before midnight on New Year's Eve. The arrangement will also provide enough time for banks to verify and duplicate records of customers' accounts (such as year-end account balance), ensuring that the records will still be accurate and complete when entering into the year 2000.

In moving this resolution, I would like to draw Members' attention particularly to the following three points:

- (i) Firstly, to appoint the coming New Year's eve as an additional general holiday is a proactive precautionary measure whereby banks will not have to provide services for customers and will have sufficient time to complete all essential back-up operations (including data back-up of customers' records) in an orderly manner. I must emphasize that this arrangement does not imply our financial services sector has encountered any difficulties in rectifying the Y2K compliance problem. In fact, their progress in this respect has been good. To date, the majority of "regulated" financial institutions such as banks, financial companies, Exchange members and insurance companies and so on, have reported to their respective regulators that rectification work for all mission critical systems including testing of individual systems and their interfaces with other systems have been completed. The efforts and satisfactory progress of Y2K compliance of the financial services sector in Hong Kong is widely recognized by the international financial community. The Financial Services Bureau has on 15 June submitted to Members a Legislative Council Brief setting out in detail various preparation work completed by the financial services sector in their Y2K compliance for the millennium transition. I will not repeat the relevant information here.

- (ii) Secondly, the purpose of designating the coming New Year's Eve as a general holiday is to enable the financial sector to make the best preparation for the millennium transition. We expect employees of most financial institutions will have to work as usual on that day to prepare for a smooth transition to the year 2000.
- (iii) Thirdly, the appointment of the coming New Year's Eve as a general holiday is only an exceptional one-off arrangement which will not affect the number of general holidays after 1999. The Government's policy is still to maintain 17 general holidays each year.

After we have put forward this proposal, there are comments that we should appoint the coming New Year's Eve as a special bank holiday instead of a general holiday, or that we should instruct banks to close for business on that day by administrative measures so as to minimize the impact on other local economic activities. At the same time, there are other voices saying that we should appoint 31 December 1999 as a statutory holiday so that all local employees can enjoy an additional holiday. I would like to address these two kinds of opinions separately.

As for designating a special bank holiday, there is no statutory provision in the existing Hong Kong legislation that enables the Administration to appoint a particular day as a bank holiday or sectoral holiday. In other words, we must first enact a primary legislation to empower the Administration to do so. This approach is not feasible because it involves very complex legal problems. First, we cannot, within a short period of time, examine all 79 ordinances and their subsidiary legislation which have referred to the term "holiday", so we cannot promptly ascertain the implication of a "bank holiday" for such ordinances. Second, it is impossible for us to ascertain the implication of appointing a "bank holiday" for those existing contracts which involve the calculation of time and bank transactions. There are suggestions that the Government needs not enact legislation but to declare closure of banks on the coming New Year's Eve by administrative measures. However, this will also lead to legal uncertainties or grey areas which may give rise to unforeseeable and countless legal actions. Therefore, we now propose to appoint the coming New Year's Eve as a general holiday under the General Holidays Ordinance in order that the legal effect will

be precise and clear. As far as the calculation of time is concerned, subject to the provisions of individual contracts, relevant provisions have already been made in the Interpretation and General Clauses Ordinance and as such, confusion will not arise.

On the other hand, there are suggestions that we should appoint 31 December 1999 as a statutory holiday. The arguments for this suggestion are mainly to have equal treatment for all sectors and their employees and a holiday for all citizens to celebrate the new millennium.

As regards an additional statutory holiday, I have just reiterated that the proposal to designate 31 December 1999 as a general holiday is a one-off arrangement solely in response to an earlier request made by the Hong Kong Association of Banks. We hope the proposal will be implemented so as to enable banks to make the best preparation for the millennium transition. The proposal aims to provide an unequivocal legal basis for banks to close for the day. It is not our intention to provide additional labour benefit, nor is there any question of giving preferential treatment to employees of the financial sector. In fact, I believe that many employees of banks and related organizations will have to work on 31 December 1999 to handle the related year-end clearing, verification and duplication of records.

As for the festivities in celebration of the millennium, I believe most of them will start in the evening. As 1 January and 2 January 2000 are general holidays, members of the public will have ample time for the celebration.

Lastly, I would like to emphasize the urgency of this resolution. As we have pointed out in the Legislative Council Brief, it is imperative that we make an early decision on this issue, so that banks may proceed, as soon as possible, with the necessary system re-programming and re-testing work. The securities and futures industry will also need to make appropriate arrangements in respect of the stock options and futures contracts expiring at the end of this year. Besides, an early decision will facilitate publicity work locally and overseas on the progress of Hong Kong in tackling the Y2K problem and will reinforce public confidence.

Based on the above, I urge Members to support this resolution and made 31 December this year an additional general holiday.

Thank you, Madam President.

The Secretary for Education and Manpower moved the following motion:

"That 31 December 1999 be appointed as a general holiday in addition to the existing general holidays specified in the Schedule to the General Holidays Ordinance."

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 motion moved by the Secretary for Education and Manpower, as set out on the Agenda, be passed. Does any Member wish to speak?

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy, the information technology sector is certainly pleased to see this proposal made by the Government, that is, to designate 31 December as a holiday. I think my colleagues from the labour sector might express their views on whether this day should be designated as a statutory holiday or a general holiday in due course. Nevertheless, we should welcome the Government's measure to designate one day as a holiday to address the "Millennium Bug" (Y2K) issue. I hope Members will understand that the computer systems of banks will, upon the completion of normal operation, start to do so-called backup work during 5 pm and 6 pm in the evening every day. The amount of such backup work will be excessively huge on 31 December. This is because, in order to make preparations to deal with the digital problem related to Y2K, "duplicate copies" or "backup copies" will have to be prepared for a large number of computer files. In the event of any problem or any mistake with data, banks may still be able to retrieve records before the transition to the year 2000. Furthermore, the additional day will give banks more time to print statements or other documents. Therefore, it will be useful for us to have one more holiday to deal with the Y2K issue.

I believe 31 December is a good choice to enable various trades and industries (except banks) to make rectification or take the last step to ensure that all special backup work is completed properly.

I remember it was Miss CHOY So-yuk who first raised the issue of designating a holiday to deal with the Y2K problem in this Council. At that time, she asked the Government whether it would consider designating a holiday for the purpose of conducting tests. But no one said a holiday would be set aside for that purpose. I thought then the Government should designate a holiday for Y2K preparations. Now the Government has decided to designate 31 December as a holiday. In other words, the possibility of having a holiday on 3 January has been ruled out. In fact, some countries have decided not to take a holiday on 31 December. They would rather have a holiday on 3 January. Of course, it is also useful to designate 3 January as a holiday. On that day, Hong Kong will face a potential "risk" — we should not call it a "crisis". This is because there is a chance for Hong Kong to be the first stock market in the world to operate on 3 January. Therefore, there is, in any case, a risk element.

Of course, the fact that the Government has chosen 31 December indicates that it is confident our stock market can start to operate on 1 January. This is of course a good sign. I hope the Government can continue with the relevant work in the remaining six months. We are in support of the Government's decision to designate 31 December as a holiday because this is a right choice. But we should bear in mind that Hong Kong might be the first financial market to resume operation on 3 January. Traditionally, Japan might still be having a holiday on 3 January for its new year holiday is relatively longer. In Hong Kong, however, our financial markets will start to operate. I do not want to see Hong Kong to be the first place to face a financial crisis — it should be the first place to face disaster because of the Y2K, not the first place to face a financial crisis. Of course, the Government will say that banks have made good preparations. As a matter of fact, it has provided us with some data and attended meetings in this Council several times to give explanation. In the Panel on Financial Affairs, we were given data related to the banking and financial industries. On the whole, the data, indicating compliance proportion of more than 90%, are not bad. But after all, they are only data. Frankly

speaking, even an expert will not dare to guarantee that it will definitely work just because the findings of the tests he has done are satisfactory. Does it guarantee that no accident will occur? I believe no one can give a written undertaking or say that the problem can be completely solved.

I hope the Financial Services Bureau can keep a highest degree of vigilance with respect to this issue on 1 and 2 January. Actually, I hope the Bureau can urge all banking systems to ask their employees not to take holiday on 1 and 2 January after the transition from 31 December. I believe many employees will need to report for duty on both days. In fact, I believe many banks have already instructed many of their employees who can normally travel abroad during the Christmas holidays to stand by and not to take holidays from mid-December this year onwards. Even those who are at their normal posts need to work harder. In this respect, I hope to issue a warning with respect to 3 January.

In due course, the Government might present the Panel on Information Technology with information on contingency plans prepared by various bureaux. I hope the Government can tell us, in providing the information, what extra work it will ask the banking or financial sector to do on 1 and 2 January to guard against disasters that might occur on 3 January. Of course, this is something that banks should do. But as we are conducting a debate on this specific holiday today, I hope other sectors can also consider taking special measures on 1 and 2 January.

The Y2K issue is not the thrust of our debate today. As for other work related to how preparations can be made to address the Y2K issue, we shall wait until next week when Mr Jasper TSANG moves a motion to put an end to this issue. With these remarks, I support the Government's motion.

MR ANDREW CHENG (in Cantonese): I would like to thank Mr Deputy for allowing me to speak first. Originally, it should be Miss CHOY So-yuk's turn to speak. But as Mr Deputy said just now, I have an important matter to attend to. I hope Miss CHOY would not mind that I have spoken before her.

Mr Deputy, the Democratic Party considers it a good intention on the part of the Government to propose designating the last day of this century as a general holiday for the sake of suitably preparing computers for the millenium transition. Major organization, including the Government, are now seriously testing their computer systems to ensure a smooth transition to the millennium. This is unprecedented after all. No prior assessments and tests can give a 100% guarantee that nothing will go wrong. Of course, the designation of 31 December 1999 as a general holiday can give relevant organizations, such as banks, more time to rectify the Y2K problem. But the Democratic Party does not understand why the Government has only proposed to designate 31 December as a general holiday, while other organizations employing more than half of our labour force have to work as usual?

Mr Deputy, in browsing the Government's web page recently, I found that the Administration had some information targeted at the Y2K digital problem. The Government indicated on the web page that, as the usage of computers had become very popular among various trades and professions today, the impact of the Y2K issue would be very extensive. This problem is not only restricted to computers. Various kinds of equipment with internal micro-processors, such as fire alarm systems, communications equipment, automatic production lines and so on, will be similarly affected. The Government also further indicated that no trade or profession can operate on its own for all trades and professions are relying on and influencing one another. Should there be a problem with a particular sector, it will trigger off chain reactions. The Government has also urged various sectors to join hands to deal with the Y2K issue. When it mentioned the trades and professions to be affected by the Y2K issue through the publicity footage on television, factories are also included.

As the Administration is aware of the extensive fallout of the Y2K problem, why does it not designate 31 December 1999 as a statutory holiday to enable all employees in Hong Kong to take a holiday and, furthermore, encourage relevant organizations and enterprises to concentrate on addressing the Y2K issue on that day, so as to boost our confidence in moving on to the millennium and prevent computer systems from coming to a halt or operating erroneously?

Mr Deputy, 31 December 1999 is a rare moment in a thousand years. We hope all members of the public in Hong Kong can celebrate the millennium together, apart from making their best efforts to ensure a smooth transition of their computer systems. Is it not a good means to serve a double purpose?

Mr Deputy, I so submit.

MISS CHOY SO-YUK (in Cantonese): Mr Deputy, before Mr Andrew CHENG goes, I want to tell him that I support his views. But I will talk about this issue in greater details later.

In fact, I have raised the Y2K issue in this Council a long time ago. At the end of last year, I asked an oral question urging the Government to consider designating an appropriate day in this year as a holiday to enable us to deal with the Y2K issue. I remember both Secretaries, Mr WONG and Mr KWONG, unanimously agreed at that time that it would not be necessary. I would now like to, first of all, welcome the initiative taken by the Government to propose designating an extra holiday to deal with the Y2K issue. But I have some comments on the designation of 31 December as a holiday.

I consider the arrangement not entirely satisfactory. I think a better arrangement would be to designate a working day in the latter half of this year, such as November or early December, as a statutory holiday for all employees. As for 31 December, it should be designated as a holiday for the banking and financial sectors only. Of course, the Secretary has explained earlier that this proposal is not going to work. I do understand the banking sector needs more time to deal with the year end settlements and to finish its work expeditiously before anything goes wrong for it is feared that the digits will go wrong after that day. Therefore, it must have extra time on 31 December to work. However, insofar as this point is concerned, I still hope the Government can consider designating that day as a statutory holiday.

I make this suggestion not because I want to give the public a holiday to have fun. Of course, to give the public a holiday to have fun is also a good reason for this happens only once in a thousand years. But I still want to reiterate the reason I held when I raised the oral question in the first place. The reason is I hope computers serving various trades and professions can have an

opportunity to, before the year 2000, can be linked up online and adjust the date to 1 January, to adjust from 31 December to 1 January for instance, to see if there will be any problems with the operation. If there is no problem, it means that the Y2K problem has been properly dealt with. If there is any problem, however, we can find out where the problem lies on that day, instead of waiting until 1 January to take action when it is found that there is a problem.

I wonder if we should designate 3 January as a holiday, as suggested by Mr SIN Chung-kai. If we do not spot any problems until 3 January, it will be too late for us to do anything then. Perhaps we can designate 31 December as a holiday and adjust all computer systems in the entire society, including such systems related to water supply, electricity supply, traffic and so on, to 1 January 2000 to see if they are operating smoothly. Of course, it will be fine if they are operating smoothly. If not, we will know that a certain system will fail. We will then have to decide what back-up system or method we should adopt to save the computer systems. In that case, we can try to make remedy and prevent ourselves from being caught unprepared.

Of course, as I said earlier, a more ideal option is to have a holiday on an earlier date, like 28 November. If a certain system is found to have problems on that day, we will still have time to adjust computers on the following day, that is, 29 November. But if the proposal of having an extra holiday is not feasible (I am afraid my colleagues from the Liberal Party might hit me), can the Government consider designating 31 December as a territory-wide holiday to enable it to adjust the computer systems of all government departments to 1 January 2000? By so doing, we will have a whole day to conduct a comprehensive test. Thus, we need not take an extra holiday on 3 January.

This is what I have in mind. In my opinion, we are not asking too much to have a holiday, which happens once in a thousand years, in greeting the millennium. I hope more people in Hong Kong can enjoy the holiday.

With these remarks, Mr Deputy, I support the motion.

MR LEE CHEUK-YAN (in Cantonese): Mr Deputy, on behalf of the Hong Kong Confederation of Trade Unions, I met with the Secretary, Mr Joseph

WONG, the day before yesterday to ask him to consider designating the last day of the millennium as a statutory holiday. I made it clear to him then that today's voting is not meaningful. This is because, without his support, there will even be no general holiday. In other words, the Government has failed to provide us with choices. It will be fairer if the Government can let us choose whether that day should be designated as a statutory holiday or a general holiday for this is the fairest way to tackle the matter. However, the Government is usually not fair. Therefore, we are only left with one option — I can see that Mrs CHAN is frowning. But this is the truth. Indeed a fairer practice of the Government is to let us decide whether that day should be designated as a general holiday or a statutory holiday. It is very obvious that we are only left with the option of having a general holiday. There are no other options. The labour sector is very disappointed with this.

Members should understand very well the background of the whole case. Of course, it is not the Government's original intention to designate a holiday. Members should be well aware that the Government's original intention is to allow the banks to address the Y2K problem. But the crux of the problem is, as the Secretary said earlier, there is no holiday designated solely for banks in Hong Kong. Moreover, the Government is unable to deal with this matter by way of administrative instructions. Therefore, it must borrow a shell to get rid of the bugs. But what shell is it going to borrow? There are two options — one is a general holiday; the other a statutory holiday. It has chosen a general holiday. But I think the Government is dividing the community in picking this option. When the day comes, 1 million people, who can take general holidays in accordance with their contracts, will be given a holiday. But for the remaining 2 million people, they will be unable to enjoy a holiday. As a result, the community will be divided. Is it fair to the 2 million people? Is the Government discriminating against them? Is it unfair to them?

Of course, the Government might have failed to take into account the question of fairness in considering the matter. It might have only considered which shell is going to be the most convenient and met with minimal opposition. Moreover, there might be a worry that if the Government opted for a statutory holiday (I do not know whether the Secretary indeed had such a worry), the commercial sector would raise objection. But I firmly believe that even if the commercial sector objects, the retailing trade will probably support the proposal because that will definitely stimulate spending. Am I right, Mrs CHOW?

Therefore, it will actually greatly benefit the whole retailing sector if we can have a holiday on that day. The catering industry will also benefit from it for that will definitely stimulate spending. However, in considering the matter in the first place, was the Government aware that it would be treating the 2 million people unfairly?

The second issue. Mr SIN Chung-kai is not in the Chamber at the moment. He said earlier that the information technology sector greatly welcomed the Government's proposal because people in the industry needed to make use of the holiday to address the Y2K problem. Then he went on to say that he would let the labour sector to state its position. Nevertheless, he has forgotten that, insofar as this issue is concerned, his constituents are actually victims too. Why? Members should be aware that banks need to operate on that day. However, there is no stipulation in the Holidays Ordinance that there will be a compensatory holiday for banks to operate on a holiday. Of course, the banking sector might eventually give its employees a compensatory holiday. I have no idea about that. But if the Government borrows a statutory holiday as its shell, employees working in the banking sector will definitely be given a compensatory holiday according to the law if the banking sector needs to operate on that day. As for employees who continue to work even when the banks are not operating, it is actually fairer if the Government opts for a statutory holiday. This is because, as a result of that, they will be protected by the law to have a compensatory holiday.

The second reason why I think that the Government has acted unwisely is that some people pointed out that the Government's action did reflect that the banking sector might have encountered a big problem in this area. Of course, the Government will definitely deny it, saying that Members can rest assured that nothing has gone wrong at the moment and this is supposed to be an insurance only. I also believe that the Government is only trying to insure against such an eventuality. But what the people said today will unavoidably arouse some suspicions so that members of the public might think that something has really gone wrong. The Government can actually treat the matter in another way by opting for a statutory holiday. In that case, the Government can cover up its actual intention of debugging. In the name of celebration. This is also a better solution. But regrettably, the Government has not opted

for this solution. I know Mr LEUNG Yiu-chung will express his views later and will try to change what the Government has decided to do by way of a private bill. I hope that we can have 31 December, that is the last day of the millennium, as a holiday for this happens only once in a thousand years. The next time it happens will be a thousand years later. We will definitely not be here by then. (*Laughter*) Why can the Government not consider giving the labour sector in Hong Kong one day as a gift as the millennium is nearing its end so that all people can celebrate together on that day, marking the end of the millennium? Of course, this motion will surely be passed. The Government has also said that it will not change that day to a statutory holiday. But I still want to make a last-ditch effort and hope the Government can change its mind.

Thank you, Mr Deputy.

MRS SELINA CHOW (in Cantonese): Mr Deputy, it is regrettable that Miss CHOY So-yuk is not in the Chamber at the moment. First of all, I would like to respond to her remarks. The Liberal Party will never hit people. A man of honour uses his tongue but not his fists. Even if some people might have held views different from ours, we have never thought of hitting them. I would also like to point out that, insofar as this issue is concerned, our views are different from those held by Miss CHOY So-yuk and Mr LEE Cheuk-yan.

Although we do not object to the motion moved under the Ordinance, I believe Secretary Joseph WONG is aware that our party leader has indicated some worries for he has considered the price to be paid by the community for a holiday. The entire society might need to pay a price whatever holiday the public is going to take. Therefore, the Government must calculate the price to be paid by the community in deciding to designate a day as a holiday.

As far as this case is concerned, we understand that, in order to address the Y2K problem, the banking sector is seriously considering solutions. We think this is understandable. But if this is taken as a starting point, the Government should let the banking sector deal with the matter in light of its actual needs. Nevertheless, as the Secretary said, there exist certain difficulties. As no other options are available, we can only accept the arrangement of having a holiday on that day.

Although it is said that the business sector has taken into account the price it has to pay, albeit with much unwillingness, we will nevertheless give our support as this happens only once in a thousand years. But certainly we support it not because we want any celebrations.

Many commercial and industrial organizations, particularly small and medium organizations, consider the motion moved under the Ordinance will indeed affect them because it is impossible for them to take a holiday on that day. As problems might arise as a result of the Y2K and other operational problems might occur as well, they probably need to operate on that day to monitor the situation. To them, the proposal is forcing them to take a holiday when in fact it is impossible for them to do so. If employers ask their employees to work as usual, they will need to give extra payments. Insofar as small and medium enterprises and non-industrial organizations are concerned, they might need to pay an extra price for an extra holiday.

As for the view put forward by Mr LEE Cheuk-yan earlier with respect to social division, I think such a phenomenon should basically not happen. There will be no problem if we can really address it and take the holiday as a banking holiday. As the case now stands, the abovesaid problem will definitely arise. But the price we need to pay or the impact produced by this course of action has been reduced to the minimum and is already lower than the price the community needs to pay if that day is designated as a statutory holiday.

It is, therefore, with great unwillingness that we support this motion.

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, just now, the Secretary said there were actually two main reasons for people agreeing to designate 31 December as a statutory holiday. One of the reasons is that some people hope that they can take that day as a day of celebration. But the Secretary said in response that even if that day is taken as a day of celebration, there is no need to hold celebration in the morning for celebration activities are usually held in the evening. Therefore, we need not take this element into consideration. I would like to respond to this point first. If we think along this line, that is to say, celebrations should be held in the evening, we will not need a holiday on many festive occasions. Why do we have a holiday on other festive occasions? I think we should refrain from getting entangled in whether celebrations should

be held in the morning or in the evening. We should treat that day as a special day. As that is a special day, why can we not celebrate it together all through the day? Just now, many Honourable colleagues mentioned the point that millennium does not take place every year. Just as the Secretary said earlier, we can only have that day as a general holiday this year. It will not happen again next year. Similarly, even if we ask to designate that day as a statutory holiday, we are aware that we can only have it this year. We will have no such holiday next year, and we will have to wait until the next millennium. If I am given a chance by that time, I will raise the same request again. But I think I will not have that a chance. Therefore, I want to respond on basis of the specialty of that day. I hope the Secretary can reconsider the matter.

As the banks have made a special request, the Government can only choose to designate a general holiday in the light of the banks' need. I wonder if the Secretary has considered the fact that, apart from the problems encountered by banks, small and medium enterprises (SMEs) or other industries are also facing the same problems. For instance, some friends of mine who are working in the transport industry have indicated to me that they are also facing the same problems. What should they do? Can they work as usual? Why do we consider a certain industry only at the neglect of other industries? I think other industries also encounter the same technical problems. Therefore, if we look at this issue from the technical angle — Mr SIN Chung-kai also said earlier that other industries were also facing the same problems — we should give equal treatment to all and take into account the needs of other industries.

Just now, the Secretary and Mrs Selina CHOW mentioned the point that having a holiday on that day will definitely bring losses to the community and even the entire business sector. I want to tell Mrs Selina CHOW and the Secretary that, in a recent radio programme, I discussed with a representative from the SMEs the problem pertaining to holidays as well as the issue of having a holiday on 31 December. He told me that he also agreed to have a holiday on that day. But he also put forward the suggestion of swapping holidays instead of having an extra holiday. In other words, he suggested the Government to swap that holiday with another holiday. There were two reasons for him to agree to have a holiday on that day: First, although some organizations were of small or medium size only, they would also need to face technical problems and need to tackle these problems. Second, he also shared the view that it was worthwhile for us to celebrate the millennium. Nevertheless, an extra holiday

might incur a greater loss to them. Therefore, he considered it better for the Government to swap holidays. However, it presents a headache for us when it comes to swapping holidays. When we discussed the Sino-Japanese War Victory Day last time, we had also talked about swapping holidays. I did ask the Secretary which day we should choose. In return, the Secretary asked me which day I preferred. I think it is very difficult for us to choose. I did ask a few friends of mine as to which day they would prefer if they were asked to make the choice. They found it very difficult and were unable to make a decision. Finally, they could only say reluctantly that the Government should try as far as possible not to boost the number of holidays. If there was really such a need, however, they could still consider it.

I think we all have the same worries and the same hope — hoping that special day to come for that day is not an ordinary day. Today, the Government just uses the excuse of responding to the request of the banking sector to address related problems. In my opinion, even if that day is designated as a general holiday, the approach is still far from comprehensive. The Government is only trying to find an excuse for this.

In fact, we are all aware that on a general holiday, not only banks will cease their business, many organizations will suspend their business too. For instance, subvented organizations and teachers will also have a holiday. What should we do when such a situation arises? Why can some people hold celebration or do something else while some other people are not allowed to do so? Why can we not consider the issue from a holistic angle?

I agree with the point made by Mr LEE Cheuk-yan earlier that even if that day was designated as a statutory holiday, it would not necessarily produce an adverse effect on the community. For instance, it might even boost spending. Why do we not consider the matter from this angle? If we think from this angle, there might even be some positive effect. As the Secretary has moved this motion today, with this *fait accompli*, I could only hope that he can consider whether he can move another motion to designate that day as a general holiday as well as a statutory holiday to enable other "wage earners" to enjoy a holiday on that day? Some friends of mine asked me not to say that we were supposed to hold celebrations on that day. This is because, if we put it in an unpleasant way, that day is supposed to act as a buffer in some technical aspects. If their view is correct and that day is actually used for providing us with a buffer, there

is even a greater need for the Government to give equal treatment to all. Otherwise, the headache will be even more serious. Why can some people have a buffer and some other not? Therefore, Mr Deputy, looking at it from this angle, the Government should allow the public in general to enjoy a holiday on that day.

Mr Deputy, I so submit.

MR CHAN KWOK-KEUNG (in Cantonese): The whole world is now ready to meet the challenge of tackling the digital problem brought about by the millennium for even a minor mistake can lead to huge losses. Hong Kong did have the experience of chaos and losses resulted from malfunctions of computer systems. When the airport opened last year, there were problems with computer systems. As a result, the operation of the airport was left largely paralysed. From these, we can see that in the unfortunate event of numerous problems with our computer systems, our community and economy will suffer incalculable losses.

For these reasons, the Hong Kong Federation of Trade Unions (FTU) agrees that 31 December 1999 should be designated as a holiday to enable the information technology sector to, without causing disturbance to computer systems, carry out maintenance work in preparation for the arrival of the year 2000. But why do we designate this holiday as a "white-collar holiday", instead of allowing all employees and organizations to enjoy the holiday? Does it mean that other "wage earners" will not be affected by the digital problem of the year 2000? They will actually be affected as well. For instance, some digital lifts and other machinery will be affected too. The problem is not unique to banks and computers.

The resolution related to the General Holidays Ordinance has led to an old issue again. Why is there a difference between statutory holidays and general holidays? Why is there a discrepancy of five days between the numbers of general and statutory holidays? Why are we given different treatment though we all work very hard? How can we say it is fair to those who cannot enjoy the holiday? This question of unfairness reflects that the Government is still treating our blue-collar workers and "wage earners" with a colonial attitude.

I can recall that Miss CHAN Yuen-han moved an amendment on 3 December 1997 to propose giving "wage earners" a holiday on the International Labour Day on 1 May. But the then Secretary objected to Miss CHAN Yuen-

han's amendment. As holidays taken under the Employment Ordinance are restricted to statutory holidays, commonly known as "blue-collar holidays", it is impossible to designate 1 May 1998 as a general holiday. According to the Secretary, if a statutory holiday was not designated as a general holiday accordingly, confusion would arise. Members may refer to the relevant record. Now we have a general holiday which is not a statutory holiday, will it lead to confusion? This is like today's "me" knocked down by yesterday's "me". The FTU really cannot understand why the Government has all along been insisting there should be a difference between statutory holidays and general holidays.

The FTU has been urging the Government strongly to unify these two types of holidays. To date, the Government has not done anything. Today, "wage earners" are still being treated unfairly. What are the reasons for insisting on such an unfair treatment? Why does the Government not unify these two types of holidays? This has been the community's aspiration. We in the FTU earnestly hope that the Government can change this unreasonable arrangement.

With these remarks, Mr Deputy, I hope the Government can abolish such an unreasonable holiday arrangement as soon as possible. Thank you, Mr Deputy.

DEPUTY PRESIDENT (in Cantonese): Secretary for Financial Services, do you wish to speak?

(The Secretary for Financial Services indicated that he did not wish to speak)

DEPUTY PRESIDENT (in Cantonese): Secretary for Education and Manpower, do you wish to reply?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy, I would like to respond to Honourable Members' remarks briefly.

First, I would like to thank Honourable Members. Although their views on the holiday issue differ, it seems that they have reached a consensus that they will support this resolution. I would like to thank Honourable Members for

their support.

Second, I would like to say that I have explained in detail in my earlier speech that this issue does not involve labour interests or policy on labour benefit. This motion deals mainly with tackling the Y2K problem and take prudent and cautious preventive measures in response to the request of the Hong Kong Association of Banks. We have studied various alternatives before making a final decision to tackle the problem by the most suitable and legal method. This is our basic and major purpose in moving the motion.

I will gladly debate with Honourable Members on another suitable occasion the dividing line between statutory holidays and general holidays. However, I would like to clarify two points. First, the May 1 Labour Day is a statutory holiday, that is, both a holiday for labour and a general holiday. Second, if we want to celebrate the millennium which starts on 1 January 2000, luckily, we will have holiday on 1 January, Saturday and 2 January, Sunday. Therefore, everybody including workers will have two days' holiday for celebration. Besides, I find it fairly reasonable for the celebration to start on 1 January. It is reasonable for us to have celebrations from New Year Eve to the day after New Year, just like when we celebrate the Mid-Autumn Festival which is not a holiday for only the day after the Mid-Autumn Festival is a holiday.

Honourable Members have expressed their views on the preparations made to tackle the Y2K problem. I think the Financial Services Bureau will continue to respond to Honourable Members' views and brief them on the progress of work on suitable occasions.

Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Education and Manpower, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution on "Legislative Council Emblem".

PROPOSED RESOLUTION ON "LEGISLATIVE COUNCIL EMBLEM"

DR LEONG CHE-HUNG (in Cantonese): Madam President, as Chairman of the House Committee and Deputy Chairman of the Legislative Council Commission, I move the motion which has been printed on the Agenda and hope that Members will agree to adopting the design attached to this resolution as the emblem of the Legislative Council of the Hong Kong Special Administrative Region.

Members have, since the establishment of the first Legislative Council, considered that the legislature should have its own emblem to mark its independent status. In addition, an appropriate emblem will help promote our image. Unfortunately, as different people have different aesthetic standards, we have found it very difficult to identify a design satisfactory to all Members of this Council. Members should remember that I did move a similar resolution in this Council on 29 July 1998. But the resolution was negated at that time.

According to the design attached to this resolution, the Chinese character "立", that is the first character of "立法會", is merged with the English letter "L", that is the first letter of "Legislative Council". The designer has demanded a sum of \$120,000 as payment for transferring the copyright for designing the emblem design to the Legislative Council Commission. The fee will also include the charges for compiling a design manual, which will set out in detail how the emblem should be used under different circumstances.

The membership of the Commission is drawn from Members from various parties, factions and lines. Most of them have indicated support for the design and agreed to the payment of \$120,000. Of course, there are a few Members who hold different views. I shall leave Honourable colleagues to express their own views later.

Madam President, if this resolution is passed today, the emblem will be used on letterheads, envelopes and souvenirs of this Council, the Legislative Council Commission, individual Members and the Secretariat.

Mr Bernard CHAN has rendered us a lot of assistance in designing the emblem. I would like to thank him on behalf of the Legislative Council Commission.

Finally, I hope that Members can support this resolution to enable us to have an emblem to mark our independence as soon as possible.

Thank you, Madam President.

Dr LEONG Che-hung moved the following motion:

"That the design attached to this resolution be adopted as the emblem of this Council."

Appendix

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr LEONG Che-hung, as set out on the Agenda, be passed. We will now proceed to the debate.

MR BERNARD CHAN (in Cantonese): Madam President, Honorable Members, since I joined the Legislative Council Commission last year, I started to look for a designer to design an emblem for the Legislative Council. The greatest difficulty I reckoned at that time was to find a proposal acceptable to all Members. The former Legislative Council did debate a few designs before. Some of them looked like "Mother Buddha sitting on a lotus flower" (in fact, I do not know what it means; it was written by my assistant), some looked nearly the same as the regional emblem of the Special Administrative Region. Members held different views and, consequently, not a single design was accepted.

I was a student of art and I fully understand that it is very difficult to express such a complicated concept as the Legislative Council. This time around, the relevant designer has offered us a few choices and made numerous amendments. The design that Members have on hand is tabled to this Council today for debate after the Commission has considered it acceptable.

I rise to speak today not because I want to sell the design. Every person sees it differently as to whether or not an emblem is acceptable. I speak because I want to refute some Members who said that it was not worthwhile for us to spend \$120,000 on acquiring the copyright for such a simple design. Some Members also said that the design was acceptable as long as we did not

need to pay for it. If we need to pay for it, how could we show that we were trying to tide over the difficulties together with the public? In their opinion, it is an honour for someone to be given a chance to design an emblem for this Council. The designer has no reason to ask us to pay for the design, so they said.

Frankly speaking, I felt extremely sorry on hearing these views. Some colleagues basically have no respect for creation and have turned a blind eye to intellectual property rights. What is more, as Legislative Council Members, they think they can freely ask the Government for donation or ask other people to provide free services. I think this is an insult to creators. I hope Members can give this some serious thoughts.

To start with, whether a design is good or not has nothing to do with its simplicity. Most importantly, a good design should make people associate it with its theme and express the idea it wants to convey. For instance, Picasso's paintings are famous for their simple lines and fauvist colours. Does it mean that Members can then say it is unreasonable for his painting to be sold at such a high price for even a kindergarten pupil can draw those childish patterns? Members who say something like that will only show that they are ignorant and laughable.

If Members think that professional design service is as simple as figuring out a name causally, I hope they can get to learn what a designer really does, instead of saying something as innocent as that. Will Members ask other professional service providers, such as simultaneous interpreters, to provide free service for this Council and treat their work as an honour in order to tide over the difficulties together with the public?

It is definitely not the intention of the Legislative Council to gain benefits in the name of politics. Why should we ask a designer to give us the copyright for his design for free? Forcing him to give political donation is like exploiting his fruit of labour. I believe many Members who are sitting here have no intention to become a power group exploiting the toiling masses.

It is true that some companies do provide design service for certain

organizations for free. But I must stress that there are no free lunches in this world. These companies will make use of such opportunities to promote themselves. Does this Council want to be taken advantage of by some people just for the sake of a small benefit?

The Legislative Council should set a good example of protecting intellectual property rights in order to gain respect from the creation industry and even various sectors of the community. This is why I have never asked the designer to give his design to this Council for free for a man with a conscience can never say something like that.

As regards the question of whether it is very expensive for this Council to spend \$120,000 on acquiring the copyright and a manual on how to use the emblem, I think Members should make their own assessment. From my numerous experiences of finding someone to do a design job, this is not expensive at all. As for whether or not Members should accept this design, it is purely a matter of personal opinion. Therefore, I would like to stop here.

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

DR RAYMOND HO (in Cantonese): Madam President, I have on past occasions joined numerous organizations and took part in judging and selecting emblem designs for many groups and organizations. I found the task extremely difficult indeed.

However, a very straight-forward feeling hit me when I received the design. First of all, I want to respond to the remark made by Mr Bernard CHAN earlier in connection with the issue of fees. Personally, I have absolute respect for copyright. If we are to acquire a copyright from someone, we must pay for it if he demands us to do so. We must not ask him to give us the copyright for free unless he is willing to do so. I have no questions about this insofar as this point is concerned. But Members will look at the design in a very subjective manner. Unfortunately, I had a very strong feeling on receiving the emblem design.

First, is it because Hong Kong is an international city that makes it necessary for us to combine Chinese elements with Western elements? Is it the best option to combine the Chinese character "立" with the letter "L" of the word "legislature"? But "立" does not necessarily mean "立法會", am I right? It might mean something else. Similarly, "L" does not necessarily mean "legislature". It might mean something else too. But I have no intention to guess what it means.

Second, from the perspective of lines, I do not know why the emblem looks very unnatural to me. The first impression it gave me was that it was a human head on the top and then came the shoulders. The part underneath appeared to me that someone was sitting with his legs crossed. This feeling hit me all of a sudden. But frankly speaking, this is really how I feel. I find it even more uncomfortable when I go on looking at it. Are the two dots teardrops or raindrops? As for the shape of the whole emblem, of course we can say that different people may see it differently, but I am not accustomed to an emblem of such a shape.

If this Council decides to adopt the emblem, it will be used for a very long time. It will be even worse if we are not convinced of the design and decide to change it in future. I understand that the designer has made a lot of efforts in designing the emblem. I also believe other people might see it from a different angle and consider the design terrific or very outstanding. But as far as I am concerned, I find it very hard to accept the emblem. Therefore, I will vote against the motion. Thank you, Madam President.

MR CHAN WING-CHAN (in Cantonese): Originally, Madam President, I had no intention to speak. But on seeing the design, which is based on the Chinese character "立", I just cannot help express some of my views.

Madam President, as the emblem of the Legislative Council of the Hong Kong Special Administrative Region, the Chinese character "立", though slightly beautified, is a bit overly simple. It is so simple that one really find it quite hard not to reject it. Although Mr Bernard CHAN has pointed out that the crux of the problem does not hinge on whether the design is simple or

complex, this is, after all, my personal feeling. As an emblem representing the Legislative Council, its design must present a visual sense of beauty and meet the aesthetic requirements. What is more, it should be rich in substance. I understand that it is a matter of viewpoints and different people look at art differently. However, as the emblem will be used over a long period of time in future, those who like it can speak what is in their minds and those who do not should also speak to express their views.

If we can simply use the character "立" as the Legislative Council emblem, the Executive Council can in future, likewise, use an even more dynamic character "行" as its emblem. Combining two Chinese characters representing the Legislative Council and the Executive Council, we will end up having the expression "行行企企". It might even help improve the relationship between the two organs. According to reports, the relationship between the legislature and the executive is not satisfactory at the moment and it is hoped that something can be done to improve it. Perhaps Members of the Executive Council can consider making use of the Chinese character "行" as a dynamic design.

Of course, it will be up to Members to decide what design and what pattern should be used for the emblem. Members might find the character "立" acceptable. Perhaps the motion will be passed too. But I still want to express what I feel and, that is, I do not like such a simple design. My view is slightly similar to some of those put forward by Dr Raymond HO just now.

Madam President, when I was young, I liked to watch dramas and movies, including Western films, Cantonese films and Mandarin films. When I saw that the character "立" was used for representing this Council, a scene from those Cantonese films made in the fifties or sixties immediately came to my mind. In the scene, we can find a thatched cottage standing on the top of a hill. On a bamboo stick protruding from the cottage hangs a flag on which there is the character "茶", meaning that tea is available there and people can take a cup of tea and have a rest there. In another scene, there comes another flag on which there is the character "酒", symbolizing that "fish and meat are available there" and the cottage is in fact a restaurant. I am not sure whether the designer of the emblem has drawn inspiration from these scenes? I dare not say for sure, for fear that some Members will say that I have no respect for the artists. But my

feeling is: Is it possible that such a simple design, based on the character "立", was inspired from the scenes described by me? It really surprises me that a contemporary Legislative Council emblem can bring us back to a scene in a Cantonese film dating back to the fifties or sixties. Madam President, I strongly object to this motion for I do not like this design, which comes from the Chinese character "立".

Thank you, Madam President.

MR GARY CHENG (in Cantonese): Madam President, the comments made by several Honourable colleagues just now have fully illustrated the fact that to design an emblem is a difficult task. Therefore, we need to pay for it.

I have personally engaged in such kind of work for more than a decade. I have also, on past occasions, been asked to design emblems, book covers and so on. Therefore, I understand that it is a difficult task for different people see things differently. I have no intention to dwell on the issue of whether or not the design is worthwhile. Even if the design is a straight line, we cannot doubt whether it is worth \$120,000. This is because the worthiness of the design might lie in the concept or notion behind it, not the straight line itself. As far as this point is concerned, I do not have strong opinion.

Just now, Mr CHAN Wing-chan cited a lot of examples in connection with Cantonese films. I do not want to mention these either. The principal reservation I have with respect to this emblem is: Why should we use a single character "立" as the emblem of the Legislative Council to generalize the work of this Council? We did raise the point that: If the character "行" is chosen to be the emblem of the Executive Council, will the two Councils then become "行行企企"?

We find the task extremely difficult. As the case now stands, I would rather go on exploring and studying. We will only give our consent if one day we can really identify an outstanding emblem. If we are still continuing with

our search, I would rather have no emblem for the time being! Given the subjective nature of the matter, we can only let Members judge it according to their subjective views. Thank you, Madam President.

MR EDWARD HO (in Cantonese): Madam President, I wonder if you have read an almanac today for it has taken us such a long time to debate each question.

Members should still remember the history of the emblem issue. To start with, the issue was examined in the former Legislative Council era. Two inviting competitions have also been held to invite designs. Though many designs were presented, they failed to gain Members' consent at the end. After the reunification, the Legislative Council conducted yet another study again.

Members should remember that the first emblem design made use of both the regional emblem and textual descriptions to highlight the Legislative Council as its theme. But the emblem was turned down by a number of Members at that time. Now we have several designs again. The Legislative Council Commission has also conducted discussion on these designs at a few of its meetings. Members should all be aware that various parties, factions, lines, and perhaps "tan" (forum) are represented in the Commission. It is hoped that, through such a composition, the Commission can summarize the views held by various parties, factions, "tans" and lines with respect to various issues. As a matter of fact, after a few meetings, most Members indicated that they could endorse the design. As far as I can remember, only one Member indicated disapproval.

As regards the design in question, being an insider in the trade, I personally know that it is very hard to find a design which can appeal to everyone for different people have different tastes. In particular, everyone has his own view under a democratic atmosphere. If we insist on seeking unanimous consent from 60 Members, we might end up having no emblem even after 60 years. Therefore, I think the most effective means is to let members of the Legislative Council Commission to make the decision.

Personally, I cannot say this is the best design or it can win certain prizes. At least, however, I think it is quite meaningful. Being an international city, Hong Kong has got used to using two languages, that is, Chinese and English.

The design is based mainly on the Chinese character "立". The lower part is an English letter "L". Joining them together, we get a design more or less resembles "立". This is very simple indeed.

I think an emblem needs not embrace everything. In future, our letterheads or name cards will be printed with such wordings as the Legislative Council of the Hong Kong Special Administrative Region. We can, therefore, give detailed description in words. The point that an emblem can be very simple has also been mentioned by Mr Bernard CHAN. Let us look at some successful logos. They are actually very simple. For instance, the logo of Mitsubishi will easily make us remember which company or organization it represents.

We have made a lot of efforts and spent a lot of time on this issue. I do not think the emblem will disgrace us even if we decide to adopt it. Of course, Members might see certain patterns, scenes from Cantonese films and so on from it. But I think it is only a matter of perception. I hope Members can support this motion. Thank you.

DR YEUNG SUM (in Cantonese): Madam President, I thought the motion related to the emblem of this Council would be passed very quickly after it was moved by the Chairman of House Committee. Nevertheless, Members might have something more to say with respect to the discussion of tunnel tolls. Therefore, they want to continue with the discussion.

The view held by the Democratic Party is very simple. We support this motion. This is because people from various factions have already fully expressed their views in the meetings of the Legislative Council Commission.

My view is also very simple. I think the emblem is concise and comprehensive. People will immediately know what it means. Very often, creative work is criticized for being nothing special. Very often, when someone figures out something while we have been unable to do that, we will say what he gets is nothing special. I would suggest Members to try creating something and see what will happen! After an idea has been put forward, some Members made some remarks with the benefit of hindsight as well as making

severe criticisms, saying something like a restaurant and so on. Of course, you can continue discussing the issue but, at the same time, what you say reflects your personal taste.

I strongly support the emblem design and hope Members can endorse it expeditiously. Thank you.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, as regards the design of the emblem, I think it is really a matter of personal perception. Just now, a few Members have expressed their views on the design of the emblem.

I would like to respond to the comments made by Mr Bernard CHAN. Just now, some Members considered it would be best if the service of designing the emblem could be rendered free. But in Mr CHAN's opinion, asking for free service is tantamount to showing no respect for intellectual property rights. I think this logic does not hold. Mr CHAN should not say something like that.

What does it mean by showing no respect for intellectual property rights? It will be an act of showing no respect for intellectual property rights if we forcibly seize the design without asking the designer for consent. Now we are only asking him to sponsor or to provide service in favour of this Council. He can choose to sponsor if he agrees to do so. He can also choose not to sponsor if he objects to it. This has nothing to do with whether or not we respect intellectual property rights. I hope Mr Bernard CHAN can stop saying that asking someone to sponsor, provide free service or charge a lower price is tantamount to showing no respect for intellectual property rights. I think what he said does not stand.

Until this moment, Madam President, I still object to paying that sum of money.

MRS SELINA CHOW (in Cantonese): Sorry, Madam President, I know Members have started to grow impatient at this point in time. But I want to stand up to make a statement, having heard someone mention intellectual property rights.

If we are to commission a professional firm or a professional to design an emblem whereas the firm or professional is quite reputable, the honorarium will normally exceed \$1 million. Now we only need to pay \$120,000. This sum of money is only meant to be a reward for the efforts made by the designer and the fact that he has to be nurtured over a considerable period of time before he can perform the assignment.

Of course, just as Mr YEUNG Yiu-chung said, there is no harm for us to ask the designer whether or not he could contribute his design to this Council. But do we, as Members of the Legislative Council, need to ask someone to contribute his design? Of course, we should not be over-generous because we are not a commercial organization. We should not pay several million dollars just for the sake of acquiring an emblem for ours is not a commercial organization. But I think we should give a reasonable reward to show our respect for professionalism. We do not need someone to contribute the emblem. If passed, the emblem will be used over a long period of time, perhaps 10 to 20 years. Even it will last only five years but as it will be used for so many purposes, the money incurred each time is actually negligible if the whole sum of money is spread out. But for the professional, it is meant to be an important recognition for the efforts he has actually made. For him, this is a reasonable reward too.

Therefore, if we have definite respect for and knowledge of intellectual property rights, we, as Members of the Legislative Council, would not need someone to contribute the emblem to us.

MR SIN CHUNG-KAI (in Cantonese): Madam President, what Dr YEUNG Sum said can already represent the position of the Democratic Party. But I have a strong feeling when I heard what Mr CHAN Wing-chan said with respect to the design.

Frankly speaking, Madam President, I strongly agree to replacing the emblem over your head with a bauhinia. But the colour of the emblem is not the colour of a bauhinia. Different people will look at different emblems differently. But we need to look at the issue with a holistic approach. Of course, in the eyes of the Democratic Alliance for the Betterment of Hong Kong, it may give them a feeling of "行行企企". But in my eyes, I think a rubber

stamp might be a better choice as the Legislative Council emblem and better represent our current situation.

The last point I want to raise is that an emblem might be the achievement made by a number of technicians who have been working with computers for a number of days. What is more, a designer is required to make the final check at the end to ensure whether the colours match one another and so on. Such work has to be done in a meticulous manner and it may take many days to complete it. If the Executive Council is to choose an emblem, there may be dozens of choices. In the process, I think various expenses, including the expense on paper, should be included. To put it simply, the Democratic Party supports the remarks made by Mrs Selina CHOW and Mr Bernard CHAN earlier with respect to intellectual property rights and the payment of an honorarium.

MISS EMILY LAU (in Cantonese): Madam President, I shall make some brief remarks.

The Frontier is in support of the motion related to the emblem. I also share the anger expressed by Mr Bernard CHAN when he spoke because I am a member of the Legislative Council Commission too. I was very annoyed during the meetings of the Commission. I do not understand why someone would ask other people to work for this Council free. Many Members and even the Government behave in the same way by asking people to serve on various advisory committees free. We should not bully others. (*Laughter*) In particular, the Legislative Council is obviously in need of an emblem, why is it unwilling to pay for the design?

Madam President, you should be aware that we had repeatedly waged wars of words behind closed doors. This issue is highly controversial. Members should state their position clearly today. I think there should be no problem. It is pretty normal for Members to have different views on a certain design. Even the name "*chi lo*" (Purple Cottage) has attracted worldwide attention. (*Laughter*) It does not matter for Members to have different views on a certain design. But I am afraid we would give the public a wrong message if we are not willing to pay and even ask someone to regard working for this Council as an honour.

I am very glad that Members have expressed their own views today. At the very beginning, I had no idea that we would be talking about honorarium. The reason for Mr Bernard CHAN to have responded so angrily is that he thought some Members were not willing to pay. At the beginning, no Member said he was unwilling to pay. Some Members only said they did not like the design. But finally, some Members really expressed their unwillingness to pay. I think we differ greatly insofar as this point is concerned. But it does not matter for the more we debate, the clearer the truth will become. Madam President, I hope we can vote in favour of the emblem.

I can tell Dr Raymond HO that I believe the emblem will not be used for a long time. The next term of the Legislative Council can abandon the emblem if it does not like it. It can then design a new emblem as long as it does not mind taking the trouble of doing it.

Thank you, Madam President.

PRESIDENT (in Cantonese): Dr LEONG Che-hung, please reply.

DR LEONG CHE-HUNG (in Cantonese): Madam President, had we read the almanac this morning, we might have discovered that today is not a good day for legislative work. (*Laughter*) Frankly speaking, when it comes to matters like the aesthetic value of a logo or emblem, its symbolic meaning and its ability to reflect the status of the organization concerned, there can never be any uniform standards at all. It is all beauty in the eyes of the beholder. So, it will be difficult for all the 60 Members of this Council, including the President, to share exactly the same views about one single emblem. This is very much similar to people's tastes of fashion. The President likes suits of plain colours; Mrs Anson CHAN has a liking for brightly coloured cheongsams; Miss Emily LAU usually wears clothes of even brighter colours. And, male Members also have different choices of neckties. Some like neckties with prints of animals; those with a stronger character prefer prints of crocodiles and elephants, while others favour plain and simple neckties like the one Dr Raymond HO is wearing. To sum up, people's tastes can never be the same. And, even when we choose our spouses, we all have different tastes. (*Laughter*) Some may like people with a big stature, but others may prefer just the opposite.

So much for that. But, Madam President, as a constitutional body set up

in accordance with the Basic Law, should the Legislative Council really need an emblem? Do we really need a special logo? Well, if we all think that we really need a special logo or emblem, then I hope that we will cast our votes with a tolerant attitude. However, Madam President, I am very disappointed. As I pointed when I spoke in moving this motion, Members belonging to different political parties, groups and fronts have already been included in the Legislative Council Commission. The purpose of appointing these Members to the Legislative Council Commission is to make sure that they can all voice their different views at the meetings of the Commission, so that they do not have to argue any further at regular Council meetings about all those issues for which a consensus has been reached. Unfortunately, we still hear a lot of dissenting voices today. Is this because our colleagues belonging to different political parties, groups and fronts have not done anything to reconcile their differences? If this is really the case, should we change the composition of the Commission, or should we simply abandon such a composition altogether? I should really think about this.

Madam President, there is a popular saying in Hong Kong: No change for 50 years. I think the Legislative Council emblem issue is an apt reflection of the truth behind this saying: no change is advised because dissenting voices will render all attempts to change futile. Well, I certainly do not want to see this today. Therefore, I hope that Members will all cast their votes with a tolerant attitude. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr LEONG Che-hung, as printed on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr LEONG Che-hung rose to claim a division.

PRESIDENT (in Cantonese): Dr LEONG Che-hung has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Voting shall now start.

PRESIDENT (in Cantonese): If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr Edward HO, Mr Michael HO, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mr SIN Chung-kai, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr LAW Chi-kwong and Mr FUNG Chi-kin voted for the motion.

Dr Raymond HO, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr Philip WONG and Dr TANG Siu-tong voted against the motion.

Dr LUI Ming-wah abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Dr Yeung-sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr HO Sai-chu, Mr NG Leung-sing and Mr Ambrose LAU voted

for the motion.

Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted against the motion.

Mr MA Fung-kuok and Miss CHOY So-yuk abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, 15 were in favour of the motion, five against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 13 were in favour of the motion, six against it and two abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): The time now is 9.52 pm. I think that instead of starting the debates on the following motions, we should wait until tomorrow. But I should remind Members that the meeting tomorrow will run from 9 am to 12.30 pm only. If we fail to finish all items of business, we will have to continue on Saturday. I now adjourn the meeting until 9 am tomorrow.

Suspended accordingly at seven minutes to Ten o'clock.

Annex VIII

REVENUE BILL 1999

COMMITTEE STAGE

Amendments to be moved by the Secretary for the TreasuryClauseAmendment Proposed

2 By deleting paragraph (e).

New By adding -

"15A. Section added

The following is added in Part II -

"18B. Presentation of copies of instruments, etc.

(1) In this Ordinance, any reference to an instrument as one being or required to be presented or tendered to the Collector for stamping shall be construed as including a reference to a copy of the instrument if it is shown to the satisfaction of the Collector that it is impracticable in the circumstances of the case that the instrument be or be required to be so presented or tendered (as the case may be).

(2) Where a copy of an instrument chargeable with stamp duty is presented to the Collector for stamping pursuant to subsection (1), the Collector may, where he is required or empowered under this Ordinance to stamp the instrument or cause it to be stamped, stamp a

ClauseAmendment Proposed

certificate issued by him, in such form as he may from time to time determine, in respect of the instrument or cause such a certificate to be stamped (as the case may be) as if the certificate were the instrument.

(3) Where the Collector stamps a certificate issued in respect of an instrument, or causes such a certificate to be stamped, pursuant to subsection (2) -

- (a) the instrument shall, for the purposes of this Ordinance, be deemed to have been stamped in the same manner and with the same amount as the certificate has been stamped; and
- (b) (i) the Collector may, where he is required or empowered under this Ordinance to record or denote any particulars or matter on the instrument, record or denote (as the case may be) such particulars or matter on the certificate; and

ClauseAmendment Proposed

- (ii) where any particulars or matter has been recorded or denoted on the certificate pursuant to subparagraph (i), such particulars or matter shall, for the purposes of this Ordinance, be deemed to have been recorded or denoted (as the case may be) on the instrument.

(4) In this section, a reference to a copy, in relation to an instrument, shall be construed as a reference to a copy which is shown to the satisfaction of the Collector as a true copy of the instrument."."

16(d) In the proposed section 19(12A)(a), by adding ", or a copy of the stock borrowing and lending agreement which is shown to the satisfaction of the Collector as a true copy thereof" after "provided for".

- 18(d) (a) In the proposed section 29C(12) -
- (i) in paragraph (a), by adding "and" at the end;
 - (ii) in paragraph (b)(ii)(B), by deleting "; and" and substituting a full stop;
 - (iii) by deleting paragraph (c).

<u>Clause</u>	<u>Amendment Proposed</u>
	(b) In the proposed section 29C(13) - <ul style="list-style-type: none">(i) in paragraph (a), by deleting "requirements set out in subsection (12)(b) and (c) are, in so far as they are applicable," and substituting "requirement set out in subsection (12)(b) is";(ii) in paragraph (b), by deleting "any of the requirements set out in subsection (12)(b) and (c) are, in so far as they are applicable," and substituting "the requirement set out in subsection (12)(b) is";(iii) in paragraph (b), by adding ", and the reasons for the decision," after "decision".
	(c) By deleting the proposed section 29C(14) and (15).
23	(a) By deleting the clause. (b) By deleting the heading before clause 23.
24	(a) By deleting the clause. (b) By deleting the heading before clause 24.
25	(a) By deleting the clause. (b) By deleting the heading before clause 25.
New	By adding before the heading " Merchant Shipping (Registration) (Fees and Charges) Regulations " -

ClauseAmendment Proposed**"43A.No refund of excess fees**

Notwithstanding that any fees paid by virtue of the operation of clause 43 of the Bill set out in the Schedule to the Public Revenue Protection (Revenue) Order 1999 (L.N. 90 of 1999) pursuant to section 2 of that Order are in excess of the respective fees payable immediately after the expiration of that Order, the excess shall not be repaid to the person who paid the same and section 6 of the Public Revenue Protection Ordinance (Cap. 120) shall not apply thereto."

New By adding before the heading "**Consequential Amendments**" -

"45A.Transitional

(1) Subject to subsection (2), nothing in this Ordinance affects -

- (a) the operation of the specified section of the Order at any time before the day on which this Ordinance is published in the Gazette;
 - (b) anything duly done or suffered under or pursuant to any of the provisions of the specified section of the Order at any time before the day on which this Ordinance is published in the Gazette.
- (2) (a) Where a body corporate has given a banker's undertaking by way of security for the payment of the stamp duty chargeable on an agreement pursuant to any of the provisions of the specified

ClauseAmendment Proposed

section of the Order at any time before the day on which this Ordinance is published in the Gazette, the body corporate may, notwithstanding the provisions of the undertaking, by written notice to the Collector demand that the undertaking be returned to it.

(b) Where a body corporate makes a demand in respect of a banker's undertaking under paragraph (a), upon receipt by the Collector of the notice of the demand -

(i) the undertaking shall be deemed to be discharged; and

(ii) the Collector shall forthwith return the undertaking to the body corporate.

(3) In this section, a reference to the specified section of the Order means section 29C(12), (13), (14) and (15) proposed to be added to the Stamp Duty Ordinance (Cap. 117) by virtue of the operation of clause 18(d) of the Bill set out in the Schedule to the Public Revenue Protection (Revenue) Order 1999 (L.N. 90 of 1999) pursuant to section 2 of that Order."

REVENUE BILL 1999

COMMITTEE STAGE

Amendments to be moved by the Honourable Ronald ARCULLI. J.P.

Clause

Amendment Proposed

21 By deleting paragraphs (a) and (b)(i).

REVENUE BILL 1999

COMMITTEE STAGE

Amendments to be moved by the Honourable CHAN Kam-lam

<u>Clause</u>	<u>Amendment Proposed</u>
37(d)	In the proposed table of tolls - (a) in item 1, by deleting "\$8" and substituting "\$4"; (b) in item 3, by deleting "\$20" and substituting "\$10".
43	By deleting the clause.

REVENUE BILL 1999

COMMITTEE STAGEAmendments to be moved by the Honourable Andrew CHENG Kar-fooClauseAmendment Proposed

- 37(d) In the proposed table of tolls -
- (a) in item 1, by deleting "\$8" and substituting "\$6";
 - (b) in item 3, by deleting "\$20" and substituting "\$15".
- 43(a) By deleting "\$4.00" and substituting "\$3.00".
- 43(b) By deleting "\$4.00" and substituting "\$3.00".