

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 July 1999

The Council met at Nine 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

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

PUBLIC OFFICERS ATTENDING:

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

THE HONOURABLE DONALD TSANG YAM-KUEN, J.P.
THE FINANCIAL SECRETARY

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

MR MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

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

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

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

MR KWONG KI-CHI, G.B.S., J.P.
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

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

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

MR DAVID LAN HONG-TSUNG, J.P.
SECRETARY FOR HOME AFFAIRS

MRS REGINA IP LAU SUK-YEE, J.P.
SECRETARY FOR SECURITY

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

MR GREGORY LEUNG WING-LUP, J.P.
SECRETARY FOR HEALTH AND WELFARE

MS ANISSA WONG SEAN-YEE, J.P.
SECRETARY FOR THE CIVIL SERVICE

MISS YVONNE CHOI YING-PIK, J.P.
SECRETARY FOR TRADE AND INDUSTRY

CLERKS IN ATTENDANCE:

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

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

PAPERS

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

Subsidiary Legislation	<i>L.N. No.</i>
Post Office (Amendment) Regulation 1999.....	178/99
Air Navigation (Hong Kong) (Amendment of Schedule 16) Order 1999.....	179/99
Telecommunication (Amendment) (No. 2) Regulation 1999.....	180/99
Discovery Bay Tunnel Link Regulation.....	181/99
Merchant Shipping (Safety) (High Speed Craft) (Amendment) Regulation 1999.....	182/99
Import and Export (Strategic Commodities) Regulations (Amendment of Schedules 1 and 2) Order 1999 ..	183/99
Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 4) Order 1999.....	184/99
Declaration of Markets in the Regional Council Area (Amendment) (No. 2) Declaration 1999.....	185/99
Tax Reserve Certificates (Fourth Series) (Amendment) Rules 1999	186/99
Tax Reserve Certificates (Amendment) Ordinance 1999 (24 of 1999) (Commencement) Notice 1999.....	187/99

Sessional Papers

- No. 142 — Sir Robert Black Trust Fund Annual Report for the year 1 April 1998 to 31 March 1999
- No. 143 — Employees Retraining Board 1996-1997 Annual Report
- No. 144 — Employees Retraining Board 1997-1998 Annual Report
- No. 145 — Construction Industry Training Authority Annual Report 1998
- No. 146 — Hong Kong Trade Development Council Annual Report 1998/1999
- No. 147 — Airport Authority Hong Kong Annual Report 98/99
- No. 148 — 1998 Annual Report by the Commissioner of the Independent Commission Against Corruption of the Hong Kong Special Administrative Region
- No. 149 — Independent Commission Against Corruption Complaints Committee Annual Report 1998
- No. 150 — J.E. Joseph Trust Fund Report for the period 1 April 1998 to 31 March 1999
- No. 151 — Kadoorie Agricultural Aid Loan Fund Report for the period 1 April 1998 to 31 March 1999
- No. 152 — Securities and Futures Commission Annual Report 1998-99

Reports

Report of the Bills Committee on Legislative Council (Amendment) Bill 1999

Report of the Bills Committee on Road Traffic (Amendment) Bill 1998

Report of the Bills Committee on Chinese Medicine Bill

Report of the Bills Committee on Factories and Industrial Undertakings
(Amendment) Bill 1999

PRESIDENT (in Cantonese): Good morning, Honourable Members. I hope that through your endeavours and co-operation, there is a possibility that the meeting would finish within three days as scheduled.

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mr Fred LI will address the Council on the 1998 Annual Report by the Commissioner of the Independent Committee Against Corruption of the Hong Kong Special Administrative Region.

Commissioner of the Independent Commission Against Corruption of the Hong Kong Special Administrative Region Annual Report 1998

MR FRED LI (in Cantonese): Madam President, as a member of the Advisory Committee on Corruption (ACOC), I am honoured to have a chance to brief Members sitting here on the 1998 Annual Report by the Commissioner of the Independent Committee Against Corruption tabled to this Council today.

Last year, the Independent Committee Against Corruption (ICAC) received a total of 3 555 reports on corruption. This figure is the highest reporting rate received by the ICAC since its establishment in 1974. It also represented a 16% increase over the figure for 1997. But this does not represent a corresponding increase in corruption. Not only was there no resurgence of syndicated corruption, investigation of the reports relating to government departments revealed that the level of corrupt activities remained much the same. On the contrary, through the constant efforts made by the ICAC in fighting corruption and the wide publicity of successful ICAC operations through the media, the public is fully confident with the ICAC and its anti-corruption work. The proportion of complainants who identified themselves when making reports to the ICAC remained high at 68%. What has been achieved is really encouraging.

Last year, in carrying out investigation work, the ICAC further exploited the use of its proactive strategy in unearthing corruption. Moreover, it made unceasing efforts to enhance its liaison and co-operation with various law enforcement agencies, government departments and regulatory bodies to enable corruption fighting a mutual responsibility. In 1998, the ICAC set up three specialist sections in witness protection, international assistance and financial investigation. The Commission will continue to deploy its limited resources flexibly in order to raise its effectiveness.

Madam President, insofar as establishing community relations is concerned, the Commission continued to commit much of its preventive efforts to educate the public sector. During the year, it jointly organized a seminar on civil service integrity with the Civil Service Bureau to explore the management responsibility for fighting corruption. To build upon this message and to map out a preventive programme for each department, the ICAC and the Civil Service Bureau had started a series of in-depth discussions with department heads as at the end of last year. Riding on the momentum of the Business Ethics Programme of the previous year, the Commission organized a well-attended conference for practitioners in the financial services sector with the assistance of the Securities and Futures Committee, the Stock-Exchange, the Futures Exchange and related bodies. In addition, the Commission produced a drama series and a spot series for young people on television, two new multi-media advertising packages and a television commercial to promote clean elections. Its objective is to inculcate positive values in the minds of young people and, more importantly, to keep corruption issues in the public eye.

As for prevention work of corruption, the ICAC completed 102 studies targeted mainly at government departments and public bodies in 1998. Emphasis was placed on scopes found by the Operations Department where corruption and related corruptive practices easily arose. An inquiry hotline has also been set up to provide free anti-corruption recommendations to private organizations to plug the loopholes that might arise in routine work and procedures. At the same time, ICAC staff will visit relevant organizations regularly to carry out follow-up work to ensure the accepted anti-corruption proposals are practically implemented.

Madam President, lastly, the Commissioner of the Independent Committee Against Corruption and I would like to take the opportunity of tabling this report to thank this Council and the public for their support for the ICAC and for the valuable contributions made by members of the ACOC during the year. We would also like to express our gratitude to all the ICAC staff who have been working faithfully and dutifully. I so submit.

PRESIDENT (in Cantonese): Mr Howard YOUNG will address the Council on the 1998 Annual Report of the Independent Commission Against Corruption Complaints Committee.

Independent Commission Against Corruption Complaints Committee Annual Report 1998

MR HOWARD YOUNG (in Cantonese): Madam President, on behalf of the Independent Commission Against Corruption Complaints Committee, I am tabling to this Council the Independent Commission Against Corruption Complaints Committee Annual Report 1998.

This is the fourth annual report published by the Committee. It has described in detail the functions and manner of operation of the Committee while summarizing the work dealt with by the Committee over the past year. The objective of publishing this booklet is to report to the public the work done by the Committee on a regular basis.

Members wishing to make any comments on the contents of the annual report are welcomed to forward them to the Secretary of the Committee, whose office address and telephone number can be found in the annual report.

ORAL ANSWERS TO QUESTIONS

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

statements.

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

If a Member wishes to follow up and seek elucidation on an answer, or raise a point of order, please stand up to so indicate and I will ask him to speak.

First question.

Public Complaints Committee of the Hospital Authority

1. **DR YEUNG SUM** (in Cantonese): *Madam President, with regard to the operation of the Public Complaints Committee (PCC) of the Hospital Authority (HA), the function of which is to handle complaints in relation to medical incidents, will the Government inform this Council:*

- (a) *whether it knows if the HA has deployed a certain number of executive and health care personnel to assist the Committee in handling the complaints received, on a full-time basis; if so, of the details of such deployment;*
- (b) *whether it will request the HA to expeditiously increase the transparency of the Committee in handling complaints; if the HA has such plans, of the details of that; and*
- (c) *of the circumstances in which it will consider setting up an independent statutory body to handle complaints lodged by patients and their family members about the medical services provided by the HA?*

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

- (a) The HA has designated staff, including a Deputy Director and five executives, to support its PCC in handling complaint cases. They are responsible for seeking information from the concerned

hospitals, conducting analysis and assessment of the complaint cases, and seeking professional opinion from individual medical experts when necessary. Also, eight HA regional cluster managers, who are also medical doctors, will provide assistance and advice. Apart from providing support to the PCC in handling complaints, the above mentioned Deputy Director, the five executives and the eight cluster managers will also perform other duties. Since the number of complaint cases fluctuates, it should be more appropriate to adopt manpower pooling as the mode of operation. Moreover, the HA considers that since the eight cluster managers are more familiar with the policy and operations of individual hospitals within their clusters, the current arrangement of having eight cluster managers to assist in handling complaints concerning hospitals of their own clusters, is more effective than designating one to two full-time staff responsible for handling complaints concerning all HA hospitals.

- (b) Since 1998, the PCC has been introducing new measures to enhance the transparency and representativeness of the complaint mechanism, including expanding the number of the PCC members, and reporting work progress regularly to the HA Board and the public at the HA Board's open meetings. Moreover, the PCC members will meet with the complainants when necessary, which can allow them to better understand the incidents and to make fair judgement.

To further enhance the HA's complaint mechanism to meet public expectations, the PCC is considering other improvement measures. These new measures, if agreed by the HA Board, will be implemented in three to six months. The proposals being considered include:

- (1) To pledge to report to the complainant on the investigation results within three months after receipt of the complaint. If investigation has not yet completed, the complainant will be informed of the investigation progress;
- (2) To designate one PCC member, together with the concerned cluster manager and the executive, to be in charge for each

complaint case. This can facilitate the early participation of PCC members in the investigation process;

- (3) To consider the feasibility of opening selective PCC meetings; and
 - (4) To conduct regular visits to hospitals by the PCC members to help medical staff better understand the importance of the work of the PCC.
- (c) We will consider the following factors before deciding on whether it is necessary to set up an independent statutory body to handle complaints lodged by patients and their family members:
- (1) Whether the existing complaint channels are able to handle complaints regarding medical services effectively. The existing complaint channels mainly include the above mentioned PCC and the Medical Council, which is responsible for monitoring issues relating to the discipline of doctors; and
 - (2) Whether it will give rise to any complicated complaint structure, or will lead to any waste of resources, if an independent statutory body is to be set up outside the existing complaint channels.

In the Report of Improving Hong Kong's Health Care System published in April this year, the Harvard Team recommends the setting up of a Medical Ombudsman Office. We are now inviting views from the public in this regard. As far as I understand, apart from the HA, the Medical Council is also actively considering ways on how to improve the existing monitoring and complaint mechanism. We will consider whether the improvement measures proposed by these organizations can fulfil the public expectations.

DR YEUNG SUM (in Cantonese): *Madam President, it is very difficult for the HA's personnel to build up credibility in the public's minds if they are to investigate certain conducts of the relevant staff of the HA themselves upon*

receiving complaints from the public. Will the Government inform this Council whether it has seriously considered the importance of setting up an independent body?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, there are at present nine members, including the Chairman, in the PCC. Among these nine members, four are members of the HA Board, five are members of the community. Their impartiality and independence should, therefore, be trustworthy. In addition, those colleagues assisting the PCC in carrying out investigation bear no strict affiliation to the hospitals. Therefore, they will work with an independent attitude.

DR LEONG CHE-HUNG (in Cantonese): *Madam President, the Secretary mentioned earlier that a sizable proportion of people in the PCC are unaffiliated to the HA. Will the Secretary inform this Council what criteria have been adopted for appointing these members who have no affiliation with the HA?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, in the appointment process, I believe the Chairman of the HA will consider the interest of the relevant persons in the relevant work, their knowledge in social affairs and their credibility. These are believed to be the major elements to be considered in the selection of members.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary mentioned in part (a) of his main reply that professional opinion from individual medical experts would be sought when necessary. But very often, complainants, particularly some patients' rights organizations, criticize that this will lead to the phenomenon of "medical officers shielding each other" and there is a lack of objectivity and independence. Will the Secretary inform this Council how the Administration can ensure independence and objectivity in this aspect to instil in the complainants and complaining bodies a sense of trustworthiness?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, there are more than 8 000 medical doctors in Hong Kong. I believe some of them must be able to provide fair comments. If necessary, family members of patients or patients' organizations can seek help from the Hong

Kong Academy of Medicine.

MR MICHAEL HO (in Cantonese): *Madam President, in response to the query raised in the main question regarding whether the HA would assign staff to handle the complaints received on a full-time basis, the Secretary replied that the current mode of operation was more effective than designating one to two full-time staff responsible for handling complaints. Madam President, given the fact that the staff working for these supporting committees are neither working on a full-time nor an independent basis, it will give rise to conflicts of roles because, on the one hand, they need to work for the hospitals and, on the other, they need to "put off the fire". Will the Government inform this Council how it can ensure that the staff assisting these committees will provide objective opinion to the committees independently?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, just as I explained in the main reply, as the number of complaint cases fluctuates, the current practice is more ideal in terms of resources and operation. But as I said earlier, the colleagues assisting the PCC have no direct affiliation with the hospitals. Therefore, in dealing with complaints work, they will mainly be responsible to the PCC. For these reasons, problems pertaining to conflicts of roles should not arise.

DR TANG SIU-TONG (in Cantonese): *Madam President, paragraph (3) of part (b) of the main reply mentions that the PCC will consider the feasibility of keeping selective PCC meetings open to the public. May I know what are the criteria for the selection?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the HA is now conducting study in this area. But we found that, very often, the complaints involved the patients' rights to privacy and this might lead to legal problems. Therefore, we still need to study the issue carefully as to whether we can keep the hearings open.

PRESIDENT (in Cantonese): Dr TANG Siu-tong, which part of your

supplementary answer is not yet answered?

DR TANG SIU-TONG (in Cantonese): *Madam President, apart from involving the rights to privacy, are there any other reasons affecting the feasibility of keeping selective PCC meetings open?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, as far as I know, one of the issues under consideration at the moment is that involving the rights to privacy. Another one is the legal problem. One of the issues we are considering is whether it will lead to problems if we keep the hearings open to the public and whether, subsequently, it will lead to legal proceedings.

MISS EMILY LAU (in Cantonese): *Madam President, in answering whether the Government will set up an independent body to handle complaints, the Secretary said it would depend on whether the existing complaint channels were able to handle complaints. Will the Secretary inform this Council how the Government can prove the effectiveness of the existing channels? How many complaint cases have been received over the past two years, and how many of them have been proved to be genuine?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I would start by answering the latter part of Miss LAU's supplementary question first. I have at hand the number of complaint cases received by the PCC over the past two years as well as the findings of investigation. The number of complaint cases for 1997-98 and 1998-99 is the same, that is 37. For 1997-98, there were seven cases which were proved to have grounds or some grounds. As for 1998-99, there were nine such cases.

In considering whether we should set up an independent complaints committee, we think it will be most ideal if a simple, effective and reliable mechanism is available under actual circumstances. If there are too many complaints mechanisms, patients will be at a loss as to where they should approach. At the same time, this may give medical personnels a feeling that they are faced with endless complaint cases. Therefore, we are now

considering whether the improvement proposals put forward by the PCC and the Medical Council are in line with the public expectations. If it is possible, we think the system which we have practised for years might be more appropriate.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, according to what the Secretary said just now, the Administration has prepared to implement new measures in handling complaints in the near future. In paragraph (2) of part (b), the Secretary mentioned that one PCC member, together with the concerned cluster manager and the executive, would be designated to be in charge for each complaint case. Just now, the Secretary has also mentioned that of the nine members, four are members of the HA while five are members of the community. In that case, what kind of people are they mainly? This is very crucial because the Harvard report has proposed the setting up of an independent body. But four members of the PCC are members of the HA Board. Will the Government inform this Council the kind of members it will designate in implementing the second new measure?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, as for the measure I mentioned earlier regarding the designation of one PCC member to follow up each complaint case, we are still examining this possibility. The HA is actually still considering the actual implementation of this measure. However, I want to point out that the existing members of the PCC, be them members of the HA Board or members of the community, are not executive of the HA. Therefore, all of them are independent of the executive framework of the HA.

DR RAYMOND HO (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary mentioned that the Harvard report recommended the setting up of an independent Medical Ombudsman Office and the Government was inviting views from the public. Will the Government inform this Council how long the consultation will last before the Government will make a decision? If the proposal is supported by the majority of the public, will the Government actively study the feasibility of setting up an independent office?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, we are now consulting the public with regard to the Harvard report. The consultation will end on 15 August this year. Upon the completion of the

consultation, we will collect public views. Of course, we will consider the views put forward by the Medical Council or other organizations on improving the monitoring and complaining system before drawing a conclusion.

DR RAYMOND HO (in Cantonese): *The Secretary has not answered whether there is a time limit.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, just I said earlier, the consultation will end on 15 August this year. We need to collect views from all sides because the Harvard report has not only mentioned the setting up of an Ombudsman Office. It has also raised the problems pertaining to medical reform in other areas. We need some time to analyse and study the issue. We can only put forward proposals after summarizing all the views received.

PRESIDENT (in Cantonese): Last supplementary question.

MR HOWARD YOUNG (in Cantonese): *Madam President, the main question has mentioned about complaints in relation to medical incidents whereas in part (a) of the main reply, it is mentioned that a mechanism is already in place for seeking professional opinion. But I believe many complaints against the HA involve general administration, opening hours and so on. They are not necessarily related to medical incidents. Will the Government inform this Council whether it has considered separating the complaints so that professionals are not required to deal with each complaint case?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the HA actually has a two-tier complaints mechanism: the first tier is at the hospital level; the second tier is at the headquarters level, and appeals can be lodged with the PCC. As far as I understand it, most complaint cases can already be dealt with at the hospital level.

PRESIDENT (in Cantonese): Second question.

Reforms of Housing Authority at Corporate and Business Levels

2. **MR LEE CHEUK-YAN** (in Cantonese): Madam President, *on 6 May this year, the Hong Kong Housing Authority (HA) decided to implement further reforms at corporate and business levels and the phased transfer of the management and maintenance services in public housing estates to the private sector. To this end, the HA has set up a task force, while the Housing Department (HD) has also formed a working group and four sub-groups to work on the arrangements for staff and service transfer. On the other hand, Article 7 of the International Labour Convention (ILC) No. 151 on Labour Relations (Public Service) stipulates that appropriate measures shall be taken by the executive authorities to encourage negotiations between the management and employees of public bodies in determining the terms and conditions of employment. In this connection, will the Government inform this Council:*

- (a) whether staff of the HD are represented in the above task force, working group and sub-groups; if not, the reasons for that; and*
- (b) how it will give effect to the provisions of the Convention when implementing the above programmes?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, since 1 June 1999, the HA Task Force on Private Sector Involvement (PSI) has been set up to study the implementation issues of PSI including the scope and pace of service transfer, and to submit its recommendations to the HA for a decision in six months' time. It is not a decision-making or negotiating body. As the Task Force is a HA committee, it comprises mainly HA members. However, the Task Force will continue to meet representatives of HD staff regularly to listen to their views. The first meeting was held on 12 July 1999.

The HA Task Force is supported by the HD Working Group on PSI and four sub-groups. Representatives of HD staff have been invited to join two of the sub-groups, that is, the Sub-groups on Management Buy-out and the "Sixth Option". The former Sub-group is tasked to explore the feasibility of staff forming companies to take over EMM services and the extent of assistance to be

rendered to them. The latter Sub-group is to study the "Sixth Option" put forward by the Alliance which emphasizes staff's self-strengthening and involves the development of a competitive in-housing management model for EMM so as to enable a fair competition with the private sector. In both sub-groups, the posts of vice-chairman are filled by staff representatives while in the Sub-group on the Sixth Option, half of the members are from the staff side.

The Sub-group on Staff Incentive and Transfer (SIT Sub-group) explores and considers suitable transfer options and arrangements for staff to be affected. Staff participation is considered inappropriate as the Sub-group will explore and discuss the feasibility of different options in formulating the transfer arrangements and incentive packages. As some of these options and ideas may be premature or eventually be found not viable for one reason or another, their disclosure at an early discussion stage may create confusion and misunderstanding and even give rise to false hope. This will not only cause unnecessary difficulties to future discussions but also be misleading and therefore unfair to the staff concerned. In any event, staff will be consulted on matters relating to staff transfer arrangements through the various channels outlined in the following paragraphs.

As regards the Sub-group on Service Transfer and Monitoring, it develops contract strategy for implementing PSI in EMM services which include, among other things, the qualifications for tendering; the drawing up of service specifications, conditions of contract and performance measures; performance monitoring and contract management. In the course of discharging these duties, the Sub-group will inevitably conduct consultation with the private sector and make reference to business data of private management agents who have provided the information to the HD in confidence. Access by staff to such information, and hence their participation, is therefore inappropriate. For similar reasons, it is considered inappropriate to have staff representatives on the Working Group on PSI which is required to handle highly sensitive information as it oversees, co-ordinates and directs the work of the four sub-groups including the Sub-Group on Service Transfer and Monitoring.

Regarding part (b) of the question, Hong Kong has applied without modification since 1981 the ILC No. 151 on Labour Relations (Public Services). The ILC concerns the protection of the right to organize and the participation in determining the terms and conditions of employment by civil servants.

Article 7 of the ILC specifically deals with the procedures for determining terms and conditions of employment and provides that "measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organizations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters."

In brief, the spirit of Article 7 is to allow civil servants to participate in the determination of terms and conditions of employment wherever appropriate to national conditions. It allows a degree of flexibility in the choice of procedures for the participation by civil servants in the determination of terms and conditions of employment. The best procedures to be adopted for each case will vary. In this case, the HD has adopted a three-pronged approach to give effect to Article 7 of the ILC in pursuing greater PSI in EMM services.

First, staff are invited to participate in the businesses of HD sub-groups where appropriate. These are the Sub-group on Management Buy-out and the Sub-group on the "Sixth Option".

Second, both formal and informal communication channels have been made available to staff to reflect their views. They include the four Departmental Consultative Committees set up in the HD which cover virtually all grades in the Department. The HD management has also organized focus group meeting, goodwill visits by senior officers and grade management staff, meetings, seminars, briefings and open forums for both staff union members and staff in general to brief them on PSI implementation. Staff are also kept posted about latest development through a weekly bulletin "Message from Director" and a dedicated monthly newsletter "PSI Update".

Last and the most important, the HD will set up a formal consultative committee to negotiate with staff on transfer arrangements arising from PSI implementation. Representatives from the Alliance of Housing Department Staff Unions, formed by 30 staff associations in the HD representing all affected grades, will be invited to form the staff side of the consultative committee. Given all these arrangements, the Government believes that Article 7 of the ILC

has been fully complied with.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary's reply in fact shows that the Government has distorted ILC No. 151 with respect to the word "full". I must stress the word as mentioned in the sixth paragraph of the main reply regarding the "full development and utilization of machinery for negotiation". Also, the word "negotiation" in English has not been correctly translated into Chinese as the term should be "談判" rather than "商討".....*

PRESIDENT (in Cantonese): Mr LEE, please state your supplementary question directly.

MR LEE CHEUK-YAN (in Cantonese): *Yes, Madam President, I will. The Secretary then quite inexplicably adds the word "flexibility". I must ask the Secretary*

PRESIDENT (in Cantonese): Mr LEE, please come to your supplementary question direct and refrain from stating your opinions. There are a number of Members waiting to ask questions, so do not waste time.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I will state my supplementary. Why did the Secretary add the word "flexibility"? Where in the ILC says there should be flexibility? What is most ridiculous is that the SIT Sub-group has no staff involvement. Can the Secretary tell us why? Is this against the ILC? Will the HD open up all its Sub-groups for participation by staff so that the ILC is strictly observed?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, when we looked into ways to implement the relevant provisions of ILC No. 151, we have read them thoroughly. We have made reference to the existing arrangements. The provisions clearly state that the relevant arrangements should be made on basis of the circumstances of individual signatories. We have had detailed

discussions with legal experts in international law and can confirm that the existing arrangements are consistent with the requirements of the ILC.

I have explained the reasons clearly in my main reply why the SIT Sub-group and the Sub-group on Service Transfer and Monitoring under the Working Group have not included representatives from members of staff. This is mainly due to the fact that some commercial information is involved in the Sub-group on Service Transfer and Monitoring, so we do not think it is appropriate to have staff participation. The SIT Sub-group, in the course of studying, formulating or exploring into various proposals, may put forward premature plans or plans that are proved to be impracticable in future. People will only be confused if we make known such plans to them at such an early stage. This can only pose more difficulties for the negotiations and will not be helpful to the entire process.

MR LEE KAI-MING (in Cantonese): *Madam President, the HA formed the Task Force, which is not a decision-making body. The Task Force will put forward proposals which will eventually be submitted to the HA. Unfortunately, the Task Force excludes the participation by representatives from the Alliance of Housing Department Staff Unions. It works behind closed doors, and then submits proposals to the HA. Since views of the staff are excluded and when the HA discusses problems, further discussions are needed. Is the Task Force a duplication of efforts?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, in the process the HD has set up a network of working groups. While the HA has appointed a Working Group for this, the HD provides support by setting up four sub-groups, two of which involves participation by the staff, while the other two, for the reasons I have explained, are not suitable for participation by staff. In the whole process, the Department has maintained good transparency. In other words, proposals submitted by the Sub-groups to the Task Force and then to the HA will be made known to staff. Furthermore, the HA Task Force, the HD Working Group and the four sub-groups will frequently maintain dialogue, communicate and exchange ideas with staff during the course of their work. So, there should not be any problem in mutual understanding and negotiation. I would like to stress that the HD will set up a formal consultative committee, with adequate staff representation and in accordance with ILC No. 151 to foster comprehensive and frank consultation between staff and management so that a

suitable and feasible plan can be formulated. Therefore, there is no close-shop business. On the contrary, there is full participation by staff. When the time is ripe, there will be formal channels for mutual communication to reach an agreement.

DR LUI MING-WAH (in Cantonese): *Madam President, will the Government inform this Council what benefits there are in the reforms and whether the benefits can be quantified?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, in March, the consultants produced the first report. Then in May, as I explained, the HD, considering the fact that more and more tenants of public housing will become owners under the Tenants Purchase Scheme, will have to consider whether the owners will continue to employ the service of HD staff and will accept the relevant charges. If the Scheme continues, and with more units sold to tenants, we would have 4 000 redundant workers 10 years from now if the owners decide not to employ the services of HD staff and if we do not do anything about the matter now. Natural wastage in the period will only see 1 300 staff leaving the service and we would still have a sizable underworking staff. This is a serious problem which must be tackled. In fact, the HA has employed a consultant company to study trimming the organization of the HD and ascertain the cost price so that it can operate more efficiently and in a more cost-effective manner. We are working in this direction and the reforms will lay the necessary groundwork for the purpose.

MR JAMES TIEN (in Cantonese): *Madam President, there are a number of countries which have signed the ILC. Will the Secretary inform this Council whether he has tried to find out, in those countries where in the negotiation with staff of public bodies with no participation by staff, there are provisions other than the ILC through which they can do so?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, in the main reply, I said the HD would set up a formal consultative committee with staff side participation. There would be representatives from the Alliance formed by 30 staff associations in the HD, representing all affected grades in communication, negotiation and consultation. This is in line with the provisions in the ILC No.

151.

As regards whether other countries will do the same, our understanding is that as long as a country is a signatory to the ILC, it will do so. We do not know under what circumstances can staff be excluded from negotiation. Certainly I am not an expert on this, and I do not have relevant research details on hand. In any case, any signatory country to the ILC No. 151 will under the circumstances observe the Article 7 mentioned, that is, there must be participation by staff.

MR LEE WING-TAT (in Cantonese): *Madam President, the third paragraph of the main reply stated that there is a SIT Sub-group, which the Secretary said was not suitable for participation by staff because there may be the risk of leaking information or fear sparked by premature proposals. Will the Secretary inform this Council how staff opinions can be incorporated into actual policy arrangements at the negotiation stage, in the light of the constraints, as consultation is different from formulation of policy arrangements? Will the Secretary please give a reply in this connection?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, the work of the Sub-group involves some sensitive information or premature ideas that should not be released at an early stage; but this does not mean the Sub-group has no communication with staff. Staff may express their views through frequent communication. In fact, the other two Sub-groups, namely, the Sub-groups on Management Buy-out and "Sixth Option" do have staff participation. They may express their opinions there. We believe their opinions will have effect on the terms to be laid down in the transfer arrangement and compensation, and in the formulation of policies. We will certainly study carefully and in detail the opinions of staff before formulating our proposal.

PRESIDENT (in Cantonese): Mr LEE, which part of your supplementary question has not been answered?

MR LEE WING-TAT (in Cantonese): *Madam President, the Secretary has not answered my supplementary question at all. I know they will consult the staff*

for their opinions. But my question was: How can staff or their representatives take part in the actual process of policy formulation so that the outcomes bear fruit of such participation?

SECRETARY FOR HOUSING (in Cantonese): Madam President, I said already the HD will be setting up a formal consultative committee in the near future, with representatives from staff and management. Staff will then have ample opportunities to express their opinions about the process. Through this mechanism, staff may express their opinions, and are practically participating in the formulation of policies.

PRESIDENT (in Cantonese): Last supplementary.

MR CHAN WING-CHAN (in Cantonese): *Madam President, in the main reply, it was said the HD had refused to allow representatives of the Alliance of Housing Department Staff Unions to join two of the Sub-groups. Hence, the staff side cannot freely express their opinions about the reforms and the problem cannot be resolved smoothly. This shows that the HD is not sincere in solving the problem. It is no more than window-dressing. Madam President, will the HD reconsider including representatives from the Alliance in the two Sub-groups so that the problem can be resolved smoothly?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I explained already in detail why the HD cannot invite staff representatives into the two Sub-groups. I see no special circumstances that can invalidate the reasons. In fact, these reasons are still valid. That is to say, the work of the HD Sub-groups will still be proceeded with. I wish to reiterate that there will be sufficient representation for the staff in the formal consultative committee to be set up later so that they can take part in the negotiation and formulation of policies.

PRESIDENT (in Cantonese): Mr CHAN, which part of your supplementary question has not been answered?

MR CHAN WING-CHAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary question at all. My question was: To resolve the problem connected with the reforms of the HD, will the HD allow representatives of the Alliance of Housing Department Staff Unions to join two of the Sub-groups to allow the staff side to freely express their opinions about the reforms? The Secretary has not answered my question, namely, will the HD reconsider accepting them?*

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

SECRETARY FOR HOUSING (in Cantonese): Madam President, my answer is simple: No.

PRESIDENT (in Cantonese): Although there are many Members queuing to ask supplementaries, we have spent 22 minutes on the question. So, we need to go on to the third question.

Transport Arrangement for Chinese Senior Officials Visiting Hong Kong

3. **MR ANDREW CHENG** (in Cantonese): *Madam President, it was reported that for security reasons, arrangements were made on 1 July for the Vice-President who visited Hong Kong recently to travel to the airport by a special train of the Airport Express to leave Hong Kong for Beijing. As a result, the Airport Express service was interrupted for 30 minutes and all entrances to and some part of the platforms of the Airport Express as well as some parts of the Passenger Terminal were sealed off, causing delay to over a hundred passengers who were to travel to the airport by the Airport Express. In this connection, will the Government inform this Council:*

- (a) *of the official who made the decision on the arrangements for the Airport Express special train and temporary closure of the facilities, and whether it had assessed if there were adequate justifications for the decision;*

- (b) *of the reasons for the authorities concerned not to announce in advance the special arrangement of temporary suspension of the Airport Express train service, so that other passengers might make alternative arrangements as early as possible and the inconvenience caused to them could be minimized; and*
- (c) *whether similar arrangements had been made during visits by foreign high-ranking officials; and if so, of the details of those arrangements; if not, of the reasons for the arrangement this time to be different from those for high ranking officials who visited Hong Kong in the past?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, let me answer part (a) of Mr CHENG's question. On every occasion of visits to Hong Kong by foreign dignitaries and national leaders, we need to plan the visit programme carefully and provide adequate security arrangements. Security arrangements are mapped out by the police having regard to the status and background of the visitor, his itinerary, threat assessment, public safety and so on, and carefully balanced against the need to minimize any inconveniences which might be caused to the public.

The security operation on 1 July 1999 at the Hong Kong Station of the Airport Express Line (AEL) to facilitate the departure of Vice-President HU Jintao was mounted by the police exactly on such basis. A section of the In Town Check In (ITCI) had to be cordoned off for 25 minutes from 1.45 pm to 2.10 pm under the security arrangements, but the ITCI service was not affected as it remained operational throughout. In line with the security arrangements for visits of dignitaries in similar situations where public transport is taken, a special train was arranged for the Vice President which departed the Hong Kong station at 2.08 pm. It was also necessary for the AEL platform to be sealed off for 18 minutes during the same period from 1.50 pm to 2.08 pm. All these measures were taken on security grounds as AEL passengers normally carried hand luggage which had not undergone security screening. Otherwise, the luggage of these passengers would have to be subject to searches and this would have caused them even greater delay and inconveniences. In the circumstances and inevitably, some delay was caused to a small number of passengers. The police consider these arrangements essential to ensure that the security coverage

for the Vice President would not be unduly compromised. The decision taken was a collective decision and considered justified.

With regard to part (b) of Mr CHENG's question: Due to security reasons, the public could not be notified well in advance of the possible delay at the AEL. However, shortly before the cordoning off of the AEL, notices were put up at the ITCI and both MTR staff and police officers were positioned to advise passengers of the special arrangements and short delay. According to the Operational Commander on scene, there were about 50 to 60 passengers who had been delayed by the short suspension of services. Special measures were also taken by the MTRC to arrange for those passengers who needed to go to the Airport urgently to use taxi service prepaid by the MTRC. (15 passengers had used this special taxi service.) We understand that most passengers were understanding of the situation and were co-operative.

With regard to part (c) of Mr CHENG's question: This was the first security operation involving the use of the new AEL. The security and transport arrangements made for the Vice President during this visit were in line with those for other visiting dignitaries of similar status, including protected foreign dignitaries, President CLINTON of the United States, the President of South Korea and the President of Israel, who visited Hong Kong after the reunification.

MR ANDREW CHENG (in Cantonese): *Madam President, leaders nowadays attach importance to mixing with the people in order to establish a closer relationship with them. In this incident, the Government's arrangements were considered overdone by many people. The Government was criticized for pandering to or even currying favour with the Chinese leaders. May I ask the Government whether it thinks that this much criticized arrangement has affected the people who needed to travel by the Airport Express?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I do not agree with Mr CHENG at all that our arrangement was meant to curry favour with our leaders. As I explained just now, the arrangement was necessary for security reasons. If we did not arrange for a special train — some newspapers asked why a special train was used instead of just a special car, we could not dismiss the possibility that passengers in other compartments of the train might

be carrying dangerous articles, including explosives. If we had opted for another method and used the metal detector on every passenger who boarded the train or subjected them to other security checks, it would cause even greater inconveniences to the public. Therefore, after taking into account the security needs, we believed that the arrangements made that day were the most appropriate.

MR LAU KONG-WAH (in Cantonese): *Madam President, in the main reply, it was said that it was the first security operation involving the new AEL and the security and transport arrangements made were in line with the security measures for other leaders and dignitaries. However, it seems that other protected dignitaries have not used such arrangements. It is improper if we should continue to arrange for special trains that will affect other passengers. May I ask whether we must arrange for these dignitaries to travel by the AEL when they depart Hong Kong? Why do we not use a car to avoid affecting other passengers?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, of course, there may be different ways of escorting dignitaries departing. It also depends on their personal preference. For instance, when the President of the United States visited Hong Kong, he chose to use his own plane. As we all know, he travels by Air Force One. For geographical reasons, some leaders might choose to return to the Mainland via a land crossing. On the itinerary of the Vice President's visit to Hong Kong, it was considered appropriate to arrange for him to travel to the airport by the AEL to board the plane. We admit that these arrangements have caused some inconvenience to the public. However, on that day, the police and the MTR had tried to make the best arrangements and notified the passengers as early as possible. With regard to the emergency measures, the MTR had arranged express shuttle buses for those who had to rush to the airport. However, I understand it from the MTR that some passengers said they were not in a hurry and that they did not mind waiting a little while. The MTR helped some passengers in a rush to get to the airport by taxi and they were satisfied with the arrangement. Afterwards, we did not receive any complaints from people who were unable to use the AEL service, nor did anyone ask for compensation from the MTR. Therefore, in our view, the security and

traffic arrangements that day had already helped to minimize the inconvenience caused to the public.

MR ALBERT HO (in Cantonese): *Madam President, if the Vice-President learned about the reactions of the people in Hong Kong afterwards, I am sure he would be very displeased. I believe he lays much emphasis on a positive image and on establishing close ties with Hong Kong people. From these arrangements made by the Government, we get the impression that the area within dozens of sq m or sq km must be cordoned off. Does the Government have a concrete standard about how large the security area needs to be? Had the Vice-President been consulted beforehand whether such a great distance was required for his protection? Could he have chosen to be nearer to the people in order to meet with them? Had the Vice-President been consulted on these matters?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as I explained just now, the security arrangements for the Hong Kong visit were a collective decision of the Government. Of course, the police had to assess the relevant arrangements and measures. As for how much public space was sealed off, as I explained, one of the areas affected on that day was the ITCI. Actually, only a section of it was cordoned off. The ITCI service remained operational throughout, while the platform was sealed off for 18 minutes only. We had already minimized any inconveniences that might be caused to the public.

MR ALBERT HO (in Cantonese): *Madam President, actually, my supplementary question was whether Vice-President HU had been consulted.*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I have already answered it. I explained that the police are the most professional people to make these security arrangements and that the police have the responsibility to assess and make the arrangements. There is no need for us to consult the leaders on the safest way to protect them. It is the responsibility of the police.

MR GRAY CHENG (in Cantonese): *Madam President, I will ask my supplementary question from another angle. In the main reply, it was said that it was the first operation. What I mean is it was the first security operation involving the use of the AEL. As far as I know, during past visits paid by some foreign dignitaries, some excessive demands were made which created many problems in terms of security arrangements. In this case, it was of course not the Vice-President who asked for the arrangement. It was the first time that Hong Kong applied such standards for the security arrangements. Just now, the Secretary for Security said it was the best arrangement that could be made. Since it has provoked such reactions among the public, will the Government review this arrangement and consider whether the time could be shortened during which passengers are subject to inconveniences or reconsider the special train arrangement? If insistence is made on the special train, can improvements be made in other areas to reduce unnecessary inconvenience?*

PRESIDENT (in Cantonese): Which Secretary would like to reply?

SECRETARY FOR SECURITY (in Cantonese): Madam President, we will of course review the security arrangements for protecting international dignitaries on each occasion. Our target is certainly minimizing the inconvenience caused to the public. Perhaps I could explain further. In making these security arrangements, the police in fact make reference to a convention that applies to Hong Kong, which is the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. In arranging the security measures, we have to consider the itinerary of the dignitary and the places that he would like to visit. Members would recall that when the President of the United States visited Hong Kong, his itinerary included places that they would like to visit in order to learn about the way of life in Hong Kong, such as going to the restaurant for dim sum or sightseeing in Lan Kwai Fong. We have to consider the itinerary, the threat to safety, public security, the actual environment and how to minimize the impact on the public. If we need to protect any internationally protected persons in future, including visiting leaders, we will decide their itinerary in the same manner after considering these main points.

MR HOWARD YOUNG (in Cantonese): *Madam President, according to the main reply, the AEL platform was sealed off from 1.50 pm to 2.08 pm. Since an AEL train departs from Central every 10 minutes, this means that one train was cancelled on that day. While arrangements were made in the Central station, I know that some people board the train at the Tsing Yi and Kowloon stations. For these passengers, it also means one cancelled train on that day. Were measures taken at those locations to help passengers?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, no train was cancelled on that day. After the 1.50 pm train departed, the next train should depart at 2 pm. This train was delayed for 15 minutes. Announcements were made at the Hong Kong, Kowloon and Tsing Yi stations informing passengers that the AEL train would only be delayed for 15 minutes. Therefore, that train was in fact not cancelled.

PRESIDENT (in Cantonese): Last supplementary question.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, after this review, will the Security Bureau refuse the request of internationally protected persons to take the AEL in future, since this arrangement will cause unnecessary inconvenience to the public? Just now, the Secretary for Security said this is one of the factors for consideration. Now, some members of the public have indicated that they had been inconvenienced. Will the Government arrive at the conclusion that no dignitary, whether he is the Vice-President or some other leader, should take the AEL in leaving Hong Kong?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, my answer is, if similar security arrangements are required, we will carefully review and consider them. However, I do not think I can promise that such arrangements will certainly be turned down in future. Actually, whenever a dignitary visits Hong Kong, no matter whether he takes the AEL, visits some place in Central or takes the ferry, it will cause some inconvenience to the public. We will consider all the relevant factors. Therefore, I cannot promise that we will never arrange for distinguished guests to take the AEL in leaving Hong Kong.

PRESIDENT (in Cantonese): Fourth question.

Revised North East Lantau Development Plan

4. **DR RAYMOND HO** (in Cantonese): *Madam President, it is reported that, to tie in with the construction of a theme park at Penny's Bay, the Government will submit to the Town Planning Board (TPB) a revised North Lantau Outline Zoning Plan (OZP) to develop the northern part of Lantau Island into a major area for tourism. In this connection, will the Government inform this Council:*

- (a) of the details of the proposed revisions and when it plans to submit the outline zoning plan to TPB;*
- (b) of the affected facilities which were planned to be constructed at Penny's Bay; and the new arrangements for these facilities; and*
- (c) how the revised North East Lantau Development Plan will tie in with the overall development of Lantau Island, such as residential development, population growth and road planning?*

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

- (a) Under the OZP for Northeast Lantau, gazetted in March 1995, the areas at the northshore of Northeast Lantau around Yam O and to the east of Tsing Chau Tsai are zoned mainly for River Trade Cargo Terminal, container back-up area, boatyard, marine-oriented industrial uses and marine services support areas. Areas to the south near Penny's Bay are zoned for container terminal development (CT10 and 11) and container back-up uses. In response to the changes in port cargo throughput and trade volumes in the recent years, the Civil Engineering Department commissioned the "Northshore Lantau Development Feasibility Study" (NLDFS) in June 1998. This Study investigates the development potential of cargo trades in Northeast Lantau as well as other development potential. The preliminary findings of this Study show that, in addition to cargo trade, the entire Northeast

Lantau also shows great potential for tourism and recreation development, having regard to the possible development of a major international theme park at Penny's Bay. Accordingly, the Government would be proposing appropriate amendments to the OZP to reflect the change in the planning objective to tourism/recreation oriented development. Broadly speaking, we propose to re-zone areas around Penny's Bay for a theme park with the supporting hotel, transport and other infrastructure facilities. The remaining areas of Northeast Lantau are intended mainly for tourism, recreation and other uses that are compatible with the theme park development. On the shore near Yam O, it may be suitable to be developed into a gateway to the theme park with the development of hotels, retail and convention facilities. On the eastern shore of Tsing Chau Tsai, there is also potential for tourism facilities and other compatible uses such as housing. The specific zoning for these areas remain undetermined, pending the results of the NLDFS on more specific recommendations.

All these proposed amendments to the OZP will be subject to the consideration by the TPB. The TPB has been fully briefed on the preliminary findings of the NLDFS and we tentatively schedule to submit our proposed amendments of the OZP to the TPB for consideration in late July. Subject to the TPB's scrutiny, the OZP, as duly revised, would be gazetted in August for public consultation.

- (b) The Penny's Bay site was originally planned for container terminals and container back-up facilities as recommended by the Port and Airport Development Strategy Study in 1989. Taking into account the construction of Container Terminal 9 on Tsing Yi Island, and the recent slowdown in the growth of port cargo throughput, our assessment is that Container Terminals 10 and 11 are not expected to be required until the later part of the next decade. Consideration is being given to the possibility of relocating the planned container terminals and port related facilities at Penny's Bay to West Tuen Mun, which is closer to the Pearl River Estuary and the main cargo source for our container port. Subject to funds being made available by this Council, a consultancy study will be conducted next year to examine the feasibility of developing West

Tuen Mun for container terminal and port-related uses.

- (c) Our revised development plan for Northeast Lantau fits in well with the overall planning intention set out in the recently completed South West New Territories Development Strategy Review (SWNT DSR) of enhancing the potential tourism and recreation development opportunities of this sub-region. According to the SWNT DSR, Northeast Lantau, with the proposed international theme park, would be a suitable candidate for development into a major tourist node, to be complemented by other existing tourist spots in Northwest Lantau (Tung Chung, Ngong Ping, Tai O) and South Lantau (the beautiful beaches of Pui O, Cheung Sha and Tong Fuk).

Residential development on Lantau Island will be focused mainly on North Lantau New Town (Tung Chung and Tai Ho), Discovery Bay and Mui Wo. As Northeast Lantau would be mainly for tourism and recreation development, the proposed change of planning objective from the original port oriented development would not affect the overall residential development of Lantau. Housing development in Northeast Lantau would be considered if they are compatible with the overall planning objective.

The existing major transport infrastructure in Lantau include Airport Railway (Tung Chung Line and Airport Express Line) and the North Lantau Highway. Together with other road projects under planning (including the Route 10 — North Lantau to Yuen Long Highway, Chok Ko Wan Link Road) as well as other infrastructure planned for the original port development, would accommodate the tourism development proposed for Northeast Lantau. Subject to the final development proposals, additional transport infrastructure, such as railway extension and additional surface connecting roads, would be provided.

DR RAYMOND HO (in Cantonese): *Madam President, I understand that developers plan to build a park called Noah's Ark in Ma Wan. Has the Administration discussed with the relevant developers with regard to the details of the plan in order to put it into implementation to tie in with the construction of the theme park at Penny's Bay?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Madam President, the developers have been communicating with various departments of the Government with regard to the proposal of developing Ma Wan into a major tourist spot on such a theme. As far as the overall planning concept is concerned, as Northeast Lantau is identified to be suitable for carrying out tourism and recreational activities, it will be a terrific idea if this sub-region can be developed jointly with Ma Wan, which is situated to the east of the area. Nevertheless, we still need to discuss the details of the plan. With more tourism and recreational spots, we must take into account the overall transport, infrastructure and other supporting facilities.

MR HOWARD YOUNG: *Madam President, can the Government advise whether the Outline Zoning Plan (OZP) for Northeast Lantau, in fact, includes areas which are already gazetted as country parks? In that case, it might mean that even if the Town Planning Board (TPB) agrees, there will be long drawn-out legislative procedures before we can bring the plans to fruition.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam President, part of the area involved in the original zoning actually provides for preservation of country parks. In fact, in future plans, this part of the area will remain for country park development. We are looking at a rather complete peninsula which can provide for all sorts of facilities, including facilities which will be provided for tourists, for people visiting theme parks or the related development, and also for those who just want to walk along the beautiful area in the country park setting.

MISS CHRISTINE LOH: *Madam President, I have one point of clarification and one question.*

My clarification is whether the Government will only present the OZP to the TPB when the environment impact assessment (EIA) has been completed?

And my question is that under the existing plan, the Government has made provision for a prison and I understand from talking to the Secretary's colleagues in the Security Bureau that they are also in urgent need of space for

an extra prison. Therefore, what is the plan for the provision of a prison?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam President, the OZP will be gazetted in August, and all the necessary steps, including carrying out of the EIA in accordance with the law, will proceed in the normal manner. As regards the prison, clearly, if the area is to be preserved for use of tourism and entertainment, the keeping of site for a prison may not be compatible. Therefore, at this point in time, recognizing the need in fact for a site for that purpose, we are searching for a site outside this particular area.

MISS CHRISTINE LOH: *Excuse me, Madam President, I think my question was not answered in respect of the EIA. My question was very specific. Will the TPB be given the EIA, or whether the EIA be given to the TPB, during that deliberation? Because one of the problems that we have is that the EIA has never been available during the time of deliberation.*

PRESIDENT (in Cantonese): Miss Christine LOH, Members can raise only one question in each supplementary question. You have already raised two supplementary questions. But in order to save time, I would now ask the Secretary to answer. Does the Secretary have anything to add?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam President, just to confirm that all we now have are basically outline ideas. We consider that it is important that those outline ideas will be considered by the TPB and published for public comments.

We did carry out a very comprehensive EIA on the development of the area, including that for reclamation purpose associated with port use and container development. The reclamation area involved in the current plan for recreation and tourism use is in fact smaller than the area that was previously studied under the EIA. Therefore, at this stage, we are publishing a plan for conceptual discussion. The detailed EIA processes will be followed in accordance with the law.

MR HO SAI-CHU (in Cantonese): *Madam President, according to the reply of the Secretary, the OZP for Northeast Lantau was gazetted in March 1995 and subsequently amended in June 1998. Generally speaking, it is very rare for such plans to be amended within such a short period of time. Of course, I understand that it might be due to two reasons: First, probably because of the downward adjustment of the business of the freight forwarding industry; second, probably because of the impetus given by various quarters for constructing a theme park, the Administration needs to re-consider development in this sub-region to provide space for building a theme park. Actually, which one is the real reason?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Madam President, just as I mentioned in the main reply given by me earlier, both reasons are actually equally important. In 1995, it seemed that the freight forwarding industry had the tendency to grow constantly. But over the past four years, the business of the freight forwarding industry has witnessed constant changes. As it is no longer necessary for the industry to develop in this area, we naturally need to examine how to make use of the other potentials of the site because the peninsula has been adequately served with transport and infrastructure supporting facilities.

MR LEE WING-TAT (in Cantonese): *Madam President, as it will incur huge public funds to build infrastructure for the purpose of developing a theme park or other recreation centres in Northeast Lantau, has the Government considered asking developers to shoulder part of the expenses?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Madam President, at present, the detailed development plan and the facilities actually needed, such as the facilities to be constructed in certain parts, are still not decided. What we can see at the moment is only the potential of the area and items that can be developed. In examining the development of each item in future, we will include examining the new infrastructure facilities to be built as well as deciding on what facilities, such as highways, railways, sewerage and so on, should be shouldered by public funds and developers. If public funds are involved, we will definitely apply to this Council for funding.

PRESIDENT (in Cantonese): Last supplementary question.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, can the Government explain the changes of the relevant plan, starting from the very beginning when the Government negotiated with the Disney to later on when the planning was amended? Recently, the deadline for the negotiation with the Disney has even been postponed. If the negotiation turns out to be successful, the plan can of course be put into practice. But in case of failure, will the Administration develop other theme parks? Will the Government adhere to this plan, regardless of whether the negotiation is successful or not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Madam President, the findings of the study prove that no matter which organization we talk to, it is worthwhile to develop the peninsula for tourism purposes.

PRESIDENT (in Cantonese): Fifth question.

Implementation of the Academic Ability Assessment

5. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Board of Education recommended in the "Report on Review of nine-Year Compulsory Education" that research and pilot tests be conducted on the Academic Ability Assessment (AAA). It also recommended that if the findings of the research and pilot tests proved that the AAA was feasible, the new assessment should be adopted as soon as possible to replace the existing Academic Aptitude Test (AAT). In this connection, will the Government inform this Council:*

- (a) *of the progress of the research and pilot tests on the AAA;*
- (b) *whether it has assessed if the implementation of the AAA from the 2000-01 school year onwards can be achieved, as proposed by the Board of Education; and*
- (c) *whether it will consider ultimately abolishing public examinations*

for the purpose of allocating secondary school places; if not, the reasons for that?

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

- (a) The Education Department (ED) has set up an Academic Ability Assessment Project Board to follow up on the proposal for the AAA. The ED has conducted the first pretest of the AAA in May and June this year, with a view to setting up a databank of examination questions and planning for further pretests in order to determine the reliability and discriminative ability of the AAA.
- (b) First of all, I would like to point out that the Government is now in the process of examining the feasibility of the AAA, but whether the AAT should be replaced by the AAA has yet to be decided. Since the proposed AAA is a new assessment method, thorough researches and a series of trial runs must be conducted to ascertain its feasibility and effectiveness. Therefore, even if it is finally decided that the AAA should be adopted, it will not be possible to put it into implementation from the 2000-01 school year.
- (c) The Education Commission (EC) is now reviewing Hong Kong's overall education system, including the interface between different stages of learning. The secondary school places allocation mechanism is also covered in the review. Judging from the progress of work, it is expected that the EC will be able to put forth its recommendations on the secondary school places allocation mechanism including the issue on the abolition of the AAT, at the end of this year or early next year. We will consider and decide on the arrangements for admission to secondary one, including whether to continue with the research and testing work on the AAA, in the light of the EC's recommendations.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary's main reply gave me a feeling that we had one commission overriding another one. While the commission responsible for reviewing nine-year compulsory education is made up of one group of people, people responsible for reviewing stages of*

learning fall into another group. This gives the public an extremely confused impression. Will the Secretary inform this Council of the reasons for assigning two commissions to review the findings of the same issue?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Government has accepted the recommendation made by the Board of Education to examine carefully whether the existing AAT can be replaced by the AAA. In the main reply, I did mention that the Government was carrying out the relevant work. But as I mentioned just now, as the EC is responsible for conducting a comprehensive review of the overall education system, including the interface between various stages of learning, the interface from Primary Six to Secondary One, including school places allocation, will be closely related to the existing AAT or the AAA in future. I hope if the EC can put forward any suggestions at the end of this year or early next year, the Government can consider them jointly. But I have to stress that the Government has not stopped examining the feasibility of the AAA. Such work is still going on. In other words, the Government is still carrying out related and corresponding work in light of the recommendations put forward in the review report published by the Board of Education.

PRESIDENT (in Cantonese): Mr YEUNG, which part of your supplementary question has not been answered?

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, my question is: Why did both commissions conduct a review of the same issue? But the Secretary's reply indicated clearly that the Government would definitely listen to the EC's recommendations before deciding on whether the AAA should be adopted. Can the Secretary clarify whether the Government must listen to the decision made by the EC?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in my main reply, there are no such wordings as "must listen to the EC's recommendations". What I said in the main reply is that we will consider and decide on the arrangements for admission to secondary one in the light of the EC's recommendations.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary mentioned in part (c) of the main reply that the Administration was conducting a comprehensive review of Hong Kong's overall education system, particularly the interface between Primary Six and Secondary One. Will the Government inform this Council whether Secondary One places are actually adequate if there is still a need for the Government to continue with its current review in the near future? If so, why do we still need a school places allocation mechanism?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, since the implementation of nine-year compulsory education, we have provided adequate places for Primary Six students to be admitted to Secondary One. Such being the case, why is there still a need for the Government to put in place a school places allocation system? It is because although we have adequate Secondary One places, we still need to examine how to allocate these places in light of such factors as the ability of the students and schools as well as parents' choices. In fact, the AAT serves as a mechanism to adjust internal school assessments. And according to such assessments, students will be divided into five groups for the purpose of allocating secondary school places with reference to parents' comments. This mechanism has been implemented for 20 years. Of course, during the interim, many people questioned the Government whether there was a need to alter this mechanism. Therefore, the simplest answer to the supplementary question raised by Miss CHAN is although we have adequate school places, it is yet another matter as to under what mechanism should school places be allocated to individual students. This is one of the issues under consideration by the EC at the moment.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary said the ED had conducted a pretest on the feasibility of the AAA and its discriminative ability in May and June this year. Will the Secretary inform this Council whether the schools taking part in the pretest use mother-tongue or English as their medium of instruction? Does the Government have the figures in this*

aspect?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in the pretest conducted in May and June this year, we made use of computer programmes to collect random samples from the AAT results of the Primary Six students throughout the territory. The actual number of schools taking part in the pretest is 562. As the samples were collected at random, all participating schools, irrespective of their medium of instruction, will be included. I would like to add that the actual number of students taking part in the pretest is 2 619.

MR CHAN WING-CHAN (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary mentioned "whether to continue with the research on the AAA". If the AAA is continued, when will the Government table to this Council the report on the AAT?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I do not understand the supplementary question raised by Mr CHAN Wing-chan for we have no report on the AAT.

PRESIDENT (in Cantonese): Mr CHAN, would you please explain?

MR CHAN WING-CHAN (in Cantonese): *Madam President, I mean the research report and assessment of the AAT.*

PRESIDENT (in Cantonese): Mr CHAN, the Secretary has in fact mentioned the whole review in part (c) of his reply, including the issue on the abolition of the AAT. Are you referring to that report?

MR CHAN WING-CHAN (in Cantonese): *Yes, Madam President. This is*

because the reply mentioned "including whether to continue". If so, when will the report be tabled to this Council? Is the Secretary clear about my supplementary question?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I have caught the thrust of the supplementary question raised by Mr CHAN now. His question is: Will the AAA be continued? If so, when will the report be tabled? I wish to explain that the Government conducted a pretest in May and June and more pretests will follow. At the same time, the Government hopes to conduct a parallel test during the 2001 school year. In other words, both the AAT and AAA will be tested jointly to compare their reliability or discriminative ability. In the 2001-02 school year, a second parallel test will be conducted. Upon the completion of the second parallel test, the Government should have a clearer report which will indicate the reliability, feasibility, additional resources required and so on. We plan to consult the public at that time. Of course, if the report is available then, I will be very pleased to table it to the relevant panel of this Council for scrutiny.

MR HOWARD HO (in Cantonese): *Madam President, in answering to Miss CHAN Yuen-han's question as to whether this system is acceptable to parents, the Secretary indicated that some parents had made certain criticisms against the system. Can the Secretary clarify if the parents' comments are mainly caused by the fact that they are, relatively speaking, wary of replacing tests with assessments or they do not like the idea of allocating school places on basis of students' ability? This is because school places are allocated in accordance with regional distribution instead of the students' ability in foreign countries.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, parents are in fact very contradictory. They ultimately want their children to be admitted to the best school but, at the same time, they do not want them to sit for public examinations under enormous pressure. There are also some parents who want their children to study in schools with which they are familiar or associated. In Hong Kong, I believe most parents will not accept the simple system that has been generally practised in foreign countries,

such as purely by regional distribution or by drawing lots, with no regard to the relationship between the students and the schools or the students' performance. The mechanism we adopt at the moment is an academic aptitude test, which is not a public examination. It is used for adjusting internal school assessments, which is in turn divided into five groups. In other words, scoring good results in the AAT does not necessarily mean a definite position in the five groupings. This system has proved to be able to reconcile different or even contradictory views. As the AAT has been implemented for 20 years, we think this is the right time to conduct a comprehensive review.

PRESIDENT (in Cantonese): Last supplementary question.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, in mentioning the AAA in part (b) of the main reply, the Secretary said "thorough researches and a series of trial runs must be conducted". But in part (c), he said we would consider whether to continue in light of the EC's recommendations. Which case is real?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, there is no contradiction between what I said before and after. In part (b) of the main reply, I said "thorough researches and a series of trial runs must be conducted". The sentence had not come to an end there for I went on to say "to ascertain its feasibility and effectiveness". In other words, for the purpose of ascertaining its feasibility and effectiveness, we must conduct thorough researches and a series of trial runs.

I explained in part (c) of the main reply that, in the course of conducting the researches and trial runs, if the EC has any recommendations with regard to this area and the recommendations are subsequently endorsed by the ED or members of the community, we might then adopt the EC's recommendations. If the EC announces that there is absolutely no need to conduct any examinations, including the AAT, AAA, and school places will be allocated purely by means of drawing lots in different regions and this recommendation is accepted in full after public consultation, we might need to consider whether we should continue to spend time and money to conduct these trial tests because these parallel tests

cost money. In part (c) of the main reply, we only want to make it clear that, if the EC puts forward some recommendations, we will consider whether we should continue with the trial tests. Of course, if, like what it is doing at the moment, the EC only discusses the matter without reaching any consensus and fails to give a very clear direction on the way forward, we shall continue with the relevant researches and trial tests.

PRESIDENT (in Cantonese): Last oral question.

Applications for Registration of Kindergartens

6. **MR LAU KONG-WAH** (in Cantonese): *Madam President, regarding applications for registration of kindergartens, will the Government inform this Council:*

- (a) *of the longest, shortest and average time taken by the authorities to approve applications for registration of kindergartens, in each of the past three years; and*
- (b) *whether it has assessed, since the implementation of the improved procedure for registering kindergartens in February this year, how the average time required by the authorities in processing such applications compares to the time previously required?*

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

- (a) To obtain registration as a kindergarten, an applicant must comply with the following conditions:
 - (i) obtain a safety certificate issued by the Fire Services Department (FSD);

- (ii) obtain a safety certificate issued by the Buildings Department (BD) or Housing Department (HD) as appropriate; and
- (iii) submit a duly completed application form for school registration to the Education Department (ED) together with the required documents and information, and is able to satisfy all the requirements regarding the name of the school, school premises, managers of the school, courses to be operated, and the fees charged.

Under existing procedures, an applicant has to complete the steps in (i) and (ii) above before his application for registration as a kindergarten is formally accepted by the ED, which will arrange for the issue of a certificate of provisional registration to the applicant within 25 working days, after which the kindergarten may commence operation.

During the last three years, it took on average 150 working days and 162 working days for an applicant to obtain a safety certificate from the FSD and the BD respectively. Madam President, I want to add that the time when the applicant fulfils the safety requirements of the FSD and the BD will directly affect the time taken by the application to acquire the safety certificate.

The time taken by the ED to approve provisional registration of kindergartens during the last three years is set out at Annex.

- (b) Since February 1999, the departments concerned have implemented measures to speed up the processing of applications for safety certificates. The BD has pledged to conduct the first inspection visit within 45 days of the receipt of an application. A safety certificate will be issued if the school premises meet the safety requirements specified by the BD. If not, the applicant will be informed of the requirements to be met. The BD will, for verification purpose, conduct a second inspection visit within 45

days after notification from the applicant that the requirements have been complied with. The FSD will inspect the school premises within 14 days from the date of application and will set out the safety requirements in writing to the applicant within 30 days from the date of application. The ED has also simplified the procedures for registration of school managers with a view to shortening the processing time of school registration.

Starting from May 1999, applicants may submit applications for safety certificates and amendment of layout plans to the BD and the FSD direct. This obviates the time required by the ED to forward the applications to the two departments (the time saved is about one week). At the same time, applicants are also requested to submit documents and information pertaining to school registration to the ED so that their applications can be processed simultaneously. This enables the ED to issue the certificates of provisional registration shortly after the applicants have obtained the safety certificates.

Between February and June this year, a total of 12 kindergartens have submitted applications for safety certificates. As these applications are still being processed, the time required for completing the registration process is not yet known. It is however noted that two of these kindergartens have already obtained safety certificates from the BD in 60 and 80 working days respectively, that is, shorter than the average of 162 working days of the past three years.

Annex

Time taken by the Education Department to approve provisional registration of kindergartens during the 1996-97 to 1998-99 school years

<i>School year</i>	<i>No. of applications</i>	<i>No. of working days</i>		
		<i>longest</i>	<i>shortest*</i>	<i>average</i>
1996-97	20	92 [#]	1	12
1997-98	23	25	2	11
1998-99	7 [@]	19	1	7

- @ Number of applications up to February 1999 before the introduction of the improvement measures.
- * On the basis of the documents and information submitted in advance by the applicants, the Education Department could process the applications for school registration pending the issue of safety certificates. The Education Department was able to issue the certificates of provisional registration shortly after the Fire Services Department and the Buildings Department/Housing Department have issued the safety certificates. These were however exceptional cases. Only five cases (10%) in the last three years could be completed within one to two working days.
- # The school premise of the applying kindergarten was not in compliance with the conditions of the land lease and an application to the Lands Department was required. It therefore took longer to complete the registration procedures.

MR LAU KONG-WAH (in Cantonese): *Madam President, I think the time required for processing applications has obviously been improved. But the responsibilities still lie with the applicants as a matter of course. Will the Government inform this Council whether it has made a pledge, particularly with respect to the measures implemented since May this year, on when or after how many weeks the applications can be approved if the applicants have properly prepared the relevant documents or information?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, according to the ED's performance pledge, applicants will be issued with certificates of provisional registration within 25 working days after they have completed the relevant procedures and been issued with the safety certificates by the FSD and the BD and upon furnishing the full information required in the application forms.

MR LAU KONG-WAH (in Cantonese): *Madam President, my supplementary question is, apart from the ED's performance pledge, whether the BD and the*

FSD have made similar pledges? This is going to affect the applications too.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, according to the information I have on hand, with respect to applications lodged by kindergartens, other government departments, such as the FSD and the BD, have not made open performance pledges to specify how long it will take for safety certificates to be issued. Of course, I have pointed out clearly in the main reply that the time taken for the safety certificates to be issued will very often depend on how long the applicants take, upon receiving the safety requirements set out by the relevant departments, to alter their plans or amend various information for the purpose of fulfilling the requirements. Nevertheless, I am prepared to follow up Mr LAU Kong-wah's supplementary question with the relevant departments to see whether improvements can be made in this aspect, including examining how to formulate some performance pledges to be accountable to the public.

MR HO SAI-CHU (in Cantonese): *Madam President, does the Secretary have any idea as to whether the FSD or the BD requires the relevant applications to be lodged by a professional? If not, will the departments concerned consider the possibility of shortening the processing time if the applications are lodged by a professional?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, the FSD or the BD does require that applications for safety certificates be lodged by a professional. We did raise such a proposal before but did not make this a specific and mandatory requirement. As regards whether this should be made mandatory, I will jot down the relevant comments and take follow-up action in due course.*

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary indicated in part (b) of the main reply that, after a school has obtained the required safety certificates, the ED will issue the certificate of provisional registration shortly. Will the Secretary inform this Council how long it will take for the ED to issue the formal certificate of registration after issuing the certificate of provisional registration; and what procedures the school has to*

complete before obtaining the formal certificate of registration?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, a certificate of provisional registration is normally valid for one year. During the year, ED staff will inspect the courses, management and operation of the kindergarten after its commencement to see if they are satisfactory. Of course, the ED will look at the enrolment of the kindergarten, such as whether the number of students has exceeded the limits and so on. Under normal circumstances, the authorities will issue a formal certificate of registration within one year if they are satisfied with the various aspects of operation.

DR RAYMOND HO (in Cantonese): *Madam President, in order to speed up the registration procedures for kindergartens, is the Secretary aware whether the HD, the BD and the FSD have issued any guidelines to kindergartens to inform them of the requirements they need to fulfil in lodging applications before they can be issued with certificates of registration?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, guidelines on school registration are also applicable to kindergartens. The guidelines issued by the BD and the HD with respect to the processing of applications have also included requirements needed to be fulfilled by kindergartens.

MR HOWARD YOUNG: *Madam President, in his reply, the Secretary says that an applicant needs to complete steps (i) and (ii) before obtaining a certificate of provisional registration, that is, he has to, first of all, go through the procedures with the Fire Services Department and the Buildings Department or the Housing Department, and the issuance of this certificate is the last step. I would like to ask whether the Education Department considers that there is a demand and need to actually issue a certificate of provisional registration conditional upon the other two steps, so that it does not always be the last step in the chain?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, I do not think that it is appropriate for the Education Department to issue a provisional registration certificate conditional upon the applicant getting the safety certificates issued by the Fire Services Department and the Buildings Department, because we should never forget that these kindergartens provide for the education of very small children, and if the premises are not certified to be safe for a variety of reasons, it is totally inappropriate and, in fact, irresponsible of the Education Department to allow these premises to operate.

MR HO SAI-CHU (in Cantonese): *Madam President, can the Secretary provide this Council with data indicating whether the BD or the FSD takes a longer time in processing the applications for safety certificates?*

PRESIDENT (in Cantonese): Mr HO Sai-chu, please sit down first.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, according to part (a) of the main reply, if what the Honorable Member referred to is the average processing time, then the time required by the BD is relatively longer than that taken by the FSD on average. Of course, we have to look at the merits of individual applications. Very often, if many irregularities are found when the two departments inspect a school for the first time, they will set out a number of safety requirements for the school authorities to comply with. Therefore, the time taken by the applicant to meet these safety requirements will also affect how long the two departments will ultimately take in issuing the safety certificates.

MR HO SAI-CHU (in Cantonese): *Excuse me, Madam President, my supplementary question concerns the second requirement for obtaining a safety certificate issued by the BD or the HD as listed in part (a) of the Secretary's main reply. I wish to know if the processing time of the HD is longer for I am a committee member of the HD. If so, perhaps I can do something as far as the BD is concerned. In other words, I want to know which of these two departments takes a longer time to process the applications?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, according to the information I have obtained, the time taken

by the HD is normally shorter than that taken by the BD. If the Honourable Member wishes to know the difference between the two departments, I will confirm the relevant information and give him a written reply in due course. (Annex I)

MR HOWARD YOUNG: *Madam President, in the second to last paragraph of the reply, the Secretary says that the applicants may now submit their plans to the Buildings Department and the Fire Services Department direct. But in the restaurant trade, restaurants have all been calling for one-stop-shop and for plans to be submitted in one go. The Secretary seems to imply that for these applicants, it is the other way round. Is it a request for the trade itself that they do not want a one-stop-shop concept and would rather go to different departments direct?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, this latest action is indeed a response to the request from a number of kindergarten applicants. You can see from the main reply that this generally would save about one week's time. But of course, a kindergarten applicant can continue to submit applications through the Education Department, except that it will take a little longer for the correspondence to travel from one department to another department.

PRESIDENT (in Cantonese): Question time shall end here.

WRITTEN ANSWERS TO QUESTIONS

Occupational Safety in Schools

7. **MR LEE KAI-MING** (in Chinese): *It was reported that, in its recent inspections of over 260 schools in Hong Kong, the Labour Department found that the school authorities generally had little regard for the occupational safety of teaching and non-teaching staff, and some even instructed school janitors to perform duties of a dangerous nature. It was also reported that there had been an upward trend in recent years in the number of accidents occurring in the secondary school laboratories. In this connection, will the Government inform this Council:*

- (a) *whether the Education Department (ED) has any plans to promote the school authorities' awareness of occupational safety and assist schools in establishing a system to ensure occupational safety; if so, of the details of such plans;*
- (b) *of the specific measures taken to ensure that school janitors will perform duties of a dangerous nature only when there are adequate protection and safety equipment; and*
- (c) *of the measures in place to upgrade the safety equipment of laboratories in secondary schools so as to reduce casualties caused by accidents?*

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

- (a) In order to enhance the school authorities' awareness of occupational safety, the ED has, in recent years, issued circulars and distributed information pamphlets to schools from time to time to draw their attention to the importance of safe working environment in schools and to remind them to comply with the requirements of the Occupational Safety and Health Ordinance and its subsidiary regulations. Moreover, schools have been invited to nominate staff to attend occupational safety and health training courses that are applicable to the school working environment. In 1998, 787 staff from government and aided schools participated in the Basic Safety and Occupational Health Course organized by the Occupational Safety and Health Council (OSHC) for civil servants and staff of subvented organizations, while 856 staff participated in the Manual Handling and Lifting Course.

At the same time, the ED is now working with the Labour Department to prepare a pictorial guide on "Occupational Safety and Health in Schools" with a view to alerting school staff on various health hazards and elements of risk, and to making recommendations on effective mitigation measures. In addition, the ED will work with the Labour Department to develop a set of

safety management standards to assist the implementation of safety management system in schools.

- (b) The duties of school janitors usually do not involve work of a dangerous nature. Yet, schools are regularly invited to nominate staff (including school janitors) to attend occupational safety and health courses organized by the OSHC. Through these courses school staff would acquire a correct understanding of occupational safety, personal safety protection and the injuries resulting from improper work practices.
- (c) The ED has been extremely concerned about laboratory safety in secondary schools. To make the school laboratory a safe learning place and workplace, the ED has provided safety guidelines to schools through circulars, newsletters and seminars. The Department has also provided schools with information on laboratory safety and related educational materials (for example, pamphlets, posters, educational television programmes, educational kits and warning labels) for their use and reference. Annual seminars on laboratory safety organized for teachers and laboratory technicians also help to enhance the awareness and standard of laboratory safety in schools.

Moreover, the ED has advised all secondary schools in as early as 1995 to set up a Standing Laboratory Safety Committee to co-ordinate matters relating to laboratory safety and to develop contingency measures to be taken in case of laboratory accidents. Since the 1995-96 academic year, surveys on laboratory accidents in secondary schools have been conducted to collect information on the types and causes of laboratory accidents with a view to assisting schools to prevent recurrence of similar accidents.

During the inspections made to schools, inspectors of the ED and staff of the Labour Department also examine whether the safety equipment of school laboratories are up to standard and whether the schools have adopted proper measures to reduce the risk of laboratory accidents.

Development of Exhibition Services Industry

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

- (a) *of the total exhibition area available at the Hong Kong Convention and Exhibition Centre and its extension (collectively referred to HKCEC below);*
- (b) *of the percentage of the exhibition area used in the total exhibition area available at the HKCEC in each of the past five years; and whether the Hong Kong Trade Development Council (TDC) has assessed when the usage of exhibition area at the HKCEC will be close to full capacity;*
- (c) *of the measures to be adopted by the TDC to facilitate the development of Hong Kong into a trade fair capital; and*
- (d) *whether it has formulated any long-term plans to support the development of Hong Kong's exhibition services industry, such as by constructing more large-scale exhibition venues?*

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

- (a) The total area specially designed for exhibition purposes available at the HKCEC is 46 608 sq m. In addition, 16 794 sq m could be made available for exhibitions should a need arise.
- (b) In respect of the area specially designed for exhibition purposes, the utilization rates in the past five years are as follows:

*Prior to the completion
of the HKCEC Extension*

*After the completion
of the HKCEC Extension*

1994-95 ¹	1995-96 ¹	1996-97 ¹	1997-98 ¹	1998-99 ¹
63%	62%	73% ²	48% ³	38%

Based on the present development trends, the TDC estimates that the HKCEC would approach its full capacity in 2007, barring any unforeseen circumstances.

Note ¹ From 1 July to 30 June in the following year.

² An exhibition centre is generally considered to be operating at full capacity if its utilization rate reaches 70%.

³ The utilization rate of HKCEC in 1997-98 was higher as a result of usage relating to the Handover Ceremony and the Annual Meetings of the World Bank and International Monetary Fund.

- (c) Since the exhibition industry is expected to have potential for further development in future, the TDC has included the development of Hong Kong into a trade fair capital as one of its nine major themes for promotion of trade in services.

The TDC has been working closely with the Hong Kong Exhibition and Convention Organizers' and Suppliers' Association, Hong Kong Convention and Exhibition Centre (Management) Limited and Hong Kong Tourist Association in encouraging international exhibition organizers to hold exhibitions in Hong Kong, as well as in attracting and inviting more local and overseas manufacturers, exporters, trade buyers and importers to take part in exhibitions held in Hong Kong. The TDC also promotes the strengths of Hong Kong in organizing international exhibitions through the following channels:

- producing promotional videos and brochures, publishing articles in the TDC magazines and related publications circulated abroad, and placing advertisements in major overseas newspapers and trade magazines;
 - setting up a website on exhibitions organized by the TDC and other organizations so as to enable exhibition organizers, exhibitors and trade buyers to access the information easily;
 - participating in renowned international exhibitions on the promotion of the exhibition industry; and
 - displaying and distributing information on Hong Kong's exhibition industry at the TDC's overseas offices.
- (d) The Government has commissioned a consultancy study on whether there is a need to construct more exhibition facilities in Hong Kong. The consultant is now carrying out the study, and the Government will carefully consider the consultant's recommendations upon the completion of the study.

Transfer of Public Services to the Private Sector

9. **MR ALBERT HO** (in Chinese): *Regarding the transfer of public services to the private sector, will the Government inform this Council:*

- (a) *of the service items which have been contracted out or will be contracted out shortly to private organizations and their respective dates of commencement; and how the annual amount of public expenditure required for each service item would compare to that required if the service concerned continued to be provided by relevant government department;*
- (b) *whether it knows the number of staff recruited or about to be recruited by such private organizations for providing the services concerned;*
- (c) *of the criteria adopted in selecting private organizations to provide services; and*
- (d) *whether any relevant performance indicators have been formulated and applied to monitor the performance of the private organizations concerned; if so, of the results of the performance assessments on these private organizations; if it has not formulated such indicators or undertaken any monitoring, of the reasons for that?*

SECRETARY FOR THE TREASURY (in Chinese): President, on part (a) of the question, contracting out to the private sector of services that are used to be carried out by government departments is not a new policy. For example, the management of government car parks has been undertaken by private contractors since 1984. The services that have been contracted out range from translation of small numbers of documents and printing of small quantities of publications to management of parking meters and road tunnels and consultancies for studies and monitoring works projects. Controlling Officers have the flexibility to use part of the funds under their control to hire services instead of employing more staff in their departments for the same purpose provided it will not affect services provided by other departments and staff concerned. In view of the large number and extent of these cases, the long

history of some of them and the fact that they involve nearly every department, we need considerable time and resources to collate the information sought under part (a) of the question. We do not intend to do so.

The main consideration in contracting out a service is whether the contractor can provide quality service at a reasonable cost. The contractor is generally not required to report the number of staff it employs for taking up the service. As such we are unable to provide the information requested under part (b) of the question.

As regards part (c) of the question, contracting out of public services needs to go through established procurement or tender procedures to ensure good value for money and that only bids that satisfy our specifications are considered. The specifications are geared to the specific needs of the type of services involved. In many cases, factors such as the expertise and financial position of the organizations as well as their ability to mobilize suitable capital equipment may also be considered.

To ensure that the services meet the specifications, different departments employ different indicators for different services to monitor the service levels. These indicators may also form part of the agreements. Since there are a large number of such cases with a wide variety of indicators for different services and some services have a large number of indicators some of which may be complicated, we need considerable time and resources to collate the information sought under part (d) of the question. We do not intend to do so. Some of the indicators for some of the major contracted out services have been included in the Controlling Officers' reports in the annual expenditure estimates. For example, in the Commissioner for Transport's report, such indicators as the turbidity and carbon monoxide concentration inside government tunnels, the percentage of cases in which the contractors can attend to traffic accidents and vehicle breakdowns within prescribed timeframes are given.

Designation of Officials to Attend Meetings of the Legislative Council

10. **MR LAW CHI-KWONG** (in Chinese): *In reply to the Chairman of the House Committee of this Council on 30 March this year, the Director of Administration said that, as advised by the Department of Justice and the Financial Services Bureau, unlike statutory corporations or bodies whose*

ordinances stipulate their independence from the Government, the Hong Kong Monetary Authority (HKMA) is "part of the Government" and the Chief Executive of the HKMA is hence designated under Article 62(6) of the Basic Law by the Chief Executive to attend meetings of the Legislative Council, its committees and subcommittees (hereinafter referred to as meetings of the Legislative Council). In this connection, will the Government inform this Council:

- (a) whether the above provision of the Basic Law stipulates that the Chief Executive shall designate only officials from establishments which are part of the Government to attend meetings of the Legislative Council; if not, of the rationale for the Chief Executive designating only such officials for attendance at meetings of the Legislative Council;*
- (b) of the statutory corporations or bodies whose ordinances stipulate that they are not part of the Government and whose responsible persons should therefore not be designated to attend meetings of the Legislative Council under the above provision of the Basic Law; and the criteria for determining whether or not a statutory corporation or body is part of the Government; and*
- (c) whether the Chief Executive's exclusion of the responsible persons of the following statutory corporations or bodies from the designation of officials for attendance at meetings of the Legislative Council made on 31 December last year was based on the rationale that these corporations or bodies are not part of the Government:*
 - (i) Office of Judiciary;*
 - (ii) Office of the Ombudsman;*
 - (iii) Equal Opportunities Commission;*
 - (iv) Office of the Privacy Commissioner for Personal Data;*
 - (v) Hospital Authority;*
 - (vi) Hong Kong Housing Authority; and*

(vii) Securities and Futures Commission?

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

- (a) Article 62(6) of the Basic Law stipulates that the Government of the Hong Kong Special Administrative Region is to designate officials to sit in on the meetings of the Legislative Council and to speak on behalf of the Government. The provision does not stipulate that the Chief Executive shall designate only officials who are part of the Government to attend Legislative Council meetings. However, the justification for designating officials who are part of the Administration to attend meetings of the Legislative Council is that officials who are part of the Administration are best placed to speak on behalf of the Government on matters relating to their respective policy areas. Responsible persons of independent statutory bodies are responsible for undertaking their statutory functions and responsibilities and it is therefore not appropriate for them to be designated under Article 62(6) of the Basic Law to speak on behalf of the Government.
- (b) Statutory bodies that are not part of the Administration are generally statutory bodies having a legal personality separate from the Administration and not under the direct authority of the Administration. The independence of these statutory bodies is often indicated, either expressly or by implication, in the statute under which they are established. The Mass Transit Railway Corporation is an example where the Mass Transit Railway Corporation Ordinance indicates that it is a body corporate separate from the Administration while the HKMA is an example of an authority which is part of the Administration given it has to perform such functions as the Financial Secretary may direct and does not have a separate legal personality under the Exchange Fund Ordinance.
- (c) The bodies listed in part (c) of the question are either in the case of the Judiciary, constitutionally independent of the Administration or in the case of the rest of them, bodies which are separate from the Administration by virtue of their separate legal personalities or independent status as indicated by the statute under which they are established. It is therefore not considered appropriate to designate

members of these bodies under Article 62(6) of the Basic Law.

Processing Time for Immigration Clearance for Mainland Tourists at Border Control Points

11. **MR HOWARD YOUNG:** *I have received a complaint that a group of mainland tourists visiting Hong Kong through the Man Kam To Border Control Point had had their travel documents collected and then had to wait for more than one hour before the immigration formalities were completed, and that the processing time for immigration clearance for mainland tourists at the Man Kam To Border Control Point is allegedly much longer than that at other border control points. In this connection, will the Government inform this Council of the average processing time for immigration clearance for mainland tourists at each border control point in the past year; and of the reasons for the differences, if any?*

SECRETARY FOR SECURITY: Madam President, at present there are six designated border control points for entry of mainland tourists holding group permits, namely Lo Wu, Hung Hom, Lok Ma Chau, Macau Ferry Terminal, China Ferry Terminal and the Chek Lap Kok Airport. Mainland tourists entering through Man Kam To Control Points are mostly transit passengers holding People's Republic of China passports. Immigration Department records show that the average clearance time at Man Kam To is not longer than that at other border control points.

The Immigration Department has pledged to clear 92% of passengers within 15 minutes at the airport and 30 minutes at all other control points. Actual performance during the past six months is as follows:

<i>Control Point</i>	<i>Maximum average waiting time (in minutes)</i>
Airport	16
Lo Wu	18
Hung Hom	18
Man Kam To	15
Lok Ma Chau	21
Sha Tau Kok	15
Macau Ferry Terminal	17
China Ferry Terminal	18

Whilst the performance pledge has been kept at our control points, the differences in average waiting times are attributed mainly to different usage patterns. The above statistics cover all passengers with no separate breakdown on mainland tourists.

Rarely will mainland tourists need to wait for an extended period of time at our control points. In the past six months, there was only one such incident where a group of 23 mainland transit passengers waited at Man Kam To for some 90 minutes. This was because they failed to produce the requisite confirmed flight bookings for their onward journey. In accordance with the clearance procedure for transit passengers, our immigration officers had to take time to verify with the relevant travel agent and the airline the status of their flight bookings before giving them permission to enter.

Liaison Channels with Overseas Countries Regarding Food Safety

12. **DR TANG SIU-TONG** (in Chinese): *At a meeting of the Legislative Council Panel on Health Services, the officials of the Department of Health (DH) advised that the department had encountered difficulties in following up the latest development on the incident in which the agricultural products of four European countries had been contaminated, as the countries concerned had not taken the initiative to provide the department with relevant information. In this connection, will the Government inform this Council:*

- (a) *whether the Government of the Hong Kong Special Administrative Region (SAR) has signed any agreement with the countries of the European Union to require that, if a party detects irregularities concerning its foods or those of the other party, it should take the initiative to inform the other party immediately and propose contingency measures; if so, of the reasons for DH having difficulties in collecting information in the incident; if not, of the measures to enhance the communication between both parties;*
- (b) *of the reasons for not following the more cautious approach taken by countries such as the United Kingdom, the United States and*

Australia in handling such contaminated agricultural products; and

- (c) *whether, over the past three years, connection has been established with the food safety regulation authorities worldwide and agreement concluded regarding the liaison mechanism and mode of co-operation; if so, of the details; if not, of the problems encountered?*

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

- (a) There is no existing agreement between the SAR Government and the European Union in relation to formal information exchange over food safety issues. It is not known that there are such arrangements for this purpose internationally. However, as responsible members of the international community, concerned countries are usually ready to provide assistance either on their own initiative or upon requests.

With regard to the current Belgian dioxin incident, because of its suddenness, complexity and wide implications, minor interruptions of information flow at the initial stages is not unexpected. In order to strengthen data collection and communication, surveillance of developments has been stepped up through various means, which includes networking with food safety control authorities of other European and non-European countries (for example, the United Kingdom, the United States and Australia), drawing reference from their management methods, liaison with overseas and local academic sectors and maintaining dialogue with the trade. Such activities go on continuously every day and have enabled the SAR Government to keep abreast of developments and take appropriate actions since the problem was first identified at the end of May.

- (b) The responses to the suspected dioxin contamination of certain European foods varies among different countries and places. The presence of such a broad spectrum of approaches reflects that each authority will tailor a programme most suitable for itself.

Food safety control in the SAR has relied on professional analysis and an evidence-based approach. Management of the current Belgian dioxin incident is no different. The SAR Government came to know of this problem as a result of active research. We have made reference to the official and other objective evidence obtained from concerned international authorities and countries and conducted detailed professional analysis before the relevant decisions were made.

- (c) With globalization of international trade and rapid developments in food science and technology, not a single country or place can work in isolation in the area of food safety control. In order to provide effective food safety control, the Department of Health has in the past years networked closely with its counterpart agencies in other countries and places. In addition to this liaison, the Department of Health has actively participated in the work of international and regional food safety control authorities in order to enhance the SAR Government's co-operation with other countries on food safety matters. These institutions include the World Health Organization, the Codex Alimentarius Commission and the various Asian Pacific Economic Co-operation working groups. Past experience has indicated that these connections have rendered much help towards our food safety monitoring work.

Inclusion of Qualifications or Adverse Statements in Listed Companies Accounts by Auditors

13. **MR CHEUNG MAN-KWONG** (in Chinese): *Regarding the follow-up of cases in which auditors have included qualifications or adverse statements in the accounts contained in the annual reports of listed companies, will the Government inform this Council whether it knows:*

- (a) *the numbers of listed companies in the accounts of which auditors included qualifications or adverse statements over the past three years, broken down by categories of the qualifications and adverse statements;*

- (b) *the criteria adopted by the relevant monitoring bodies in deciding on whether to follow up, and the way to follow up, the financial situation of such listed companies;*
- (c) *the number of cases followed up by the relevant monitoring bodies over the past three years, and the outcomes thereof; and*
- (d) *whether the relevant monitoring bodies have planned to actively follow up such cases so as to give full effect to the auditors' monitoring of the accounts of listed companies?*

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

- (a) According to the information provided by the Hong Kong Society of Accountants (HKSA), an auditor will issue qualified opinion when there is either a limitation on the scope of the auditors' audit¹, the auditors disagree with the treatment or disclosure of a matter in the financial statements or when there are doubts regarding the applicability of the going concern² concept in the preparation of financial statements. Moreover, an audit report is modified where the audit opinion is preceded by a paragraph drawing shareholders' particular attention to a fundamental uncertainty, although the matter may have been adequately disclosed in the financial statements.

According to the record of the Stock Exchange of Hong Kong (SEHK), the number of auditor's reports of listed companies containing qualified and/or modified audit opinions and the break down by categories of the qualifications and adverse statements for

¹ Limitation of audit scope means that the auditors have been prevented from applying all the audit procedures required by the HKSA Auditing Standards.

² "Going concern" refers to the auditor's opinion on whether an entity is able to continue in operational existence for the foreseeable future. If the auditors conclude that there are doubts regarding the applicability of the going concern concept, the form of qualified audit opinion will be determined by how significant the auditors regard the level of uncertainty and by the level of disclosure made by the directors in the financial statements.

the past two years covering the accounting years ending 31 December 1997, 31 March 1998, 30 April 1998, 30 June 1998, and 31 December 1998³ are as follows:

	<i>Reporting Year ending</i>					<i>Total</i>
	<i>31 December</i>	<i>31 March</i>	<i>30 April</i>	<i>30 June</i>	<i>31 December</i>	
	<i>1997</i>	<i>1998</i>	<i>1998</i>	<i>1998</i>	<i>1998</i>	
<i>Qualified</i>						
Fundamental uncertainty relating to going concern basis	6	7	1	3	9	26
Limitation in audit scope	6	10	1	3	13	33
Disagreement	1	3	1	2	5	12
Others	0	1	0	0	1	2
Sub total	13	21	3	8	28	73
<i>Modified (but not qualified)</i>						
Fundamental uncertainty relating to going concern basis	4	11	0	4	21	40
Fundamental uncertainty relating to other matters	5	6	1	1	6	19
Sub total	9	17	1	5	27	59
Total	22	38	4	13	55	132
Less: duplications ⁴	6	14	2	5	14	41

³ Approximately 94% of all listed companies in Hong Kong have accounting year ends on 31 December, 31 March, 30 April, and 30 June.

⁴ An auditor's report may contain more than one qualification and/or modification which are separately shown above. Duplications, representing auditors' report which contained both a qualified opinion and a modified opinion, are eliminated here to arrive at the total number of qualified/modified auditors' reports.

Total no of	16	24	2	8	41	91
qualified/modified						
auditors' reports						

Information relating to earlier periods is not available as the SEHK only started to maintain such statistics with respect to reports covering accounting period ending on 31 December 1997.

The table above shows that approximately 50% (66 out of a total of 132) of the qualified and modified audit opinions in the past two years relate to fundamental uncertainty on going concern basis on which the financial statements had been prepared. This is believed to be partly due to the Asian financial crisis that caused financial difficulties and/or significant losses for many listed companies.

- (b) Under the Rules Governing the Listing of Securities on the SEHK (the Listing Rules), listed companies are required to provide details of the qualifications and modifications to the auditors' reports in the preliminary results announcement in the form of a paid announcement in a newspaper. Further, the Listing Agreement⁵ requires a listed issuer to provide additional relevant information in its annual report where its financial statements do not give a true and fair view of the state of affairs and profit and loss for the reporting year.

The SEHK reviews, as part of its ongoing compliance functions, results announcements and annual reports of listed companies. Such review covers problematic listed companies with qualified or modified audit opinions. The regulatory principle of the SEHK provides that while adverse financial situation and qualified or modified audit opinions *per se* are not a subject for disciplinary action, listed companies must ensure sufficient and prompt disclosure of such information to the shareholders and the public.

The SEHK will carry out initial examinations of all the cases involving qualified or modified audit opinion in financial statements to ascertain whether sufficient disclosure of information has been

⁵ As a condition for listing on the SEHK, all listed companies are obliged to sign a Listing Agreement as stipulated in the Listing Rules of the SEHK by which they undertake to comply with the continuing obligations to which they will be subject as a condition of the listing of their securities. These obligations are designed to ensure that listed companies keep the holders of their securities (and the public) fully informed of all factors which might affect their interests and treat the holders of their securities in a proper manner.

made to the market. Depending on the nature and the severity of the qualifications or modifications, the SEHK will decide whether it will seek further confirmation from the directors of the listed companies if in the preparation of the financial statements they had applied such degree of skill, care and diligence as may reasonably be expected and if they had complied with the Listing Rules.

The SEHK may also make further inquiries on a case by case basis by requesting the company and/or its auditors to provide such other additional information as may be required to ascertain whether the former was in compliance with the Listing Rules, and whether adequate information had been disseminated to its shareholders and the public on the nature and impact of the qualifications.

If additional information obtained from the above inquiries reveals that there may have been irregularities in the management of the company or the auditors may not have been in compliance with the relevant professional standards for accountants, the SEHK may, after its own assessment and based on the circumstances of each case, refer it to the appropriate regulatory bodies and authorities, including the Securities and Futures Commission (SFC), the police or the HKSA, for possible investigation.

(c) and (d)

During 1998 and the first six months of 1999, the SEHK, following initial examination, had issued 81 letters of inquiry to listed companies in respect of the qualifications in the auditors' reports on their financial statements, seeking confirmations and/or additional information from their directors. Cases involving qualifications or modifications of a minor or technical nature would usually not be taken up further by the SEHK after its initial examination.

During 1998, the SEHK had referred eight cases where the auditors had issued heavy qualifications in their reports on the 1998 financial statement to the SFC to consider whether there had been any irregularities relating to the companies. The SFC has been reviewing all the referral cases and is considering instituting formal investigation under the Securities and Futures Commission

Ordinance (Cap. 24) into at least two cases. At the request of the SEHK, the SFC had also provided assistance to the SEHK to refer these eight cases to the HKSA to review whether the auditors' report in question had been properly conducted. Out of these eight cases, the HKSA had reviewed two cases and concluded that the circumstances did not justify further investigation. The SEHK had suspended the inquiries into two other cases in the light of more information received from the companies concerned. Meanwhile, the SEHK is providing the HKSA with further particulars to enable a proper review of the remaining four cases.

The SEHK had also provided through the Financial Services Bureau the relevant information on these eight cases for possible investigations by the Commercial Crime Bureau (CCB). The CCB's investigation into some of these referrals are ongoing.

Since the beginning of 1999, three additional cases of financial statements with qualified audit opinions have been referred by the SEHK to the SFC and the HKSA. The HKSA is currently reviewing these cases. Separately, one of the cases is being investigated by the Independent Commission Against Corruption and another by the CCB. The SFC is reviewing the third case in parallel.

In addition, the SEHK has requested the management of two listed companies to report suspected irregularities to the police during 1998 and 1999.

Separately, in January 1999, the SEHK drew the attention of the HKSA to 42 cases concerning listed companies whose financial statements were qualified by their auditors, and asked the HKSA to review the auditors' opinion to see whether there had been any inconsistency or non-compliance with the relevant professional standards for accountants. The HKSA has concluded that there were no inconsistencies in the application of the Statements of Auditing Standards in these cases.

To further enhance the communication between the HKSA, the SFC and the SEHK, a Task Force on Corporate Failures has recently been set up by the HKSA comprising senior representatives of the three bodies to follow up on these referrals. The Task Force has been meeting regularly and has undertaken to formalize the procedures under which the SFC and the SEHK may refer matters to the HKSA for possible investigation.

Promoting Access to Internet in Schools

14. **MR SIN CHUNG-KAI:** *NetDay (web address: www.netday.org) is a grassroots voluntary effort in the United States which aims at installing basic wiring in every school so as to make it Internet-ready. In this connection, will the Government inform this Council whether it will take action to encourage similar initiatives in Hong Kong; if not, of the reasons for that?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, according to the five-year information technology (IT) in education strategy document issued last year, one of the Government's objectives in promoting IT in education is, through harnessing the powers of IT, to link up our students with the vast network of knowledge and information. This connection will help students acquire a broad knowledge base and develop a creative mind. To this end, the Government has implemented a series of measures to provide adequate network facilities for teachers and students to enable them to access information. The objective behind these measures is essentially the same as that of NetDay initiated by the grassroots voluntary effort in the United States.

Our major initiatives include providing all public sector schools with cash grant for the procurement of computers and the setting up of local area networks (LANs). Each secondary and primary school has on average 82 and 40 computers respectively. A first instalment of cash grant (about 30% of the total amount) was distributed in June 1999. The LAN will link up the library, staff rooms, computer-assisted learning room and/or computer rooms in a school to support IT in education. Computers connected to LAN will have Internet access through an access line.

Since November last year, the Education Department (ED) has been providing each public sector school with an annual recurrent grant of \$44,000 to connect to the Internet and to arrange for adequate Internet services for its teachers and students. Schools can arrange such service direct with Internet Service Providers (ISPs) and, having regard to their own IT needs, determine when to connect to the Internet. Up till now, all secondary and about 300 primary schools have gained access to the Internet. The ED has been exploring with ISPs the possibility of providing Internet access for schools at a more favourable rate. So far, five ISPs have agreed to offer discounts to schools subscribing to their services.

The Quality Education Fund also supports a number of projects related to promoting connectivity, such as the "Hong Kong Cyber Campus" which has secured a funding of \$18.9 million, and some other individual networks in schools. The Hong Kong Cyber Campus provides services to more than 600 secondary and primary schools, each with two to four dial-up lines for access to the Internet and e-mail services. More than 20 000 teachers are provided with free Internet accounts for use in the evenings under this project.

To ensure that students (especially those from less well-off families) have opportunities to use IT after school hours and to access the information network, the Government will, with effect from the 1999-2000 school year, provide an incentive grant to encourage schools to make available their computer rooms and IT facilities for use by students after normal school hours. We are also providing 1 000 computers with access to the Internet in 125 children and youth centres and community centres. Computers will be installed starting from this month and are expected to come into operation before the end of August.

Consultancy Review on Food Safety Control System

15. **DR TANG SIU-TONG** (in Chinese): *The Hygiene Services Committee of the Department of Health discussed in March 1998 the proposal to commission a consultancy review by Australia New Zealand Food Authority on the food safety control system in Hong Kong. It is learned that the consultancy review has not been carried out. In this connection, will the Government inform this Council of:*

- (a) *the scope of review of the proposed consultancy review; how it compares with the scope of study of the Consultancy Study on Food Safety and Environmental Hygiene Services in Hong Kong (Consultancy Study) commissioned by the Administration in August last year; and*
- (b) *the reasons for not carrying out the consultancy review; whether it will reconsider conducting the consultancy review under its original proposed scope or with amendments made after making reference to the Consultancy Study; if it will, of the specific timetable; if not, of the reasons for that?*

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

- (a) The consultancy study proposed by the Department of Health to the Hygiene Services Committee in March 1998 related to the food surveillance system in Hong Kong. It aims to bring improvements to the Hong Kong food surveillance system by making reference to international practices. This is a study on the ongoing operational system as against the Consultancy Study completed in November 1998. The latter was part of the Administration's effort to restructure the district organizations, pitched at the policy level, aiming at improving leadership, operational efficiency and co-ordination.
- (b) The Department of Health was unable to obtain resources last year for carrying out the consultancy review on food surveillance system. The Department will continue to compete for resources for this consultancy review. The scope of the study will remain as before, focusing on the ongoing operational system related to food safety control.

Shenzhen Western Corridor

16. **MISS CHRISTINE LOH:** *In reply to a question on 26 May this year regarding the proposed Shenzhen Western Corridor (SWC) linking Shekou and Yuen Long, the Administration said that it was conducting the Crosslinks Further Study (CFS). Also, it was recently reported that the Chief Executive in Council had given approval to proceed with the project. In this connection, will the Administration inform this Council:*

- (a) of the estimated percentage increase in cross-border traffic in the first year after the opening of the SWC; whether it has assessed the impacts of such increase in cross-border traffic on traffic conditions in Hong Kong; and whether it plans to put a limit on the number of vehicles using the SWC;*
- (b) whether Stage 2 of CFS, which includes the environmental impact assessment (EIA), has been completed;*
 - (i) if so, of the environmental impacts arising from the traffic of the SWC on the wildlife in Deep Bay and Mai Po Natural Reserve, in particular, the dolphins and on the air quality in Hong Kong; and*
 - (ii) if not, of the basis for arriving at the judgment in the above-mentioned reply that the new crossings will not cause any insurmountable adverse environmental impacts;*
- (c) of the decision of the Chief Executive in Council in respect of the SWC; and*
- (d) whether the Hong Kong Special Administrative Region (SAR) Government can decide not to proceed with the project even if the relevant mainland authorities have already approved it?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam President, as regards part (c) of the question, the Administration has not yet taken a decision to proceed with the SWC project. The Administration has completed Stages 1 and 2 of the CFS and before taking a decision on any new crossings, we need to discuss and reach an agreement with the mainland

authorities.

The answers to parts (a), (b) and (d) of the question are as follows:

- (a) The volume of cross-boundary traffic is independent of the construction of the SWC as it is more a function of the economic conditions and cross-boundary activities between Hong Kong and the Pearl River Delta region. Cross-boundary traffic will increase regardless of whether or not the SWC is built. The three existing crossings are currently handling an average of 26 000 vehicles per day (v/d) and the volume of traffic is expected to increase to 66 400 v/d by 2006, which would be over and above the maximum design capacity of the three crossings of 52 000 v/d. The CFS has studied the necessary connecting roads for accommodating the cross boundary traffic and their possible impact on the local traffic network. In addition, the impact of the increasing cross-boundary traffic on the overall territorial traffic conditions is one of the issues being currently reviewed under the Third Comprehensive Transport Study (CTS-III). The Government has not taken a decision on limiting the number of cross-boundary vehicles. Should a need for such control arise in future, we would review it carefully in consultation with the mainland authorities.
- (b) As part of the Study under Stage 2 of the CFS, an environmental study has been completed to address the possible cumulative environmental impacts, including air, water and ecological aspects, during the construction and operation phases of the SWC as well as those of its connecting road within the SAR, that is, the Deep Bay Link (DBL).

On water quality, the Study results indicate that the SWC would possibly cause minor deterioration in the water quality of Deep Bay (in the range of 1% to 2%) as a result of the reduction in tidal flows caused by the bridge towers. On ecological impact, a 12-month ecological survey concludes that there would be little or even no direct impact of the SWC on the Mai Po Marshes but there would be minor losses or damages to the marine, intertidal and terrestrial habitat within the Deep Bay. There would be no significant

disturbance impact on China White Dolphins but precautionary measures, such as scheduling piling works in winter months when dolphin activities in Deep Bay are lowest, would be undertaken to minimize any possible impact.

An air quality assessment has been conducted to examine the regional air quality impact resulting from the projected changes in road traffic emission relating to the SWC. The assessment concludes that the air quality attributed to the SWC project will unlikely exceed any of the Air Quality Objectives for Year 2020 for the territory as a whole; and that any air quality impact of the SWC and its connecting roads would mainly be localized.

As mentioned above, the environmental study under Stage 2 of the CFS has addressed the cumulative impacts of the SWC and its connecting roads. Before the construction works of the SWC or the DBL could commence, a full project-specific EIA would have to be conducted under the Environmental Impact Assessment Ordinance. This detailed EIA would assess in greater detail the overall as well as localized environment impact of these projects and recommend suitable mitigation measures to ensure that the projects would be not cause any insurmountable environment impact. Before the EIA is endorsed by the Director of Environmental Protection, having taken into consideration comments from the public and the Advisory Council on the Environment, no Environmental Permit would be issued which is a pre-requisite for works to commence.

- (d) Construction of the SWC will be decided jointly by the SAR Government and the mainland authorities. From the SAR Government's point of view, our Crosslinks Study completed in 1996, as reconfirmed by Stage 1 of our Crosslinks Further Study, concludes that additional crossings would be needed to alleviate the daily congestion at the three existing crossings. It would therefore be in Hong Kong's own interest to give early consideration to the construction of an additional crossing both to relieve the chronic traffic congestion around the areas of the existing crossings and to avoid constraining the long-term economic development of both Hong Kong and the Mainland.

Sale of Land by Public Auction

17. **MISS EMILY LAU:** *Will the Executive Authorities inform this Council of the area, selling price and name of successful bidder in respect of each piece of land sold by public auction in the past two years?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam President, the area, premia and successful bidders of the sites sold by auction from April 1997 to June 1999 are as follows:

<i>Year</i>	<i>Location</i>	<i>Area (m²)</i>	<i>Premium (\$ million)</i>	<i>Successful Bidder</i>
1997/1998	Pendragon, 150 Wong Ma Kok, Stanley (RBL 1138)	53 126	5,500	Chest Gain Development Limited
	Cheung Fu Street, Cheung Sha, Lantau Island (Lot 244 DD 331)	2 240	40	Asia Chance Investment Limited
	Wan Hoi Street, Hung Hom (KIL 11055)	7 402	6,060	Marketon Investment Limited
	129 Repulse Bay Road, Repulse Bay (RBL 1132)	10 570	5,550	Gain Regent Development Limited
	Nga Kau Wan, Lamma Island (Lot 868 DD 1 Lamma)	3 920	64	T & L Securities
	Mei Wo Circuit, Sha Tin (STTL 217)	1 307	56	Wealth Nice Investment Limited
	Hung Shing Street/Wai Fung Street, Ap Lei Chau (APIL 130)	400	105	Qulafair Co Limited
	Chuk Kok, Sai Kung (Lot 13 DD 231)	1 570	51	Rillex Investment Limited
	Sam Mun Tsai, Shuen Wan, Tai Po (TPTL 161)	91 265	5,600	Wealth Team Development Limited
	Area 16, Tuen Mun (TMTL 407)	16 587	2,900	Macfull Limited
<i>Year</i>	<i>Location</i>	<i>Area</i>	<i>Premium</i>	<i>Successful Bidder</i>

		<i>(m²)</i>	<i>(\$ million)</i>	
	4 Cape Drive, Chung Hom Kok (RBL 1139)	3 189	221	Fairio Limited
	Bulkeley Street, Hung Hom (HHIL 550)	693	276	Yu Hing Property Development Limited
	Sha Tseng Road, Tong Yan San Tsuen, Yuen Long (Lot 2058 DD 121)	1 950	58	Kisland Investment Limited
	Area 10, Tuen Mun (TMTL 416)	2 293	285	Winfield Investment Limited
	Ping Shan Lane, Tong Yan San Tsuen, Yuen Long (Lot 1736 DD 122)	2 040	33	Lead Fortune Development Limited
	Tsing Sin Street, Area 37B, Tuen Mun (TMTL 409)	3,875	250	Brightwing Development Limited
	Area 41A, Sui Wo Road, Sha Tin (STTL 318)	4,133	90	The Light Company Limited
	Chik Fu Street, Sha Tin (STTL 468)	88	11.6	New Foundation Development Limited
	6-14 Mount Austin Road, The Peak (RBL 1145)	13 328	920	Jadespring Limited
	Ma Tin Road, Yuen Long (YLTL 451)	6 796	290	Limbo Enterprises Limited
1998/1999	1 Peking Road, Tsim Sha Tsui (KIL 11108)	2 200	1,240	Glory Star Investment Limited
	Shek Wu Hui, Sheung Hui (FSSTL 183)	3 068	330	Hugetop Holdings Limited
1999/2000 (up to June 1999)	35-37 Cloud View Road, North Point (IL 8921)	2 494	590	Regent Profit Investment Limited
	83 Broadcast Drive, Kowloon Tong (NKIL 6276)	4 272	515	Netrich Limited
<i>Year</i>	<i>Location</i>	<i>Area (m²)</i>	<i>Premium (\$ million)</i>	<i>Successful Bidder</i>

Area 58, Siu Lam, Tuen Mun (TMTL 419)	19 400	385	Garion Investment Limited
1 - 3 Homestead Road, The Peak (RBL 1146)	2 369	265	Profit Leader Investment Limited
Kwai Luen Road, Kwai Chung (KCTL 480)	3 746	470	Sunrise Investment Limited
Area 12, Tai Po Kau, Tai Po (TPTL 167)	2 611	44	Glory Fortune Development Limited

Departure via Special Channel at Bordor Control Point

18. **MR LAU KONG-WAH** (in Chinese): *It is reported that in order to avoid having to wait in the long queue at the border control point on the mainland side, some people returning to Hong Kong through the Lo Wu Crossing make unauthorized payments at the mainland control point, so as to be led to depart directly via a special channel, and that such activities are particularly rampant during the peak periods on weekends and holidays. In this connection, will the Government inform this Council whether:*

- (a) *it has received complaints about such activities from members of the public in the past two years; if so, of the number of such complaints and the follow-up action taken by the relevant authorities; and*
- (b) *it has discussed with mainland officials through the border liaison channels on ways to curb such activities?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) None of our enforcement agencies at the Lo Wu Control Point, that is, the Hong Kong Police Force, the Immigration Department and the Customs and Excise Department, have received any complaints regarding access to a special channel for leaving Shenzhen at the Lo Wu Frontier Inspection Station.
- (b) The police have reflected the Honourable Member's concern to the Shenzhen Frontier General Inspection Station (FGIS, Shenzhen) through the border liaison channel. The police are given to understand that the FGIS, Shenzhen have not received such complaints neither.

Maintenance Payment for CSSA Recipient Families

19. **MR LAW CHI-KWONG** (in Chinese): *At present, in the event of a default in maintenance payment, Comprehensive Social Security Assistance (CSSA) recipient families which are also receiving maintenance can be granted advance payment from the Social Welfare Department only after the Court has issued a summons to the maintenance payers concerned. During the period between the due date for maintenance payment and the date they are granted such advance payment, these families are often faced with financial hardship. In this connection, will the Government inform this Council whether it will consider deducting, in arrears, the amounts of maintenance that these families had actually received in the previous month from their CSSA entitlement, instead of deducting the amount of maintenance that these families should receive in the same month as they receive CSSA payment, so as to reduce the impact of unstable maintenance income on these families?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Madam President, the objective of the CSSA is to provide financial assistance for financially vulnerable individuals or families to meet their basic and essential needs. People in financial difficulties, including single parents, can apply for CSSA.

The amount of CSSA payable to an eligible recipient is determined by deducting the assessable income of the recipient from his/her recognized needs.

Currently, maintenance payment is considered as assessable income. If a CSSA recipient encounters financial difficulties because she has not received her entitled maintenance payment, she can at any time approach the Social Security Field Unit for assistance. There is no need to wait for the Court to issue a summons to the maintenance payer concerned. Once her financial difficulties have been verified, the Field Unit can provide her with cash assistance in the same or the next day.

Staff of Social Security Field Units have been instructed to follow this arrangement when approached by CSSA recipients for such assistance.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

ADAPTATION OF LAWS (NO. 27) BILL 1999

ADAPTATION OF LAWS (NO. 21) BILL 1999

ADAPTATION OF LAWS (NO. 20) BILL 1999

ADAPTATION OF LAWS (NO. 32) BILL 1999

ADAPTATION OF LAWS (NO. 33) BILL 1999

ELECTRONIC TRANSACTIONS BILL

ADAPTATION OF LAWS (NO. 25) BILL 1999

ADAPTATION OF LAWS (NO. 26) BILL 1999

ADAPTATION OF LAWS (NO. 28) BILL 1999

ADAPTATION OF LAWS (NO. 31) BILL 1999

ADAPTATION OF LAWS (NO. 34) BILL 1999

ADAPTATION OF LAWS (NO. 22) BILL 1999

ADAPTATION OF LAWS (NO. 29) BILL 1999

ADAPTATION OF LAWS (NO. 23) BILL 1999

ADAPTATION OF LAWS (NO. 24) BILL 1999

ADAPTATION OF LAWS (NO. 30) BILL 1999

CLERK (in Cantonese): Adaptation of Laws (No. 27) Bill 1999
Adaptation of Laws (No. 21) Bill 1999
Adaptation of Laws (No. 20) Bill 1999
Adaptation of Laws (No. 32) Bill 1999
Adaptation of Laws (No. 33) Bill 1999
Electronic Transactions Bill
Adaptation of Laws (No. 25) Bill 1999
Adaptation of Laws (No. 26) Bill 1999
Adaptation of Laws (No. 28) Bill 1999
Adaptation of Laws (No. 31) Bill 1999
Adaptation of Laws (No. 34) Bill 1999
Adaptation of Laws (No. 22) Bill 1999
Adaptation of Laws (No. 29) Bill 1999
Adaptation of Laws (No. 23) Bill 1999
Adaptation of Laws (No. 24) Bill 1999
Adaptation of Laws (No. 30) Bill 1999.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

ADAPTATION OF LAWS (NO . 27) BILL 1999

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I move that the Adaptation of Laws (No. 27) Bill 1999 be read the Second time.

The Bill seeks to make terminological amendments to the Private Bills Ordinance, the Legislative Council (Powers and Privileges) Ordinance and the Legislative Council Commission Ordinance.

Although the Hong Kong Reunification Ordinance has provided, *inter alia*, for the inclusion of Schedule 8 in the Interpretation and General Clauses Ordinance which sets out the principles for interpreting laws which continue to remain as the laws of the Hong Kong Special Administrative Region (SAR) and brings the laws of the SAR into conformity with the Basic Law and with Hong Kong's status as a Special Administration Region of the People's Republic of China, we consider it unacceptable to retain terminologies which are inconsistent with the Basic Law in our statute books after the reunification. We therefore need to enact the Bill to bring about the necessary terminological amendments.

The Bill, when passed into law, shall take effect retrospectively, as from the date of the establishment of the SAR. This does not contravene Article 12 of the Bill of Rights Ordinance.

Madam President, this Bill not only is important for bringing the above three Ordinances into conformity with the Basic Law and with Hong Kong's status as a SAR, but is also required to obviate the need for making cross-references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance. I therefore commend it to this Council for early passage into law.

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

That the Adaptation of Laws (No. 27) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 21) BILL 1999

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I move the Second Reading of the Adaptation of Laws (No. 21) Bill 1999.

The purpose of the Bill is to effect necessary adaptations to seven transport-related Ordinances and their subsidiary legislations to bring them into conformity with the Basic Law and with Hong Kong's status as a SAR of the People's Republic of China.

Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have clear provisions for the construction of terminologies inconsistent with the Basic Law or Hong Kong's status as a SAR of the People's Republic of China, it is inappropriate to retain such terminologies in Hong Kong laws. Therefore we need to draft the Bill to make the necessary textual amendments to individual Ordinances. The proposed amendments are merely terminological changes. For example, all references to the "Governor" and "立法局" will be replaced by the "Chief Executive" and "立法會".

Like other adaptation of laws bills, the adaptations proposed in the Bill when passed into law shall take effect retrospectively as from the date of the establishment of the Hong Kong SAR.

If the Bill is passed, it will obviate the need for frequent references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance in reading. I urge Members to support the passage of the Bill.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 21) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 20) BILL 1999

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I move the Second Reading of the Adaptation of Laws (No. 20) Bill 1999.

The purpose of the Bill is to effect necessary adaptations to eight Ordinances related to securities, futures and leveraged foreign exchange trading to bring them into conformity with the Basic Law and with Hong Kong's status as a SAR of the People's Republic of China.

The eight Ordinances include: the Securities and Futures Commission Ordinance (Cap. 24), Commodity Exchanges (Prohibition) Ordinance (Cap. 82), Commodity Trading Ordinance (Cap. 250), Securities Ordinance (Cap. 333), Stock Exchanges Unification Ordinance (Cap. 361), Securities (Insider Dealing) Ordinance (Cap. 395), Securities (Disclosure of Interest) Ordinance (Cap. 396), and Leveraged Foreign Exchange Trading Ordinance (Cap. 451).

Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have provisions for the construction of terminologies inconsistent with the Basic Law or Hong Kong's status as a SAR of the People's Republic of China, it is nevertheless unacceptable to retain them in Hong Kong laws. Therefore we need to draft the Bill to effect the necessary textual amendments. The proposed amendments are merely terminological changes. For example, all references to the "立法局" will be replaced by the "立法會" and the "Governor" by the "Chief Executive".

Amendments particular to the Bill are those references to "Crown" in the definitions of "corporation" in the Commodities Trading Ordinance and the Securities Ordinance which will be adapted to "Government" to reflect the policy intent of the legislation and to achieve consistency with the same definition in other securities-related legislation.

In view of Article 9 of the Basic Law, relevant provisions of these two Ordinances are also amended so that records may be kept in either the English or the Chinese language.

The Bill provides that, subject to Article 12 of the Hong Kong Bill of Rights Ordinance, the adaptations when passed into law shall take effect retrospectively as from the date of the establishment of the Hong Kong Special Administrative Region.

I hope Members can support the passage of the Bill.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 20) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 32) BILL 1999

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I move that the Adaptation of Laws (No. 32) Bill 1999 be read the Second time.

The Bill seeks to effect necessary adaptations to 22 Ordinances and their subsidiary legislation on matters relating to schools and education to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China.

Some of the references contained in these 22 Ordinances, such as "the Governor", "the Governor in Council" and "the Crown" are inconsistent with the status of Hong Kong as a SAR of the People's Republic of China, and need to be amended as appropriate. Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance already set out how terminologies inconsistent with the Basic Law or with the status of Hong Kong as a SAR of the People's Republic of China are to be construed, it is considered inappropriate to retain such terminologies in our laws. Accordingly, we now need to introduce the Bill to effect the necessary textual amendments.

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

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

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 32) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 33) BILL 1999

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I move that the Adaptation of Laws (No. 33) Bill 1999 be read the Second time.

The Bill seeks to effect necessary adaptations to 10 Ordinances and their subsidiary legislation on matters relating to labour relations, vocational training, retraining of employees, employment conditions and employees' compensation to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China.

Some of the references contained in these 10 Ordinances, such as "the Governor", "the Governor in Council" and "the Crown" are inconsistent with the status of Hong Kong as a SAR of the People's Republic of China, and need to be amended as appropriate. Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance already set out how terminologies inconsistent with the Basic Law or with the status of Hong Kong as a SAR of the People's Republic of China are to be construed, it is considered inappropriate to retain such terminologies in our laws. Accordingly, we now need to introduce the Bill to effect the necessary textual amendments.

The proposed amendments are mainly terminological changes. Most of the adaptations when passed into law shall take effect retrospectively as from the date of the establishment of the Hong Kong Special Administrative Region. Adaptations which deal with provisions that are yet to come into operation shall take effect as from the date when the relevant provisions come into operation.

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

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptations of Laws (No. 33) Bill 1999 be read the Second time.

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

ELECTRONIC TRANSACTIONS BILL

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, I move the Second Reading of the Electronic Transactions Bill.

Generally speaking, electronic commerce covers electronic transactions between businesses, and retail transactions between businesses and consumers. According to industry estimates, the total value of global electronic transactions will rise to over US\$400 billion annually by 2002. The projected growth rate is 40 times that of the global Gross Domestic Product. Electronic commerce is widely recognized as the engine of future economic growth. The development of electronic commerce will enhance productivity and efficiency, thereby strengthening overall competitiveness. That is why electronic commerce is given vigorous promotion all over the world.

In order to foster our links with partners in electronic commerce effectively and proactively in the Information Age, and to maintain and enhance our competitive edge, we must likewise vigorously promote and facilitate the development of electronic commerce in Hong Kong. As electronic commerce is still at its initial stages of development here, poised to take off, the Government is committed to creating a favourable environment conducive to the growth of electronic commerce in Hong Kong. Efforts will be made to encourage people to accept electronic commerce and use it extensively. Proper measures will also be taken to address public concerns about the security and certainty of electronic transactions.

The purpose of drafting the Electronic Transactions Bill is to set up a clearly-defined legal framework so that electronic records and digital signatures will enjoy the same legal status as paper-based records and signatures. It also lays down an operation framework for certification authorities (CAs) so as to ensure that electronic transactions can be conducted in a sound and reliable environment. To give electronic records and digital signatures in electronic transactions the same legal status as that of their paper-based counterparts, the Bill is modeled after the United Nations Commission on International Trade Law — Model Law on Electronic Commerce. The following provisions are set out in the Bill:

- (1) where a rule of law requires or permits information to be given or presented in writing, the use of electronic records will satisfy the rule of law;
- (2) where a rule of law requires information to be retained, or to be presented or retained in the original form, that requirement is met by retaining or presenting the information in the form of electronic records;
- (3) where a rule of law requires a signature of a person, that requirement is met by a digital signature;
- (4) contracts shall not be denied legal effect solely on the ground that electronic records are used in their formation; and
- (5) electronic records shall not be denied admissibility as evidence in court on the sole ground that they are electronic records.

While it is our policy objective to promote wider adoption of electronic transactions in Hong Kong, we recognize that for the time being certain types of transactions or procedures would preferably be conducted through conventional means because of their solemnity, significance, complexity or other factors. The Bill therefore proposes that certain generic items like wills, trust, statutory declarations, affidavits, power of attorney, court orders, warrants, bills of exchange, documents or instruments concerning land or property transactions and so on, are exempted from the operation of the relevant provisions in the proposed legislation. In addition, judicial proceedings are also exempt from the operation of the relevant provisions in the proposed legislation and the authorities for making court rules are empowered to repeal the relevant exemption when the relevant courts/tribunals are ready to admit electronic information.

In addition, taking account of the fact that some government departments may not accept electronic information under a rule of law for the time being because of operational, technological or other reasons, we have proposed to provide for a mechanism to exempt by way of subsidiary legislation specific rules of law from the operation of the relevant provisions in the proposed

legislation. However, the departments concerned will conduct reviews from time to time to consider the question of when to lift the exemption. Should a department accept electronic information under a rule of law, it may only deal with electronic information of a certain form or information prepared with certain specified software. To take into account these considerations, the Bill also proposes to set up a mechanism for the specification of format and procedural requirements, if necessary, in respect of cases whereby electronic information is accepted by government departments under a rule of law.

To provide a secure and reliable environment for the conduct of electronic transactions, the Government will develop a public key infrastructure through the setting up of certification authorities (CAs). With the issue of digital certificates by CAs and through the use of digital signatures and public/private key encryption, individuals and businesses will be able to establish the identity of the opposite party in electronic transactions, authenticate electronic messages received, ensure that the confidentiality and integrity of electronic messages have not been breached, and safeguard against the repudiation of electronic transactions.

To encourage the development of certification services to meet market demands, we do not propose to introduce a mandatory licensing system to regulate the CAs. However, to protect consumer interests, the Bill proposes to introduce a voluntary system of recognition whereby CAs are free to apply for recognition from Government. The Bill proposes that the Director of Information Technology Services will be the authority for granting government recognition to CAs. Recognition will only be granted to CAs which have achieved a trust standard acceptable to the Government. They should adopt a common and open interface in their operation to ensure inter-operability with other recognized CAs under the local public key infrastructure. The Bill also stipulates that these recognized CAs will have to meet the following requirements:

- (1) publication of a certification practice statement which clearly specifies the practices and standards adopted for issuing certificates to subscribers;
- (2) use of a trustworthy technical system in performing certification

- services;
- (3) engagement of a professional approved by the Director of Information Technology Services to conduct an annual audit on the provision of certification services; and
 - (4) compliance with a code of practice issued by the Government.

Failure to comply with these requirements may result in suspension or revocation of the recognition granted by the Government. We trust that through the operation of this system, the development of CAs will be promoted and consumers will be able to assess the trust standard of individual CAs and to make an informed choice when obtaining certification services.

To encourage CAs to seek government recognition, we have also stipulated in the Bill that the relevant provision on legal recognition of digital signatures applies only to those digital signatures supported by recognized certificates issued by CAs which are recognized by the Government. In addition, we have introduced a provision in line with the common practice adopted elsewhere to allow recognized CAs to limit their liability in the issue of recognized certificates under prescribed situations (where the CA concerned has complied with the requirements of the Bill, and has not acted negligently, intentionally or recklessly). We consider these measures crucial in encouraging the development of a public key infrastructure and the establishment of CAs in Hong Kong. For CAs which have not obtained recognition from the Government and are thus not covered by the Bill, they and their subscribers will rely on common law principles in providing and obtaining certification services respectively.

In order to facilitate the early establishment of a public key infrastructure in Hong Kong, the Government will spearhead to provide public certification services to individuals and businesses on a non-exclusive basis through the Hongkong Post by the end of 1999. The early passage of this Bill will be helpful to the promotion of public certification services. In addition to the Hongkong Post, the private sector is free to set up CAs in Hong Kong to serve the needs of the community, where the number of CAs will be determined by the market.

Madam President, the Electronic Transactions Bill will lay a foundation for the development of electronic commerce in Hong Kong, and to drive our economic growth in the Information Age while making us stay competitive. I earnestly urge Members to deliberate and support the early passage of the Bill so that a sound and trustworthy environment for electronic transactions can be created.

Madam President, I beg to move.

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

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

ADAPTATION OF LAWS (NO. 25) BILL 1999

SECRETARY FOR THE TREASURY: President, I move the Second Reading of the Adaptation of Laws (No. 25) Bill 1999.

The Bill aims at adapting 12 Ordinances and their subsidiary legislation which are related to government finance in order to render them consistent with the Basic Law and the status of Hong Kong as a Special Administrative Region (SAR) of the People's Republic of China.

The Ordinances included in the Bill contain some references such as "the Governor", "the Governor in Council" and "the Crown" which are inconsistent with the Basic Law or the status of Hong Kong as a SAR of the People's Republic of China.

Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have laid down how these references should be construed, it is still unacceptable to retain such references in the Ordinances included in the Bill. We have, therefore, introduced the Bill to effect textual amendments to these Ordinances.

When the adaptation amendments set out in the Bill are passed into law, they would take retrospective effect as from the date of the establishment of the SAR.

I hope that Honourable Members will support the Bill. Thank you, President.

PRESIDENT (in Cantonese): I now propose the question to you ad that is: That the Adaptation of Laws (No. 25) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 26) BILL 1999

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I move the Second Reading of the Adaptation of Laws (No. 26) Bill 1999.

The Bill seeks to effect adaptations to 11 Ordinances and their subsidiary legislation which are related to the Civil Service, including the Civil Service Commission, civil service pensions and spouse's and children's pensions in order to render them consistent with the Basic Law and the status of Hong Kong as a SAR of the People's Republic of China. The proposed amendments are mainly terminological changes.

The Bill obviates the need to make references to terminologies inconsistent with the Basic Law or with the status of Hong Kong as a SAR of the People's Republic of China, and to make cross references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance.

The Bill provides that the proposed adaptation amendments in this Bill, when passed into law, and subject to Article 12 of the Hong Kong Bill of Rights, will take effect retrospectively as from the date of establishment of the SAR.

I urge Honourable Members to support the Bill.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 26) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 28) BILL 1999

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I move the Second Reading of the Adaptation of Laws (No. 28) Bill 1999.

The Bill seeks to effect adaptations to 12 Ordinances and their subsidiary legislation which are related to animals and plants in order to render them consistent with the Basic Law and the status of Hong Kong as a SAR of the People's Republic of China.

Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have laid down how terminologies inconsistent with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China are to be construed, it is still unacceptable to retain such terminologies in the laws of Hong Kong. Therefore, we must introduce this Bill to make adaptation amendments to the relevant terminologies in these 12 Ordinances and their subsidiary legislation.

Most of the proposed amendments are terminological changes. For example, all references to "the Governor" and "立法局" are replaced by "the Chief Executive" and "立法會".

These adaptations when passed into law shall take effect retrospectively as from the date of the establishment of the SAR. The adaptation of provisions which came into operation after 1 July 1997 shall take effect as from the date these provisions came into operation.

Madam President, the Bill obviates the need to make cross references to principles of interpretation contained in the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance in reading the text of these adapted Ordinances in future.

I urge Members to support the early passage of this Bill into law.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 28) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 31) BILL 1999

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I move the Second Reading of the Adaptation of Laws (No. 31) Bill 1999.

The Bills seeks to effect adaptations to 14 Ordinances and their subsidiary legislation which are related to shipping in order to render them consistent with the Basic Law and the status of Hong Kong as a SAR of the People's Republic of China.

Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have laid down how terminologies inconsistent with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China are to be construed, it is still unacceptable to retain such terminologies in the statues of Hong Kong after the reunification. Therefore, we must introduce this Bill to make necessary amendments to these 14 Ordinances and their subsidiary legislation.

Most of the proposed amendments are terminological changes. For example, all references to the "the Governor" and "立法局" are replaced by "the Chief Executive" and "立法會". Other amendments include the repeal of references to imperial enactment, the authorities of the United Kingdom and the State and so on. The adaptations reflect the regulation of Hong Kong's shipping system by virtue of the Basic Law after the reunification.

Madam President, the Bill will bring these 14 Ordinances and their subsidiary legislation into conformity with the Basic Law and the status of Hong Kong as a SAR of the People's Republic of China. It will obviate the need to make cross references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance in reading these Ordinances.

I urge Members to support the early passage of this Bill into law.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 31) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 34) BILL 1999

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): I move the Second Reading of the Adaptation of Laws (No. 34) Bill 1999.

The Bill seeks to effect adaptations to 12 Ordinances and their subsidiary legislation which are related to electricity, gas safety, shipping, and agriculture and fisheries to render them consistent with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China.

Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have set out the principles on how terminologies inconsistent with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China are to be construed, it is still unacceptable to retain these terminologies in the laws of Hong Kong after the reunification. Therefore, we must introduce this Bill to make the necessary adaptation amendments to the texts of these 12 Ordinances and their subsidiary legislation. Amendments proposed in the Bill are mostly terminological changes. For example, all references to "the Governor" and "立法局" are replaced by "the Chief Executive" and "立法會" respectively.

Madam President, the Bill will bring these 12 Ordinances and their subsidiary legislation into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China. It obviates the need, in reading the adapted texts of these Ordinances and their subsidiary legislation, to make references to certain interpretation principles in the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance.

I urge Members to support the early passage of the Bill into law. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 34) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 22) BILL 1999

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move that the Adaptation of Laws (No. 22) Bill 1999 be read the Second time.

The Bill seeks to adapt 22 Ordinances on security-related matters and their subsidiary legislation to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China.

The Hong Kong Reunification Ordinance has provided, *inter alia*, for the inclusion of a schedule in the Interpretation and General Clauses Ordinance which sets out the principles for interpreting the laws of Hong Kong after the reunification and brings the laws into conformity with the Basic Law and with Hong Kong's status as a SAR of the People's Republic of China. The Bill before this Council now is to effect amendments to the laws concerned primarily on the basis of these principles. The proposed amendments are mainly terminological changes. For example, all references to "the Governor" and "the Governor in Council" are to be replaced by "the Chief Executive" and "the Chief Executive in Council" respectively.

The Bill will make the 22 Ordinances on security-related matters more comprehensible, obviating the need for making cross-references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance.

With the exception of the provisions which seek to amend the references to "the Minister" and "the Ministry" contained in the Dangerous Goods (General) Regulations, the Bill, when passed into law, shall take effect retrospectively as from the date of the establishment of the SAR. Regarding the amendments proposed to the references to "the Minister" and "the Ministry", the terms, as contained in the original provisions, refer respectively to Her Majesty's Minister of Transport and Her Majesty's Ministry of Transport. In order not to affect anything already done by the Minister or the Ministry under the Dangerous Goods (General) Regulations, we recommend that the amendments should come into operation from the date on which the relevant adaptation of laws ordinance is gazetted.

I earnestly urge Members to lend their support to the Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 22) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 29) BILL 1999

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move that the Adaptation of Laws (No. 29) Bill 1999 be read the Second time.

The Bill seeks to adapt 11 Ordinances and their subsidiary legislation on matters relating to the law enforcement agencies to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China.

Some of the terminologies contained in these 11 Ordinances, such as "the Governor", "the Crown" and "the Colonial Regulations", are inconsistent with the Basic Law or the status of Hong Kong as a SAR of the People's Republic of China and need to be amended as appropriate. Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have set out how such references should be construed, it is still considered unacceptable to retain them in our statute books. We therefore need to enact the Bill to effect the necessary amendments.

The amendments proposed to the 11 Ordinances in the Bill are mainly terminological changes. The proposed adaptations, when passed into law, shall take effect retrospectively as from the date of the establishment of the SAR.

The Bill obviates the need to make cross references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance. I therefore commend it to Members for passage.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 22) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 23) BILL 1999

SECRETARY FOR HOME AFFAIRS: Madam President, I rise to move the Second Reading of the Adaptation of Laws (No. 23) Bill 1999.

The purpose of this Bill is to adapt eight Ordinances and their subsidiary legislation which are related to family, children and discrimination in order to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China. Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have set out the principles on how to construe various expressions inconsistent with the Basic Law and with the status of the Hong Kong as a SAR of the People's Republic of China, it is still unacceptable to retain such expressions in the laws of Hong Kong. Therefore, we must introduce this Bill to amend the relevant expressions.

Most of the proposed amendments are terminological changes. For example, references to "the Colony" are replaced by "Hong Kong". Other amendments include repealing paragraph 3 of Rule 2 of the Adoption Rules which gives superior legal status to the English version of forms, and repealing the reference to "imperial enactment" in section 2 of the Matrimonial Proceedings and Property Ordinance. Like other Adaptation of Laws Bills, the proposed adaptation amendments in this Bill, when passed and enacted and subject to Article 12 of the Hong Kong Bill of Rights, will take effect retrospectively as from the date of establishment of the SAR. The proposed amendments in this Bill will obviate the need to make reference to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance. I earnestly request Members' support for this Bill.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 23) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 24) BILL 1999

SECRETARY FOR HOME AFFAIRS: Madam President, I move the Second Reading of the Adaptation of Laws (No. 24) Bill 1999. The purpose of this Bill is to adapt four Ordinances and their subsidiary legislation in relation to probate and administration, wills and the Hong Kong War Memorial Pensions in order to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China. Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have set out the principles on how to construe various expressions which are inconsistent with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China, it is still unacceptable to retain these references in the laws of Hong Kong. We, therefore, must introduce the Bill to amend these expressions.

The Bill proposes many terminological changes such as replacing references to "Governor" by "Chief Executive". Other changes include the amendments to the Probate and Administration Ordinance. These amendments are to replace the system of resealing grants of probate and letters of administration issued in British Commonwealth jurisdictions with a system of resealing based on reciprocal treatment of grants between Hong Kong and overseas jurisdictions. Further, Rule 11 of the Non-Contentious Probate Rules is amended to extend the wills written in Chinese to the requirements which at present apply to wills written in English only.

Like other Adaptation of Laws Bills, most of the proposed adaptation amendments in this Bill, when passed and enacted and subject to Article 12 of Hong Kong Bill of Rights, will take effect retrospectively as from the date of establishment of the SAR. However, the amendments mentioned earlier concerning the resealing system and wills written in Chinese will come into operation on the day the Bill is enacted and published in the Gazette. They should not take retrospective effect so as not to affect applications for grants of representation already processed before the legislation amendments. The proposed amendments in this Bill will obviate the need to make reference to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance.

I earnestly request Members' support for the Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 24) Bill 1999 be read the Second time.

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

ADAPTATION OF LAWS (NO. 30) BILL 1999

SECRETARY FOR HOME AFFAIRS: Madam President, I move the Second Reading of the Adaptation of Laws (No. 30) Bill 1999. The purpose of this Bill is to adapt 24 Ordinances in relation to private and religious bodies to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China. Although the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance have set out the principles on how to construe the various expressions which are inconsistent with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China, it is still unacceptable to retain these references in the laws of Hong Kong. We, therefore, must introduce this Bill to amend the relevant expressions.

The Bill proposes many terminological changes such as replacing references to "the Colony" by "Hong Kong". In the Bill, where there is any provision which says "the rights of her Majesty the Queen, her heirs or successors", it will be replaced by "the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws." The proposal is made according to the text of item 10 of Annex III to the "Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China".

Like other adaptation of laws Bills, the proposed adaptation amendments in this Bill, when passed and enacted, and subject to Article 12 of the Hong Kong Bill of Rights, will take effect retroactively as from the date of establishment of the SAR. The proposed amendments in this Bill would obviate the need to make reference to the Hong Kong Reunification Ordinance

and the Interpretation and General Clauses Ordinance.

I earnestly request Members' support for the Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 30) Bill 1999 be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Chinese Medicine Bill.

Under Rule 21(4) of the Rules of Procedure, I have permitted Prof NG Ching-fai, Chairman of the Bills Committee on the Chinese Medicine Bill, to address the Council on the Committee's Report.

CHINESE MEDICINE BILL

Resumption of debate on Second Reading which was moved on 3 February 1999

PROF NG CHING-FAI (in Cantonese): Madam President, as Chairman of the Bills Committee on the Chinese Medicine Bill, I wish to report on the deliberations of the Bills Committee.

The Committee has held a total of 21 meetings. It has received written submissions from more than 40 organizations and individuals and met with 21 deputations.

One of the greatest concerns of the Bills Committee is the transitional arrangement for existing Chinese medicine practitioners.

It is estimated by the Government that there are approximately 7 000 Chinese medicine practitioners practising in Hong Kong now. Under the proposed transitional arrangements, applicants may be exempted from the Licensing Examination and be allowed to register, or allowed to register subject to a registration assessment conducted by the Practitioners Board, depending on their level of experience, knowledge and skills.

Members are concerned that the registration assessment should neither be too tight as to affect the livelihood of the existing Chinese medicine practitioners, nor too loose for public health and safety will be affected and it is also not conducive to building up the professional image of Chinese medicine practitioners. For this reason, Members have asked the Administration to provide an undertaking through the Secretary for Health and Welfare on resumption of the Second Reading debate to ensure a proper balance and transparency of the assessment criteria.

The second issue of concern is related to the composition of the Chinese Medicine Council (CMC) under clause 4.

Some Members have suggested that the Hospital Authority (HA), which is in charge of all public hospitals, should have a representative in the CMC to facilitate the future development of Chinese medicines. The Administration, however, points out that the HA does not provide Chinese medicine service in public hospitals at the moment and there is no plan to provide such service in the public sector in the near future. Therefore, it considers that it is inappropriate to appoint a HA representative to the CMC. Instead, it suggests that the HA representative could be appointed under the "lay persons" category, if necessary. As the Bills Committee does not have a consensus view on the matter, Dr LEONG Che-hung will move an amendment to include a HA representative on the CMC.

The Bills Committee is also concerned about the issue of limited registration under clause 83.

To enable an educational or scientific research institution to engage a suitable Chinese medicine practitioner to carry out predominately clinical teaching and research work, clause 83 provides that the Practitioners Board may, having been satisfied that the person concerned has the necessary qualification and experience, approve the person to be registered as a Chinese medicine

practitioner with limited registration to perform mainly clinical teaching or research work. Members are concerned about the definition of an "educational or scientific institution". They also notice that a similar provision for temporary registration in the Medical Registration Ordinance has specified four institutions for such purposes. Therefore, they consider that a similar schedule of such institutions should be drawn up to prevent abuse of the system and to reduce the pressure on the CMC.

After a review of the matter, the Administration has agreed to move an amendment to clause 83 to specify that the Practitioners Board shall publish from time to time by notice in the Gazette a list of educational or scientific research institutions from which applications for limited registration will be considered.

In addition, Members note that acupuncture is used by some other health care professionals (including medical practitioners, dentists, chiropractors and physiotherapists). The Committee considers these professionals should be allowed to continue to make use of the technique. In this respect, the Administration has agreed to move an amendment to clause 108 to provide for exemption of the use of acupuncture, being of a type with distinguishable differences from the acupuncture based on traditional Chinese medicine, in the course of the practice of a medical practitioner registered under the Medical Registration Ordinance, a dentist registered under the Dentists Registration Ordinance and a physiotherapist registered under the Supplementary Medical Professions Ordinance.

Members have also noted the medical profession's concern over the proposed consequential amendment to section 32 of the Medical Registration Ordinance to allow Chinese medicine practitioners registered or listed under the future Chinese Medicine Ordinance to treat eye diseases. The Administration has informed Members that there will be publicity and public education on the treatment of eye diseases. It has also undertaken to ensure that relevant provisions will be laid down in the future code of practice to be drawn up by the CMC, including the need for referral of patients to ophthalmologists where necessary.

Finally, I would like to thank members of the Bills Committee. Despite their very busy schedules, they have managed to attend the frequent meetings held by the Bills Committee to enable the deliberation work on the Bill to be

completed smoothly within this Legislative Session.

Madam President, I so submit.

MR HO SAI-CHU (in Cantonese): Madam President, I remember when I was a Member of this Council more than 10 years ago, we already started discussing the issue pertaining to Chinese medicine and the registration of Chinese medicine practitioners. At that time, the Council invited some Chinese medicine organizations and relevant trade participants to discuss the issue as well. Time flies. With a blink of an eye, it has been 10 years now.

Today, with an enthusiastic mind, I am looking forward to the passage of the Bill with amendments into law. I was very pleased to have taken part in the discussion on the Chinese Medicine Bill. In particular, I was asked to, during the final stage, to act as Chairman on behalf of Prof NG Ching-fai. Therefore, I fully appreciate the efforts made by various Members and, in particular, staff of this Council who were sometimes required to attend meetings with us in Saturday afternoons. I am also grateful to the relevant government officials. This is a rather complicated Bill of more than 160 clauses. Madam President, apart from expressing my gratitude to my colleagues, I would also like to thank the Administration in particular for it has made swift responses and decisions with respect to the questions raised by Members. Moreover, it has clarified our doubts and made substantial amendments to make the Bill acceptable to Members. In particular, I wish to stress that it is worthwhile for us to do so much work within such a short span of time to enable the Bill to be passed because today's meeting is the last one in this Session. With the passage of the Bill, the Government will, in the coming few months, have ample time to do all preparatory work to enable Chinese medicine practitioners and industry participants to register with the approach of the 21st century. This is indeed an epoch-making event. From now on, shortly after the reunification of Hong Kong with the Motherland, this ancient profession will be recognized, respected and further developed in the new era of the 21st century.

Chinese medicine is called an ancient profession because the history of Chinese medicines and practitioners can be dated back to a few thousand years ago when "SHENG Nong tasted a hundred herbs". We can even say that its origin can be traced back to ancient times. The fact that the Chinese nation can multiply incessantly in the eastern part of Asia bears a great relationship with the health protection effect produced by Chinese medicines. However, with the western wind blowing eastward, more and more people have turned to Western

medicine over the past century. Comparatively speaking, less and less people are talking about Chinese medicine nowadays. In addition, the lack of systematic management has made it impossible for the Chinese medicine practice to pool all resources to conduct research on new topics. There are no standardized formulae with respect to the manufacture and application of Chinese herbal medicines too. As a result, there is a great irregularity in terms of both quantity and quality, thus imposing restriction on reform and renovation. Now, on the eve of the new century, the Chinese Medicine Bill is going to be passed. I can envisage that the quality of Chinese medicine practitioners in Hong Kong will rise substantially. With the production and use of Chinese herbal medicines and proprietary Chinese medicines reaching a new level, the human society will be benefited. With such a brave new world in sight, I am pleased to express my support for the passage of the Chinese Medicine Bill with a heart of excitement.

DR LEONG CHE-HUNG (in Cantonese): Madam President, first of all, I need to declare my interests. I was one of the members of the dissolved Preparatory Committee on Chinese Medicine.

Madam President, today marks an important milestone for the Chinese medicine profession in Hong Kong. Being an art of therapy dating back to ancient times, Chinese medicine has been restrained over the past 100-odd years because of historical reasons. At that time, the Hong Kong Government only regarded Chinese medicine as a tradition of Chinese people. Therefore, no regulation was imposed, not to mention the injection of efforts and resources for its development. With the passage of the Chinese Medicine Bill today, a system for registering Chinese medicine practitioners and regulating Chinese medicines will soon be set up. This will definitely raise the professional and social status of Chinese medicine practitioners, as well as protecting the health of the public and the interests of consumers. At the same time, this also serves as the first important and proper step for the development of Chinese medicine, as an art of therapy that has been tested by Chinese people over the past several thousand years. In fact, as early as over a decade ago, the medicine sector acted as one of the main forces advocating the regulation of Chinese medicines through legislation. With the passage of the Chinese Medicine Bill, I believe Chinese and Western medicine practitioners can definitely, and need to, cooperate with one another to make contributions for the sake of protecting the health of the public.

Madam President, the objective of the Bill before us is to set up a framework for a Chinese Medicine Council (CMC) and its Practitioners Board and Medicines Board. However, it is silent on many specific details about the operation and regulation of Chinese medicines. There is no mention even on what Chinese medicine practitioners can or cannot do. I understand that we will have many subsidiary legislation, regulation and codes of practice setting out these details in future. In this connection, I would like to urge the Government to expeditiously table the relevant subsidiary legislation to this Council. The Government is also obliged to expeditiously formulate codes of practice for Chinese medicine practitioners with the future CMC and other health care disciplinary bodies for the purpose of safeguarding the health of the public. For instance, the Bill allows registered and listed Chinese medicine practitioners to practise Chinese medicine. But what does "practising Chinese medicine" actually mean? So far, no detailed explanation has been offered in this aspect. Members might have heard of "HUA Tuo (a legendary surgeon in ancient China) treating poison by scrapping bones". Is bone scrapping a kind of surgery? Or is it a way of practising Chinese medicine? Upon the passage of the Bill, many consequential amendments will have to be made to other legislation. But some of these consequential amendments do warrant further deliberation. Earlier on, Prof NG Ching-fai has also mentioned such legislation as the Medical Registration Ordinance (the Ordinance under which Western medicine practitioners are registered) which originally stipulated that only registered medical practitioners were allowed to treat eye diseases. In relation to this specific point, the Government will propose an amendment to enable Chinese medicine practitioners to give such treatment too. Of course, many Chinese herbal medicines are very effective in sharpening eyesight and treating various eye diseases. Some ancient books have even recorded the removal of cataract by Chinese medicine practitioners using needles. As a matter of fact, what kind of treatment can Chinese medicine practitioners ultimately give? What should they do? We should bear in mind that our eyes are quite fragile. It is impossible to make rectification once our eyes are impaired. I am not trying to belittle Chinese medicine here. But there should be a careful division of work between professions. I hope the future codes of practice for Chinese medicine practitioners will deal with such issues. Madam President, Hong Kong is now a democratic and open society. A number of

professional bodies have adopted mutual election as a means to elect their chairmen. The Medical Council is a good example. At this inception stage, I agree that the CMC is still not mature enough to elect its chairman by way of mutual election. But I hope in the near future, upon the establishment of the CMC, the Government can introduce amendments expeditiously to enable the CMC to elect its chairman by way of mutual election to put the spirit of democracy into practice.

Madam President, the passage of the Chinese Medicine Bill is only the first step in the development of Chinese medicine in Hong Kong. If we are to really develop Chinese medicine, we must focus on several aspects: First, the training of talents is of paramount importance to any professional development. In recent years, several universities in Hong Kong have rushed to organize courses on Chinese medicine. This is very important in nurturing new blood and providing continuing education for practising Chinese medicine practitioners. But in order to avoid imbalance of supply and demand and wastage of public funds, the Government should play the role of an overall coordinator. And upon assessing the overall demands of the community for health care staffing (including Chinese and Western medicine practitioners), the Government should make further planning. Apart from these, training of Chinese medicine dispensers should be given top priority too. In this aspect, the Bill has not mentioned even a word. Nor has it stated how to regulate and register these dispensers. I do understand it is very hard to do this at the present stage. But the drafting of this Bill, as it stands, is not perfect. This is because, for the purpose of safeguarding the health of the public, it is definitely not enough for the Government to regulate Chinese medicine practitioners only. Regulation of Chinese medicine dispensers should be considered as well. Second, although Chinese medicines have not been able to gain a statutory status over the past 100-odd years, it is indisputable that Chinese medicines have been widely used in this Chinese community. As we will be having legislation for regulating Chinese medicines shortly, what role should Chinese medicines play in the overall medical system, particularly in the public health care system? What will the Government do with the positioning of Chinese medicines in its overall health care policies? It is imperative for us to consider these issues. Third, assisting small and medium medicine factories. The future Medicines Board will surely lay down detailed requirements in relation to the production, quality and efficacy of Chinese medicines. The existing small and medium family-typed medicine factories and those handed down from ancestors may not be able to meet the legislative requirements. The Administration should help

them by way of providing loans or technology research funding.

Lastly, Hong Kong is comparatively slower than other advanced countries in getting started to develop Chinese medicines. If we do not make extra efforts to develop Chinese medicines, we might need to procure Chinese medicine technological achievements and products one day. If that really happens, how can Hong Kong, as an origin of Chinese medicine, maintain its dignity? Madam President, I earnestly hope that various professional, research and educational institutions in the field of health care can join hands with the Government, abandon their prejudices and work hard to strive for the benefits of the sick. Finally, I hope the Administration in reply can reveal to us the timetable, that is when, after the passage of the Bill, the CMC and its various boards will be set up and when applications for formal registration of Chinese medicine practitioners can be lodged so as to enable the relevant procedures to take effect as soon as possible. Thank you, Madam President.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, the establishment of a regulatory framework is the first necessary step in developing Chinese medicine. All along, a great many members of the community have pointed out that Hong Kong should embark on the development of its Chinese medicine industry, but the response from the Government was far from enthusiastic. That was the case until two years ago when the Chief Executive put forward in his policy address a proposal to develop Hong Kong into an international centre for Chinese medicine. Today, we are here in this Council to legislate for the establishment of a basic regulatory framework for the Chinese medicine industry. Just now Dr the Honourable LEONG Che-hung referred to today as a milestone in the development of Chinese medicine. To me, however, today is but a late coming spring.

In the course of scrutinizing the Bill, we raised concern over the qualification requirements of dispensers of Chinese herbal medicines. As I recall, there was an incident a few years ago in which a retail shop of Chinese herbal medicines had mistaken Radix Dysosmatis for Radix Clematidis and sold the drug to the public. Some people were poisoned to death after taking the drug. The role played by dispensers of Chinese herbal medicines is in fact very

important, yet the Chinese Medicine Bill has not contributed to their professional status being given any recognition. Added to this is the lack of systematic training for those engaged in the trade. If the Government should keep on overlooking the seriousness of the matter, it would most probably developed into a major hindrance to our development of Chinese medicine. In mainland China, however, dispensing Chinese herbal medicines is a well organized trade. Not only will dispensers be provided with comprehensive professional training, they will also be classified into different grades and levels according to their qualifications. Yet regrettably, the Government has made it clear that it would not legislate to regulate dispensers of Chinese herbal medicines at this stage. The reason given by the Government was that the work of dispensers of Chinese herbal medicines is not professional enough in nature, as the necessary skills and knowledge could be acquired through five years' on-the-job training. I do not wish to discuss here the question of whether dispensing Chinese herbal medicines is a profession, but even if it is not, it does not follow that dispensers should be exempted from any regulation. In the interest of public health, I hold that dispensers of Chinese herbal medicines should be included under the regulatory framework in the long run, with a view to developing the trade towards professionalism. I hope that the CMC will, upon establishment, follow up the issue.

If we are to develop our Chinese medicine industry, we must head in the direction of modernization and scientific development. While there is still much work to be done on this basis, the formulation of a set of internationally accepted scientific verification standards should be the key here. To this end, a lot of clinical tests would have to be conducted. In the course of examining the Bill, we invited members of the Chinese medicine industry to join our discussions and learned from them that clinical testing was the industry's Achilles heel. Yet the Bill has said nothing about this aspect. As regards the paper entitled "Development of a Chinese Medicine Based Industry: A 10-Year Roadmap" published recently by the Industry Department, it has set out the broad objectives but not any of the details. What is more, no mention has been made of testing standards whatsoever. We need to note that the returns on proprietary Chinese medicines would be significantly reduced if they should enter the international market as health food instead of drugs. Hence, we hope very much that the Government would undertake this most important task and conduct more researches in this respect in the future.

If we are to lay down a sound foundation for the long-term development of

the Chinese medicine, manpower training would be indispensable. Hong Kong has obviously lagged behind the Mainland and Taiwan in Chinese medicine manpower training, and this is attributable to the fact that Hong Kong has not attached any importance to Chinese medicine throughout the years. In the Mainland, while training in Chinese medicine took the form of apprenticeship during the early years of the establishment of the country, it has by now been systematically organized into a discipline taught in tertiary institutions primarily. In addition, the Central Government has also set up specific departments to take charge of the various aspects of the Chinese medicine industry, such as manpower training, research, as well as exchanges with external institutions. Besides, Chinese medicine practitioners will also be classified into different grades and levels according to their academic qualifications and experiences, in a manner similar to that of the Western medical practitioners. That way, the Mainland has succeeded in improving both the number and the quality of its Chinese medicine practitioners on the one hand, and effectively enhanced the professional status of Chinese medicine on the other. Actually, Hong Kong could also draw on the manpower training experience of the Central Government and formulate a system whereby training in Chinese medicine will be provided primarily by tertiary institutions. In this connection, although degree courses in Chinese medicine are now available in some universities, the annual intake of only a few score students is just far too small. As such, the Government should allocate more resources to universities to enable them to enlarge the enrolment of their Chinese medicine degree courses; besides, the Government should also set up hospitals of Chinese medicine to provide medical treatment, conduct clinical tests, as well as for use as teaching hospitals.

With these remarks, Madam President, I support the Second Reading of the Bill.

MR AMBROSE LAU (in Cantonese): Madam President, the establishment of the Government of the Hong Kong Special Administrative Region (SAR) has served to embody a turning point for the development of Chinese medicine. Article 138 of the Basic Law has set out clearly that the SAR Government "shall, on its own, formulate policies to develop Western and traditional Chinese medicine and to improve medical and health services", thereby putting the professional status of Chinese medicine on a par with that of Western medicine on the one hand, and ensuring the development opportunities of the Chinese medicine sector on the other. Now that the long awaited Chinese Medicine Bill

is submitted to this Council for Readings, we could finally make a stride in the development of Chinese medicine towards professionalism.

In regard to the regulatory arrangements proposed in the Chinese Medicine Bill, although they could help to establish initially the professional status of Chinese medicine practice, there are still many details that warrant further discussions, study and improvement. The Government should actively consult the Chinese medicine industry about what measures should be taken to promote the further development of Chinese medicine.

The Hong Kong Progressive Alliance (HKPA) believes that the Government should incorporate Chinese medicine into the public health care system, and that treatment using Chinese medicine should be made fully available in all public and subvented hospitals territory-wide. Indeed, while the costs for Chinese medicines are generally more affordable to the public, the effectiveness of Chinese medicine in health enhancement and illness prevention is also visibly high. If the Government should fully introduce the use of Chinese medicine into the public health care system, not only would patients be given more choices, the expenditure on public health care would also be cut back, thereby enabling the Government to alleviate its financial burden.

Madam President, the Government must keep up its collaboration with the Chinese medicine industry if it is to fully develop Hong Kong into a centre for Chinese medicine. With these remarks and on behalf of the HKPA, I support the Chinese Medicine Bill.

MRS SELINA CHOW (in Cantonese): Madam President, I thought I had no opportunity to speak until after lunch. I am glad that I can speak now.

First of all, I need to thank the Chairman of the Bills Committee. Under his capable leadership, I found the Committee one of those in my experience which could do its best in arousing the interest and involvement of its members. We were freed from partisan politics or political considerations. And we managed to focus on just the meaningful topic and discussed it in depth. Indeed this was a topic with far-reaching consequences that can influence the entire medical sector in Hong Kong. I believe all members who attended the Committee meetings had contributed their utmost to try to understand the issue. My interest in Chinese medicine came from the interest of the functional

constituency I represent. I need to declare my interest. Of the 38 trades I represent, Chinese medicine is one of them. Chinese medicine can be further divided into Chinese herbal medicines and proprietary Chinese medicines. I was more than happy to be a member of the Committee as I felt the Bill was very important to participants in the trade. At the beginning, I had planned to reflect their opinions only but as I got more involved I found the discussions all the more intriguing. I believe many of the colleagues who were part of the Committee would agree with my view. We covered many issues and the work was very challenging. I need to thank those government officials who could follow our advice by compromising where they could.

I would like to speak about my stance here. At the beginning, I just wanted to represent the trade. Now I find the topic very interesting and I expect a lot of work in the future. Therefore, I would urge everyone to participate in the further work. I for one am very involved as I find there are a lot of issues for the Legislative Council to take care of. Passing the Bill into law is only the first step. There are other areas such as the drafting of subsidiary legislation or codes of practice, which may probably be very important. If we think we should strike a balance, so that the practice of Chinese medicine and Chinese medicines can develop in a healthy manner, I trust we must help in promoting the process.

Please allow me to discuss the reasons why the matter has been so difficult and the challenge so tall. We have to strike a balance. On the one hand, as everybody knows, Chinese medicines back up the practice of Chinese medicine. They are closely related in Hong Kong, with a long history behind them. However, in the past, they used to enjoy a low status, and so we need to take their history into consideration. On the other hand, we hope to raise the standards of the profession. We hope to see a healthy development of Chinese medicine in Hong Kong in the years to come, as it is a very special trade that has attracted the attention of the whole world. Hence, we had to be very careful with the issue of balance as we drafted the Bill. We all understand, as pointed out by the Honourable HO Sai-chu, the sector has been trying hard for over 10 years on a number of issues. We do need to take their views into consideration, but we cannot accept all their points which can be decisions already made by them. An example involves the ways through which we can make sure existing Chinese medicine practitioners can keep their jobs without compromising their professional standards or knowledge. These are good food for thought indeed.

There should be balance, I think, in Chinese medicines as well. Hong Kong was a big entrepot in Chinese herbal medicines in the past, with active business transactions. But as mainland China continues with its open-door policy, many people go to the Mainland direct to procure Chinese medicines. This has dealt a heavy blow to the entrepot trade. In addition, proprietary Chinese medicines are also an area that requires attention. Some problems may involve intellectual property issues for those peculiar prescriptions handed down from ancestors. Specifically, it is manpower in the trade of Chinese medicine that is most worrying. As we try to improve the standards in a profession we must not lose sight of history. Should dispensers of Chinese medicines be subject to regulation? Should shops that sell Chinese medicines have just one person responsible or should an assistant be allowed? Such are the specific details of grave concern to them.

Talking about the manufacture of proprietary Chinese medicines in Hong Kong, it is a world famous business, although it is not a big industry. Hong Kong manufactures a lot of proprietary Chinese medicines and medicinal oils that sell well throughout the world. Industry participants are concerned about the Bill's requirement that the efficacy of these medicines be registered. Furthermore, the Bill mentions the need for clinical test for registration purposes. These were the worries of the trade, but then all of them were cleared as the Government indicated that such were our future goals (we need to look forward). We hope standards in this respect can be raised but we think the Government should give due attention to worries expressed by the trade and should maintain or enhance the consultation effort as far as possible. In other words, the Government has to maintain regular and comprehensive consultation with the industry. It should not be prejudiced. As I said, Chinese medicines are divided into Chinese herbal medicines and proprietary Chinese medicines. In Chinese herbal medicines, we have different operations such as wholesale, processing or retail, involving different people. So, I hope the Government can try its best in keeping an effective and standing channel for consultation.

I hope the Government can do these: First, it should act promptly. Some colleagues said we have waited for so many years. We must now pass the Bill. Hence we are under some pressure by them to expedite the passage of the Bill, which if passed (today, I hope) and hopefully with prompt action from the Government, will give the trade a code for compliance, to go on the right track and operate according to regulation. In the process, I hope a balance can be achieved. I hope the appointment of the relevant persons, the formulation of

subsidiary legislation or guidelines should be as fair and transparent as possible. This is very important. Transparency is very important as some parts of the Bill are controversial. I believe in catering to the historical factors, the Bill contains many provisions that are broad in meaning. Just last night, some Chinese medicine practitioners telephoned me saying they were worried about the categorization of Chinese medicine practitioners. First, we have listed Chinese medicine practitioners, who have practised for less than 10 years and have to go through a licensing examination before registration. Then there are those who have been in practice for 10 to 15 years, who need to undergo an assessment in order to be registered. Those who have been practising for over 15 years can be exempted. Some are concerned about the circumstances under which they can be exempted. Requirements that are either too loose or too strict are not appropriate. By "too loose" I mean exemption by taking out a business registration, which will sound very unreliable. By "too strict", I mean the case referred to in the telephone call I received last night. Someone told me he was a voluntary worker and so it was not easy to say whether he was working full-time or part-time. He has been a volunteer worker for many years. Would he be excluded from exemption just because he was a volunteer, not someone working for money? I know we cannot study cases such as this one by one, but there may be many applicants who have been working in similar situations. We have to be very careful in dealing with them. We must make sure that the applicants are genuine Chinese medicine practitioners. We need not find out if they practise for money or not, but they must prove that they are Chinese medicine practitioners in regular practice, rather than practising once in a blue moon. They also need to have some medical records for their patients. If there is proof they are practising Chinese medicine practitioners, I trust we should make reference to the proof.

Next, I said consultation was important. But there is also one very important point. People are talking about the concept of a Chinese medicine harbour. In their eyes, it is a lucrative idea. The whole world is talking about Chinese medicine. The United States and Europe are also progressing in their development. The market is so big that it is beyond our imagination. One may say the sky is the limit, meaning it is limitless. If we are talking about the development of Chinese medicine, we are at a crossroads undoubtedly. In the past we used some old ways such as peculiar prescriptions handed down from ancestors to make proprietary Chinese medicines. Now things are different. Everyone is talking about scientific research and academic research and participation by the academia. How can we link the forces of traders (who

have been trading proprietary Chinese medicines and have established a network and some market share) with that of scientific research? I understand the crux of the matter is the issue of ownership of intellectual property. Should it belong to the academia or the businessmen who have invested resources and money? The issue is difficult to be resolved without assistance and encouragement by the Government. Of course, I know neither the Department of Health nor the Health and Welfare Bureau is the authority best suited to the work. When we see the Director-General, Mr S W HO speak, we understand it should be under the charge of the Industry Department. But our concern is not which department or which bureau is responsible for the matter. What matters is the achievement of the goals. I hope the Government can pay due attention to this as this is going to become an important part of our economic development.

Madam President, I hope this marks the beginning of something that is going to bring Hong Kong enormous benefits. I even hope to see more follow-up work by this Council to ensure it turns into a prosperous business with high standards leading to developments in the economy.

Thank you, Madam President.

PRESIDENT(in Cantonese): It is now nine minutes past twelve in the afternoon. I now suspend the meeting until two o'clock in the afternoon.

12.10 pm

Meeting suspended.

2.00 pm

Council then resumed.

PRESIDENT (in Cantonese): We will now resume the Second Reading debate on the Chinese Medicine Bill. Members can continue to deliver their speeches.

MR CHAN WING-CHAN (in Cantonese): Madam President, Chinese medicine has a very long history in Hong Kong. Although a large number of people in Hong Kong do subscribe to treatment by Chinese medicine, the former government did not take Chinese medicine seriously and failed to give it a lawful status. After the reunification, Mr TUNG Chee-hwa, the Chief Executive, mentioned in his policy address for two consecutive years that he is determined to develop Hong Kong into an international Chinese medicine centre. Since then, people gradually began to take Chinese medicine more seriously. The objective of debating the Chinese Medicine Bill today is to enact legislation to establish the statutory status of Chinese medicine and regulate the Chinese medicine profession. Formerly unregistered, Chinese medicine practitioners are now required to register and will be given recognized professional qualifications. Both proprietary Chinese medicines and Chinese herbal medicines, which were not regulated in the past, will now come under reasonable regulation. These measures will not only protect the health of the public, but also promote the development of Chinese medicines.

Chinese medicine is a treasured medical culture developed in China over the past several thousand years. We should actively promote and further develop Chinese medicines to carry forward these rich, valuable medical legacy. The enactment of this Bill has been a result of the dialogue, exchange of ideas and consultation between the Government and the Chinese medicine sector over many years. Taking into account the history of Chinese medicine in Hong Kong and Hong Kong's actual situation, the Government has now come up with a proposal of implementing transitional arrangements for practising Chinese medicine practitioners. For instance, before the implementation of a registration system for Chinese medicine practitioners in 2000, Chinese medicine practitioners who have continuously been practising Chinese medicine in Hong Kong for 15 years or more on a full-time basis (commonly known as the "grandfather generation") will be exempted from the Licensing Examination. This arrangement has been accepted and supported by the profession. In my opinion, this arrangement is reasonable.

After the passage of the Chinese Medicine Bill, the next step we shall take is to examine how to promote the development of Chinese medicines. Recently, the Government published a development plan for the Chinese medicine industry in the next decade. Nevertheless, the plan has failed to offer a direction for the development of the Chinese medicine industry in Hong Kong in the next decade.

The position held by the Government is that the development of the industry should be guided by its market. But I think we will land ourselves in a passive position if we rely wholly on enterprises' initiative to provide impetus for the development of the industry.

What direction shall we take as far as the overall development of Chinese medicines is concerned? For example, when will the Government incorporate Chinese medicine into our medical and health care systems? When will Chinese medicine education be fully incorporated into our tertiary education system? When will the Chinese medicine technology research centre be set up? How is the Government going to promote the development of the Chinese medicine industry to make Hong Kong a major force in developing Chinese medicine after 2000? So far, the Government has still failed to give a specific direction with respect to these issues. The Hong Kong Federation of Trade Unions (FTU) is of the view that the Government should study these issues seriously as well as formulating specific measures.

In order to promote the development of Chinese medicine, Chinese medicine products must break into the international market. At present, the share of China in the international Chinese medicine market is only 3% to 5% approximately. It is mainly because most Chinese medicine products have failed to comply with the international standards with respect to ingredient analysis and Chinese medicines have found it difficult to maintain a stable standard in terms of quality. At present, there are more than 100 proprietary Chinese medicine factories in Hong Kong, but only a few are able to meet the international Good Manufacturing Practices (GMP) standard. According to the Government, the implementation of the GMP will be conducive to Hong Kong. However, if the GMP is implemented, nine out of 10 factories will fail to meet the standard, thus producing an adverse impact on the industry. Therefore, it is essential to implement GMP step by step.

Madam President, I think the Government must put in place specific timetables and formulate corresponding policies. In these aspects, perhaps Hong Kong can take a leaf from the Taiwanese or Singaporean book. When they implemented GMP for Chinese medicine, both governments rendered substantial financial assistance to the relevant manufacturers. The local Government should indeed encourage and assist the Chinese medicine industry to improve the installation of its factories to enable them to reach the GMP

standard. We will find it easier to enter the international market only if we can develop proprietary Chinese medicines of Western medicine standard, in addition to the advanced information networks and excellent marketing personnel we have in Hong Kong.

I am also concerned about whether it is fair to local Chinese medicine practitioners if we allow Chinese medicine practitioners from places outside Hong Kong to practise here. Although clause 83 to 89 have provided for limited registration to enable Chinese medicine experts from abroad to come to Hong Kong, they can only carry out clinical teaching and research work related to Chinese medicine. They are not allowed to practise in private. We agree to this point. But some organizations hope that the Government can allow non-educational or research institutions, such as local Chinese medicine clinics, to recruit Chinese medicine practitioners from abroad to practise here or take part in expert consultation. Regarding this point, I have certain reservations. This is because if "renowned practitioners" can come to Hong Kong at any time, it will affect the interests and job opportunities of the 7 000-odd Chinese medicine practitioners in Hong Kong now. The Government indicated at that time that if there was a need to exempt "renowned practitioners" from examination to facilitate their practice in Hong Kong, amendments could be made to the principal legislation. I am of the view that the Government should deal with the matter cautiously and fully consult the opinions of the profession.

With these remarks, Madam President, I support the Bill on behalf of the FTU and the Democratic Alliance for the Betterment of Hong Kong. Thank you, Madam President.

DR TANG SIU-TONG (in Cantonese): Madam President, during a motion debate conducted by this Council on the development of a Chinese medicine centre on 9 June, I stressed that, in order to develop Chinese medicine, the Government must formulate strategies with a comprehensive and holistic approach. One of its paramount tasks will be to establish the professional status of Chinese medicine. Therefore, I welcome and support the passage of the Chinese Medicine Bill for the purpose of putting the registration system for Chinese medicine practitioner into implementation and setting up a regulatory regime for Chinese medicines.

Madam President, the passage of this Bill is only the "first step" taken by Hong Kong to enable Chinese medicines to take root here and to develop into a

Chinese medicine centre, as well as leading Chinese medicines to move towards globalization. Just now, a Member pointed out that this is a "late coming spring". But still, spring will come every year. Anyway, this is a beginning. During this beginner's stage, the paramount task for the industry is to build up confidence and a professional image in the public's mind. Therefore, during the preliminary implementation of the registration system, the Chinese Medicine Council (CMC) must examine and approve each registration application in a stringent manner under the Ordinance. In particular, extra attention must be paid to the practising experiences of practising Chinese medicine practitioners in order to establish credibility for registered Chinese medicine practitioners. At the same time, the CMC needs to formulate codes of practice of good acceptability and set professional norms to be observed by practitioners, as well as defining the scopes for other complementary medical practices in order to ensure the practising standards and professional integrity of Chinese medicine practitioners and to lay a sound foundation for the establishment of a professional status for Chinese medicine practitioners.

In order to further consolidate its professional status, the profession should start working with the CMC simultaneously: First, to actively examine with other professional health care bodies and related organizations as to how to, through legislation, expand the statutory powers of registered Chinese medicine practitioners in such matters as applications for insurance. Second, the CMC should liaise with the Government and other jurisdictions of the profession to formulate plans and timetables for professionalization and modernization, such as examining the introduction of professional practitioners and dispensers of Chinese herbal medicines as well as incorporating Chinese medicine into the public health care system and so on.

Madam President, to enable Chinese medicine to grow in Hong Kong, it is most crucial for the Government to train local talents and safeguard the practising qualifications of local experts. Therefore, apart from supporting this Bill for the purpose of safeguarding local practising Chinese medicine practitioners, I think there will be no harm for us to introduce the concept of recruiting overseas Chinese medicine experts to engage in educational or scientific work. In doing so, practising Chinese medicine practitioners will rest assured to continue with their practices. They can also see clearly for themselves their employment security and this will encourage them to continue with their studies. Eventually, Hong Kong will be able to fully develop its local human resources and upgrade the practising standards of local Chinese medicine practitioners. Moreover, the Bill's provision on limited registration to allow local scientific research and educational institutions to employ experts

from outside Hong Kong will help drive local efforts in manpower training and research in Chinese medicine and promote the relevant development. In spite of this, the number and ratio of local talented people who possess degree qualifications are quite low in relation to the whole industry. They will definitely not be capable of providing sufficient expertise for the development of Chinese medicine in Hong Kong. Therefore, the Government should allocate additional funding on the one hand and help various tertiary institutions to expand the number of places on the other. At the same time, it should encourage tertiary institutions to set up research institutes for Chinese medicines to provide graduates with opportunities of further studies. On the other hand, the CMC should publish in specific terms the academic requirements for the unified registration examination to serve as a basis for non-governmental training institutions to consolidate existing training programmes with a view to speeding up the training of qualified people. Only through this means can we ensure Chinese medicine to maintain its professionalism and modernization in order to keep the profession going.

Madam President, Chinese medicine products are now widely used by the general public in Hong Kong. However, in the international market, Chinese medicines can only be exported to Western countries as health care or beauty products, not as medicines. This is because Chinese medicine products lack a set of internationally recognized examination standards. This is precisely the greatest obstacle for Chinese medicines to move towards globalization. Therefore, I support that safety, quality and efficacy should be used for assessing applications for registration of new medicines under the Ordinance so as to encourage the industry to introduce modernized concepts in manufacturing medicines and upgrading management standards for manufacture of Chinese medicines. While the Government introduces measures to regulate the industry, I would like to urge the Administration to hold discussions with the industry with a view to formulating effective policies for supporting small and medium medicine factories to help them undergo transformation and go through the transition period in compliance with the requirements of the Chinese Medicine Ordinance.

Lastly, I welcome the Government's compliance with the Bills Committee's demand by proposing to add clause 153A at the Committee stage for the purpose of strengthening the confidentiality requirements with respect to the prescription of proprietary Chinese medicines and safeguarding the interests of people and bodies developing the medicines. I am in support of the protection of intellectual property rights. But from the viewpoint of western medicine practitioners, we advocate that all medicines of proven efficacy be

open to public so that we can draw on collective wisdom, thereby better protecting the public health. I therefore hope that those who have peculiar prescriptions handed down from their ancestors can make them known to the public for reference.

With these remarks, Madam President, I support the passage of the Chinese Medicine Bill. Thank you, Madam President.

MR LAW CHI-KWONG (in Cantonese): Madam President, the Preparatory Committee on Chinese Medicine was commissioned by the Government in 1989 to look into both the application of traditional Chinese medicines and the Chinese medicine practice in Hong Kong. Today, after 10 years, the Government has finally submitted the Bill to this Council for passage. The Bill is indeed overdue, but it is better late than never. On behalf of the Democratic Party, I welcome the Chinese Medicine Bill submitted by the Government and the Bill proposal to set up a regulatory framework for the Chinese medicine industry.

According to a survey conducted by the Hong Kong Council of Social Service, of the people visiting Chinese medicine practitioners for treatment, those between the ages of 25 and 44 account for a proportion higher than that of the elderly. This phenomenon certainly points to the poor economic conditions of the elderly, yet what it also indicates is the fact that the younger generation does accept Chinese medicine very much.

I hope that the passage of the Bill will give an impetus to the incorporation of Chinese medicine into the public health care system, thereby benefiting the elderly members of the community.

Even if the Chinese Medicine Bill should be passed in this Council today, it would only lay down a framework for the regulation of the Chinese medicine industry. As regards the details, they have yet to be formulated and implemented by the future Chinese Medicine Council (CMC). The genuine regulation of the Chinese medicine industry is still a long way off, for there are still a great many tasks to be completed. In this connection, the first and foremost task should be the establishment of the CMC. As it stands, details regarding the syllabus of the licensing examination, the criteria for exemption from the licensing examination and so on have yet to be determined. The Democratic Party hopes that the Government and the future CMC could

complete the relevant work expeditiously, thereby putting into force the regulation of the Chinese medicine industry as early as possible.

In discussing the Bill, many of the questions raised were related to the scope of work of Chinese medicine practitioners, such as things they could do and should not do in practice. I do understand that this is a necessary process in setting up a framework whereby the Chinese medicine industry would be effectively regulated, yet on the other hand I am afraid that this would hinder the future development of the industry. As such, I hope that the Government and the future CMC could strike a balance between these two aspects in making the subsidiary legislation and the relevant rules. Otherwise, this Bill would become more a hindrance than a help to the development of the Chinese medicine based professions.

I just hope that the principles of regulation would attach more importance to the proper training required of Chinese medicine practitioners before they could give certain kinds of medical treatment. Simply categorizing the different ways of medical treatment as belonging to Chinese medicine or Western medicine and prescribing that Chinese medicine practitioners are not allowed to perform certain so-called Western ways of medical treatment are by no means regulation.

As regards the amendment proposed by Dr LEONG Che-hung, the Democratic Party does not agree to this proposed amendment which seeks to include in the CMC a member of the Hospital Authority (HA). Firstly, we believe it not only inappropriate but also undesirable to try to forcibly occupy a seat of the CMC. Secondly, we consider it also inappropriate for the members of the HA, who are basically appointed by the Government, to elect among themselves a representative to the CMC. For if the Government deems it necessary to appoint members to the CMC, why should it adopt the indirect approach and make appointments via the HA? Such an indirect route is utterly unnecessary. So, these are reasons why the Democratic Party cannot agree to the proposed amendment. However, if Dr LEONG Che-hung should later withdraw his proposed amendment just because the Government has claimed that the amendment might have breached Article 74 of the Basic Law, we could not but express our strong dissatisfaction and regret. In our opinion, the Government has indirectly deprived Members of this Council of the right to move an amendment to a bill, while the Member concerned has submitted to the authoritarian rule of the Government.

We hope to pass the Chinese Medicine Bill today just because we want to develop Chinese medicine in Hong Kong. The last thing we want is anything that would leave a blot on the entire matter.

Thank you, Madam President.

MISS CYD HO (in Cantonese): Madam President, I support the resumption of Second Reading of the Chinese Medicine Bill on behalf of the Frontier. When we scrutinized this Bill, we knew very clearly that this Bill can only regulate matters related to registration, in particular, it works out a transitional arrangement to allow practitioners who have not received systematic institutional training to remain in practice. It can also protect the interests of patients according to some basic, simple and objective criteria. However, I do not think this Bill can help the development and promotion of Chinese medicine. During the course of scrutiny, Members noted with disappointment the many aspects of development of Chinese medicine. I will mainly talk about them today and I hope that the Government will continue to take follow-up actions after the passage of this Bill.

Chinese people were very proud of our four great inventions in the past but why are the wisdom and academic knowledge in the past lost today? The major reason is that Chinese people have a very bad habit of only passing on knowledge to sons and apprentices, but not to other people systematically. As a result, these works of wisdom are gradually lost and there are no standards. Until only the past two or three years, tertiary institutions in Hong Kong started offering Chinese medicine courses. I hope that the tertiary institutions will concentrate on scientific researches to systematically train up Chinese medicine practitioners and promote the Chinese medicine industry.

I find it a great pity that we are looking elsewhere. When we scrutinized the Bill, we found that some academic bodies in the West Coast of the United States are running very well and they conduct systematic researches on acupuncture and Chinese medicine. After this knowledge has spread to Hong Kong, we came to realize that the Hong Kong Polytechnic University also offers acupuncture courses. At that time, we discussed whether acupuncture was Chinese or Western medicine. The needles used in acupuncture are Chinese

medicine but according to the views of a Hong Kong Polytechnic University professor, he uses Western academic research methods. In fact, the world is getting smaller and smaller, and I hope that we will not draw a dividing line between Chinese and Western medicine by arguing over Western research methods or needles invented by China. As Hong Kong enjoys exceptional advantages, I hope that Chinese and Western medicine will be combined harmoniously so that we can draw on the strong points of both Chinese and Western medicine and take advantage of our favourable climatic, geographical and human conditions to establish Hong Kong as an internationally recognized leader in Chinese medicine.

I also find it regrettable that this Bill has not dealt with the question of how Chinese medicine can be incorporated into the public medical system. At our meetings, I said that the insurance industry will not accept insurance claims by people who consulted a Chinese medicine practitioner. For example, claims cannot be made after a client has consulted a Chinese medicine practitioner and a Chinese medicine practitioner cannot issue a sick leave certificate to certify that the patient needs paid sick leave or certify that an employee has suffered work-related injuries. I hope that the Government will introduce a Bill in this respect as soon as possible because registration will not help enhance the status of Chinese medicine and the public services must recognize the Chinese medicine industry to help the development of Chinese medicine.

The public medical system in Hong Kong has long discarded Chinese medicine in hospital services. Before the Second World War, the Tung Wah Eastern Hospital and the Tung Wah Group of Hospitals provided Chinese medicine services, including a large pharmacy for brewing of Chinese medicine. But these services were suspended after the Second World War and hospital services no longer included Chinese medicine. Hong Kong has been lagging behind in this respect because hospitals in the Mainland and Taiwan are providing Chinese medicine services. I hope that Honourable colleagues will conduct exchanges with the Mainland and Taiwan in the subcommittee on subsidiary legislation or the Panel on Health and Welfare. It is a great pity that we originally intended to visit No. 2 Subsidiary Hospital of the Guangzhou University in mid-June but the hospital could not receive us because of an emergency. I believe it can deal with the emergency within two days, therefore, I hope that Prof NG Ching-fai will assist in arranging for this exchange to allow Members to visit a mainland hospital to see how Chinese medicine is promoted.

Recently, we have discussions on the Chinese medicine industry and we hope to develop Hong Kong as a Chinese medicine port. As Honourable

colleagues have said, many pharmaceutical factories in Hong Kong do not meet the international pharmaceutical standards, and I hope that the Government will try its best to encourage investments by the industry for factories to reach the international pharmaceutical standards and gain the confidence of international consumers in the products and quality appraisal.

Furthermore, I hope that the academic sector and the Government can assist in promoting academic exchanges with foreign bodies so that non-Chinese communities will also accept Chinese medicine, not only as health food but also curative medicine. I trust that we can really rely on the promotional efforts of the tertiary education sector to carry out these cultural and academic exchanges and bring Chinese medicine beyond the limits of the Chinese markets and health food.

Finally, Madam President, as an Honourable colleague has said, somebody is asking to protect the industry now that this Bill is not yet passed (I believe it will be passed 20 minutes later). On the one hand, we say that we need to modernize the development of Chinese medicine, on the other, we ask to protect the industry in an outdated protectionist manner. We know that there is a large vacuum in the industry and there is no regular institutional training. If we are to protect the industry so soon and disallow medical practitioners systematically trained in the Mainland or abroad to practise in Hong Kong, we will incur very great losses. The sound development of the industry will benefit all practitioners and if the industry shrinks and lacks credibility in the international arena, will it be meaningful even if we can protect thousands of people in the local industry? Now that we have just started developing the Chinese medicine industry and formally incorporating it into a recognized system, we should promote the development of the Chinese medicine industry in an open manner.

Thank you, Madam President.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, the Hong Kong Federation of Trade Unions (FTU) supports the Government in drafting the Chinese Medicine Bill in an acceptant and approving manner for this will help promote the development of Chinese medicine that has a long history in Hong Kong. After the War, there was nothing sort of social security in Hong Kong. There were many non-governmental bodies like the FTU. We called upon warmhearted people to help our community that lacked medical services. At that time, many doctors and Chinese medicine practitioners pitched in. To date,

the FTU clinics have been operating for decades. But as the Government neglected Chinese medicine in the past, evidently, we even have to argue about whether the traditional methods should be used. The Chinese medicine industry has played a very important role in China for thousands of years and in the history of Hong Kong. Just like doctors, Chinese medicine practitioners help the community in a parent-like manner. It is a sign of progress that the Government has now confirmed this. Therefore, the FTU supports the spirit of the Bill.

Why did I talk about history? In the past, Hong Kong was a Chinese community and people could choose from two forms of medical treatment. Some trusted Chinese medicine while some others trusted doctors. We should study how Chinese medicine with a long history can be developed especially when people are gradually reverting to simplicity.

For a decade or so, other countries have focussed on the development of herbal medicine and proprietary medicines. Although Chinese medicine also has a long history in our neighbouring countries, it remains at a stage of being a family business or peculiar prescriptions handed down from generation to generation. Therefore, in passing the Bill today, we recognize the status of Chinese medicine and urge the Government to attach extreme importance to the development of Chinese medicine.

Many people have said that two industries will emerge when the next century is approaching; they are the herbal medicine industry and the information industry. The Government has said that along with social development, the Government will attach importance to and promote the development of Chinese medicine including herbal medicine. Mr TUNG has even said that a Chinese medicine port will be established. However, it seems that he is just paying lip service. What are the specific measures? As Mrs Selina CHOW has said this morning, I have to thank the Chairman for his open attitude towards us laymen. That is why Mrs Selina CHOW and I felt comfortable when we scrutinized the Bill. Many experts were invited to attend the Bills Committee meeting to offer their opinions, and they included Western medical doctors, Chinese medicine practitioners, pharmaceutical product traders, managers in charge of research facilities, and so on. We learnt and knew a lot.

However, the more we learn, the more we are afraid because we have the Secretary for Health and Welfare in this Chamber today while the Trade and Industry Bureau will take charge of the relevant ordinance in future.

What preparations will the Government make for the establishment of a Chinese medicine port? We have to strike a balance in certain areas. What follow-up actions should the Government take after it has declared the establishment of a Chinese medicine port and passed the Bill? This is a very important point.

In reality, the Chinese medical skills of the Mainland and our neighbouring countries such as Japan and South Korea are far better than those of Hong Kong. There are only a few hundred pharmaceutical factories in Hong Kong and we mainly depend on import from foreign countries. How can we succeed now that we rise to catch up with other countries that started developing Chinese medicine decades earlier?

What is the objective of the Government?

I was puzzled when the Secretary expressed her hope that we would finish scrutinizing the bills before the summer recess, for there were more than 150 bills waiting to be scrutinized. However, under the leadership of the Chairman, Honourable colleagues returned here even after office hours to take part in discussions and get the job done, so that the relevant work can be taken forward after the summer recess. This also shows the sincerity of Honourable colleagues who took part in scrutinizing this Bill. I hope that the Government will similarly sincerely promote the establishment of the Chinese medicine port rather than regarding this project as a property development project. We do not want the Government to develop the Chinese medicine port as a property development project.

Madam President, a few weeks ago, Mr YEUNG Yiu-chung moved a motion on the Chinese medicine port issue. At that time, I handed out to Members a research report by the FTU. It is stated in this report how Hong Kong will try hard to catch up with other countries. Our greatest advantage is that we have China as a backing. China has a better Chinese medicine practice or Chinese medicine research and system than Hong Kong, but the key lies in

the position of the Government. I think that the Government is irresolute at the moment and its views on some issues are not explicit.

Today, we will pass this Bill with amendments. Although the Government has listened to some of our views, we will still make certain amendments which the Government has not adopted. I hope that the Government will perform better after Honourable colleagues have expressed their views from various angles. Mr CHAN Wing-chan has raised several issues of concern and I will discuss them in detail.

What are the criteria for the training offered by the Government in respect of the medicine industry that has a history of thousands of years? The Government needs the co-ordination of different Policy Bureaux. For instance, what matching measures will the Education and Manpower Bureau offer? What about retraining? These have to be done in an orchestrated manner, but it seems to me that the Government is not doing so. In respect of Chinese medicine practitioners and Chinese medicine, China has a profound theoretical basis but it is not easy at all for it to enter the international market.

The FTU has conducted surveys in Shenzhen and Zhuhai on this issue. We find that China does not have GMP, "Q" mark that represents quality products. Therefore, Hong Kong can give play to its strengths. I believe Hong Kong has better monitoring and management and more talents which can make up for our shortcomings. If these factors are suitably co-ordinated, they will help promote the establishment of the Chinese medicine port albeit it is late in coming. The Government must take the actual situation into consideration because some countries have bad experiences in this respect. For example, when Taiwan promoted GMP and produced quality products, its traditional pharmaceutical manufacturing industry was affected. Some traditional manufacturing establishments closed down for they failed to keep up and many people became unemployed.

Madam President, as two Honourable colleagues of the FTU have spoken in this debate and the last, it shows the extent to which the FTU is concerned about this issue.

In addition to giving the Chinese medicine industry its due status, we also

hope that Chinese medicine will be developed as an industry to create more jobs opportunities. If the Government implements GMP in an expeditious manner, it may lead to the closure of existing pharmaceutical factories. Has the Government given them support? The Government needs to inject more resources to achieve the GMP level it wants to attain. We have asked the Government for a response.

When the Government replied, it said that it has learnt from the experience of Taiwan and would therefore take the cause forward step by step. I agree that we should take it forward progressively, but as Mr CHAN Wing-chan has asked, will we remain so 10 years later? As the Government is helpless now, it can hardly achieve anything in five years' time. Many countries in the world are developing herbal medicine and doctors in the United States and Britain are studying Chinese medicine, and they have set up many research centres and appraisal centres. Yet, nothing has been done in Hong Kong. Madam President, what should we do?

I agree that we should protect the existing manufacturers, but the Government does not have a policy to urge them to develop in the direction of GMP and make Hong Kong an important Chinese medicine centre. The Government must work hard to achieve these goals.

Another issue is related to limited registration. To promote the development of the Chinese medicine port, we must import more talented people. There are some 7 000 Chinese medicine practitioners in Hong Kong and some of them have very high standards. How can we strike a balance? I do not agree with Miss Cyd HO that we must adopt an open attitude. When we scrutinized the Estate Agents Bill, we also had similar arguments with the Government. We find that there is a gap between the standards of some people and other professionals. Some want to continue to pursue further studies and we have to make transitional arrangements for them. Now, there is a limited registration system for Western medical doctors and four bodies including the Chinese University of Hong Kong, the University of Hong Kong, the Hospital Authority and the Department of Health are responsible for accreditation. What should we do as there is not such a system for Chinese medicine practitioners? If the Government prescribes that some bodies should carry out such work, it may create an unfair situation in respect of the Chinese medicine researches which are not very mature now. We accept this view of the Government but this does not mean that we have given up something. On the one hand, we have to

ensure the continued development of Chinese medicine, on the other hand, we have to figure out how Hong Kong will become an important Chinese medicine centre with the establishment of the Chinese medicine port. Government officials must promote and lead the development of the Chinese medicine port.

Madam President, I would like to ask the last question that has been asked by Mr CHAN Wing-chan before. Mr CHAN said that the Government was panic-stricken. I hope that the Financial Secretary will not look at me. We asked Mr Joseph WONG the question then. Could the sick leave certificate issued by a Chinese medicine practitioner be accepted as a proof of sick leave for an employee? He said that the Government needed to study the issue. We are going to pass the Bill today, what is the conclusion of its study? What are the views of the Education and Manpower Bureau? Why are there no officials from the Bureau in this Chamber today? It has been almost two months since Mr CHAN asked his question, and we are going to pass the Bill today, can the sick leave certificate issued by a Chinese medicine practitioner be accepted as proof of sick leave for an employee?

The Government has so far failed to come up with the matching efforts. This is the point I would like to make today. The FTU fully supports the Government's discussion about the Chinese medicine port, but I hope that various government departments will make concerted preparatory efforts to make the Chinese medicine port a success.

Madam President, the FTU and I support the Chinese Medicine Bill. Thank you.

PROF NG CHING-FAI (in Cantonese): Madam President, many Honourable colleagues have spoken in support of the development of the Chinese medicine industry and I believe that the sector will be gratified. We hope that we will pass the Bill dozens of minutes later. As Members have said, the Chinese medicine sector and the medical services in Hong Kong will turn over a new leaf.

While Members support the Chinese medicine industry, I also hope that we will deliver a message that we have not overlooked the interests of doctors or the contributions doctors have made over a long period of time. In fact, as Members have said, I believe this Council will agree that we sincerely hope that

Chinese and Western medicines will co-operate for the health of the public and to raise the standard of medical services in Hong Kong.

A Member has said that one blemish of the Bills Committee is that it has somehow failed to make a planned visit. I always advocate that Hong Kong should learn from others, for instance, we should draw on the good experiences of the Guangdong Province, Taiwan and South Korea. I hope that we will pay such a visit in the near future. The Bills Committee will be dissolved after the passage of the Bill today and I am afraid that the visit will have to be formally organized by the subcommittee (if any) for the subsidiary legislation or the House Committee.

Some Members have mentioned their pleasant experiences in the Bills Committee and wrongly praised me which made me uneasy. For me, this is a very pleasant experience and I find that Members sincerely hope that the Chinese medicine industry will develop in a healthy manner. Sometimes, I think that it is good for the Council to handle more motions like the motion on the Chinese medicine industry. Thank you, Madam President.

MRS SOPHIE LEUNG (in Cantonese): Madam President, many Members have spoken one after another and none of them does not support Chinese medicine and practice. As some Members have said, as descendents of the Dragon, we should hold in esteem traditional Chinese medical science, especially when Chinese medicine practitioners and Chinese medicine are deep-rooted. However, for many years, Hong Kong has contacted, upheld, followed and even blindly followed the Western culture, and we have forgotten our "root".

Today, how many people of this generation know that boiling longli leaf with sweet dates can relieve a cough and reduce phlegm? This is common sense. How many know that people who have caught a cold cannot eat greasy things or take greasy soups? A simple dietotherapy is to take a light soup prepared with Buddha's-hand melons, almonds and lean pork. I hope that after the passage of this Bill, the Government will continue to follow up the matter and promote the medical culture of Chinese medicine and practice and especially arouse the concern of overseas Chinese about Chinese dietotherapy culture.

I would also like to discuss the amendment by Dr LEONG Che-hung. The original intent of Dr LEONG's amendment is very good. I have taken part in the work of the Hospital Authority for many years and I hope that every hospital under the Hospital Authority will soon have a Chinese medicine department. A very good example is the Yan Chai Hospital which has a Chinese medicine department that provides consultation, pharmacy services and prescribes carefully examined Chinese medicine. The department is financially autonomous and is welcomed by the public. With such a department, many patients do not have to rely on the services of the accident and emergency department or abuse emergency medical services. I hope that Members will bear this in mind. I am not saying that Members must support Dr LEONG, but I certainly hope that Dr LEONG's amendment will be approved. Yet, I only hope that Honourable colleagues will understand the background of Dr LEONG's amendment. I support the amendment. Thank you, Madam President.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, first of all, I should like to thank Honourable Members for supporting the Chinese Medicine Bill. The Bill was submitted to this Council for First Reading and Second Reading on 3 February this year. Within just a few months' time, the Bills Committee has conducted more than 20 meetings, received many professional bodies and other organizations of the community, as well as studied in detail the policies and principles covered in the Bill. In addition, the Bills Committee has also examined all the clauses contained in the Bill and put forward many constructive views. I should like to take this opportunity to extend my gratitude to Prof NG Ching-fai, Chairman of the Bills Committee on the Chinese Medicine Bill, Mr HO Sai-chu who took the chair during the absence of the Chairman of the Bills Committee, as well as all the other members of the Bills Committee. I should also like to express my heartfelt gratitude to the staff of the Legislative Council Secretariat and to my colleagues from the relevant government departments for their support and assistance.

The purpose of the Bill is to set up a regulatory framework for Chinese medicine practitioners, as well as matters relating to the use, manufacturing and sales of Chinese medicines. The proposed regulatory framework will confirm the professional status of Chinese medicine on the one hand and enhance the protection for the health and safety of the public on the other, thereby bolstering

the confidence of the public in Chinese medicine. The establishment of a sound and reliable regulatory framework will serve to lay down a solid foundation on which the future development of Chinese medicine could flourish in Hong Kong, with a view to enabling Chinese medicine to further develop its potential for serving the community.

Later on today, I will move Committee stage amendments to a number of clauses under the Bill in accordance with the views raised by the Bills Committee. The amendments are proposed to render the provisions of the Bill more complete.

In the meantime, I should like to speak on the matters that have been discussed in the Bills Committee, as well as a few issues to which Members referred earlier in the debate.

The Bill was modelled on those ordinances enacted to regulate other trades of the medical and health sector and premised on the basis of the industry's self-regulation. As regards the Chinese Medicine Council (CMC) to be established pursuant to the Bill to implement the regulatory measures set out therein, it shall consist of primarily members of the Chinese medicine sector. In addition to those persons who have credibility and abundant knowledge in Chinese medicine, the CMC shall also consist of lay persons. This is to ensure that the views from outside the sector could also be represented in the CMC.

On the service front, in order to facilitate exchanges and co-operation with Western medical science, we will seriously consider appointing a member of the Hospital Authority (HA) to the CMC to act as a bridge to enhance communication between Chinese medicine and Western medical science. Dr LEONG Che-hung suggested that a mutual election mechanism should be introduced into the CMC to enable its members to elect a chairman. We would take Dr LEONG's suggestion into consideration once the regulatory framework has started operating smoothly.

During the discussions of the Bills Committee, Members as well as some of the organizations represented at the meetings raised many useful views regarding the practice of Chinese medicine. In this connection, some suggested drawing a clear dividing line between practice of Chinese medicine and that of Western medical science.

We certainly understand the concerns of Members. Nevertheless, we are also aware that it is extremely difficult to legislate to define in detail the dividing line between the two schools of medicine. What is more, so doing might also cause a lot of troubles to the industry participants. Upon its establishment, we will advise the CMC that in formulating the code of practice for Chinese medicine practitioners, it should also lay down a set of clear guidelines on the scope of Chinese medicine practice, as well as on the conduct and behaviour in practice. Any registered Chinese medicine practitioner who has breached the code of practice, or has engaged in any practice considered improper by the Chinese medicine profession, shall be subject to disciplinary inquiry or even be liable to punishment. Besides, we will also advise and motivate the CMC to maintain frequent contact with not only the Medical Council of Hong Kong responsible for regulating Western medical services but also other organizations of the medical profession, with a view to enhancing the communication with these bodies.

Taking into account the considerable number of Chinese medicine practitioners currently practising in Hong Kong, in implementing the registration system, we also need to provide for these practising Chinese medicine practitioners appropriate transitional arrangements to minimize the impact that the new law might have on them. In this connection, the transitional arrangements provided for under clauses 90 to 96 of the Bill will enable practising Chinese medicine practitioners with acceptable years of experience and academic qualification to be registered as registered Chinese medicine practitioners without undertaking the Licensing Examination, or to be registered by way of undergoing a registration assessment. I am sure the CMC will implement this system in a practical manner to strike a reasonable balance between the aspirations of the practising Chinese medicine practitioners and the public health principles. We will also require the CMC to lay down and issue clear guidelines to provide assistance for people who are interested in applying for registration through the transitional arrangements.

In order to make it easier for Hong Kong to absorb non-local Chinese

medicine professionals into the territory to perform clinical teaching or research in Chinese medicine, the Bill has provided for a limited registration system under clause 83. For example, if the HA should wish to conduct or to help conduct research in Chinese medicine, and if it should see any need for importing professionals, it could apply to the CMC for limited registration of the professionals concerned.

In regard to the trade of Chinese medicines, some members of the trade expressed concern over the provisions relating to the regulation of Chinese herbal medicines during several meetings of the Bills Committee. In particular, they were concerned about the registration of proprietary Chinese medicines, and that the provisions on the regulation of the trade would make their operation difficult. We fully appreciate their concerns. I should like to take this opportunity to point out that the provisions on the regulation of Chinese medicines set out in the Bill are rather flexible. I trust that the CMC will certainly take into account the existing situation of the trade when drawing up the licensing requirements in the future, and that it will maintain frequent contact with the trade as well. Moreover, the Bill has also provided for a transitional period in respect of the registration of proprietary Chinese medicines to give members of the trade sufficient time to adapt to the new business environment.

Nevertheless, I need to point out that while Chinese medicines traders are required to be licensed by the Bill, the purpose of this requirement is to upgrade the standards of the trade of Chinese medicines as a whole and to safeguard the health of the public in the long run. I earnestly hope that members of the trade could progressively contribute to the gradual standard enhancement of our trade of Chinese medicines, with a view to further expanding the market for Hong Kong's Chinese medicine products.

With respect to the sale of Chinese medicines, the Bills Committee was rather concerned that dispensers of Chinese herbal medicines would not be included under the regulatory framework provided for by the Bill. Speaking of dispensers of Chinese herbal medicines, since Chinese medicines traders will be required by law in the future to have Chinese herbal medicines clearly and accurately labelled and put on record before sending them for transportation or storage, the chances that they would err in dispensing Chinese herbal medicines should be greatly reduced. Nevertheless, we share Members' view that training and continuing education opportunities should be provided for the many

dispensers of Chinese herbal medicines to enable them to improve their standards. In this connection, we will encourage and motivate relevant educational as well as other institutions to offer more training opportunities for dispensers of Chinese herbal medicines, with a view to enhancing the standard of the trade as a whole.

Madam President, upon the passage of the Bill by this Council, we would establish, within a very short period of time, the CMC with the Practitioners Board and Medicines Board under it as set out in the Bill. We will then require the CMC to expeditiously draw up the necessary subsidiary legislation to enable the registration of Chinese medicine practitioners to commence in early 2000, and to enable the licensing of Chinese medicines traders as well as the registration of proprietary Chinese medicines to be introduced in phases in 2000.

Looking back, although the development of Chinese medicine in Hong Kong could be traced to the remote past, the lack of a systematic regulatory system has disabled the industry to date from giving full play to its strengths. On this Bill, we have placed great expectations. We hope that it could be helpful to improving the standard of the industry and in protecting the health of the public, and that it could lay down a sound foundation for the development of Chinese medicine in Hong Kong in the next century. I wish Members would lend their support to the Bill and the amendments to be moved to it by the Government later on.

Madam President, I hereby commend this Bill to Members for Second Reading. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Chinese Medicine Bill.

Council went into Committee.

Committee Stage

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

CHINESE MEDICINE BILL

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

CLERK (in Cantonese): Clauses 1, 3, 5, 6, 8, 9, 10, 12, 15, 16, 17, 19 to 25, 30, 32, 33, 34, 36 to 44, 47, 50, 51, 54, 55, 58, 59, 61, 64 to 68, 70 to 73, 75 to 78, 80, 81, 82, 86 to 93, 95, 96, 98 to 102, 104 to 107, 109 to 113, 115 to 127, 129, 130, 131, 133 to 144, 146 to 149, 151, 152, 153 and 155 to 159.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 4.

DR LEONG CHE-HUNG (in Cantonese): Madam Chairman, at the resumed Second Reading debate, I said that the overall medical development in Hong Kong could not do without Chinese medicine. Similarly, we cannot afford to not giving consideration to incorporating Chinese medicine in our public health care system in the future. The Hospital Authority (HA) is the principal body providing public medical services but it is not justified if the Chinese Medicine Council (CMC) to be established does not include representatives of the HA who will facilitate communication.

When the Government responded at a meeting of the Bills Committee on this Bill, they said that they had not considered this because the HA was not subsidizing or providing Chinese medical services and it was not prepared to do so in the near future. Madam President, I think the Government is far too short-sighted and if the Government has such a position or policy, it will not be meaningful to introduce this Bill today and it can hardly develop Western and Chinese medicine in a determined manner as stated in Article 138 of the Basic Law. For this reason and with the support of members of the manufacturers' committee, I intended to propose an amendment that the membership of the CMC should comprise a member nominated by the HA. However, as the Administration has said that my amendment is related to government polices, I can only move the amendment with the written consent of the Chief Executive in accordance with Article 74 of the Basic Law. Madam Chairman, I find it ridiculous for the Basic Law to be interpreted this way.

Madam Chairman, if I have not heard it wrong, I am pleased that the Secretary pledged at Second Reading that he would carefully consider the appointment of a person nominated by the HA to be a member of the CMC. As this complies with my principles and original intent and as the Bill will be implemented, I have decided not to move the amendment. I hope that the Administration will honour its pledge. Thank you.

CHAIRMAN (in Cantonese): Although a few Members have raised their hands to indicate their wish to speak, having considered that Dr LEONG Che-hung has withdrawn his amendment at this stage, it is not necessary for a debate to proceed on his amendment at this stage.

CHAIRMAN (in Cantonese): Mr Ronald ARCULLI, do you have a point of order?

MR RONALD ARCULLI (in Cantonese): Madam Chairman, I have a point of order. Even if an Honourable colleague has withdrawn his amendment, we should still let other Honourable colleagues express their views. Although we will not vote after the discussion, we should be given a chance to express our views. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Fine, I hope that Members will try their best to be concise.

MRS SELINA CHOW (in Cantonese): Madam Chairman, I am very sorry about this abrupt change. The Liberal Party was prepared to support Dr LEONG Che-hung's amendment because we strongly believe that the Chinese Medicine Bill should be given legal protection and it should be prescribed that the HA shall appoint a person to be a member of the CMC. But Dr LEONG Che-hung stated just now that as the Government would consider appointing a HA member to be a member of the CMC, he did not intend to move the amendment. In my opinion, Dr LEONG's amendment and the Government's consideration are two separate issues. I do not understand why Dr LEONG should be convinced to withdraw his amendment that makes an arrangement for legal protection just because the Government will consider appointing a HA member to be a member of the CMC. I am very sorry about this.

Moreover, it is hardly acceptable for an Honourable colleague to withdraw his amendment without notice out of a sudden while he has not withdrawn his amendment during the long discussion process of the Bills

Committee. In particular, Dr LEONG just said that the reason given by the Government was utterly ridiculous. But he withdrew his amendment although he said that the reason given by the Government was highly ridiculous. Although we do not have a chance to vote on this, we are grateful to the Chairman for giving us a chance to express our views. It is extremely inappropriate of Dr LEONG to do so.

MISS CHAN YUEN-HAN (in Cantonese): In the course of scrutinizing this Bill, when we came to the discussions on this part, I proposed this amendment on behalf of the FTU and Dr LEONG made this suggestion. Why do we think that there should be a HA member in the CMC? We think that we cannot overlook Western medicine when we develop a Chinese medicine port in Hong Kong, nor should we neglect the HA that manages many hospitals in Hong Kong. Therefore, there should be a HA member in the CMC comprising 18 members.

I would like to tell the Chairman that some non-governmental organizations concerned about medical services have been asking the Government why hospitals do not provide Chinese medical services. Hospitals such as the Kwong Wah Hospital do provide Chinese medical services, but they do not come under the HA. Most hospitals that provide Chinese medical services are run by charitable organizations.

Under this situation, if there are doctors with mastery of Western medical science within the CMC, Chinese and Western medicine practitioners will be able to learn from one another. Therefore, I do not see why the Government thinks that this cannot be done. The Government has not firmly stated that it would not do so, but only it could not do so. If the Government fails to do this, let us take over.

I will not repeat Mrs Selina CHOW's views on the Secretary's remarks, but I would like to tell the Secretary that we should not believe fully in him just because of what he said. I will continue to monitor the situation. I would like to tell the Secretary that we can propose an amendment. It will be extremely difficult for us to propose an amendment to the Government's legislation by way of a private bill. But we are still responsible for monitoring what the Secretary

is going to do. If we are determined to promote the development of a Chinese medicine port, there is no reason why we should separate the management bodies of Chinese and Western medicine and disallow exchanges. Therefore, on the basis of the remarks just made by the Secretary, I will continue to monitor the situation, and if the Secretary is not going to do this, she can just let us take over.

Thank you, Madam Chairman.

MISS EMILY LAU (in Cantonese): Madam Chairman, as we will have heated arguments when we debate another bill later, I will make brief remarks. I find Dr LEONG Che-hung's action today somewhat unusual. Dr LEONG said that he would withdraw his amendment. The Frontier did withdraw some amendments before and some Members disagreed when we did so, and we understand that Members do not want anybody to do so at the last minute. I am particularly worried after Dr LEONG has done so because this involves Article 74 of the Basic Law.

Madam Chairman, I hope that Dr LEONG would explain this to us when he speaks again. We actually discussed this point when we had a meeting upstairs. Although our views on this matter differ from those of the Government, the views of Members are consistent. I do not know why Dr LEONG would say something that has double meaning. Does this mean that some Honourable colleagues think that there is problem with Members' interpretation of Article 74 of the Basic Law as to what Members should or should not do? I am particularly concerned about this.

Madam Chairman, I would like Dr LEONG to explain this clearly to us. If an Honourable colleague is going to withdraw his amendment, then out of courtesy, he should tell other Honourable colleagues the reasons why he will do so, in particular, how he interprets the Basic Law. Has the Government threatened him? Are there under-the-table deals between him and the Government? I hope that Dr LEONG will give us a clear explanation.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Before I ask another Member to speak, I would like to tell Members that according to the practice of the Council, after a Member has been permitted to move a motion or amendment, if he wants to withdraw his amendment for certain reasons, he has the right to do so. If Members find it inappropriate of him to do so, the matter can be referred to the Committee on Rules of Procedure for careful study and decision.

Members may recall that at the Committee stage of the District Councils Bill, two Members withdrew their amendments at the last moment because they would withdraw from the Chamber. Another Member sought my permission for him to move the two amendments without notice and I permitted him to do so bearing in mind that Members had had ample time to consider the two amendments. I also said that I did not think it was appropriate to do so. Therefore, a few days later, with my instruction, the Secretariat issued a notice to Members stating that if a Member has proposed an amendment and other Members are worried that the Member will withdraw his amendment at the last moment so that they will not have a chance to discuss the amendment, Members can move an identical amendment. This mechanism is for Members' reference. Putting this simply, if Members find it necessary to "secure an insurance", they may do so.

After a Member has decided to withdraw his amendment, if Members are dissatisfied, they can carry out discussions through other channels because the time for our meeting is very precious. If Members want to discuss Article 74 of the Basic Law, they can have detailed discussions later. I am only telling Members what I understand.

MR RONALD ARCULLI: Madam Chairman, the only thing I really wish to say is that clearly, Dr LEONG is entitled to withdraw the motion, but I would like to take this opportunity to remind Members that it is possible for motions, including amendments, to be moved jointly by two or more Members. I assume that if the motion had been moved jointly, let us say by Dr LEONG and myself, I do not know what the situation would have been on Dr LEONG wanting to withdraw, whether I would be left with it by myself or whether one of the two joint movers can actually withdraw the motion. That is a matter not for today's business but is obviously something that either the House Committee or our Committee on Rules of Procedure need to look into.

That having been said, I think that this particular aspect of the

amendment that would have been proposed by Dr LEONG is not something new to this Council. Over the years, this Council has debated with the Government, long and hard, about the entitlement of certain institutions or authorities to either choose their own representatives or even put forward suggestions to the then Governor or to the Chief Executive now, for appointment into certain bodies. It is an entitlement or right that we have fought for many years. So, I think on that particular aspect, I am a little disappointed that Dr LEONG, who does represent the Medical Functional Constituency, and in some ways, many of his supporters would be in the Hospital Authority, is content with an assurance by the Government. I have no doubt that the Government will live up to its word, but that is not the issue before us today. The issue really is that if Members feel that a particular institution or authority ought to have a nomination right into another body, we should incorporate that in the law and not simply take the word of the Government of today.

Thank you very much.

CHAIRMAN (in Cantonese): Mr Michael HO. I hope that Mr HO is the last Member to speak on this matter.

MR MICHAEL HO (in Cantonese): Madam Chairman, I will speak on clause 4.

CHAIRMAN (in Cantonese): Clause 4.

MR MICHAEL HO (in Cantonese): I wish to speak on the withdrawn amendment.

CHAIRMAN (in Cantonese): Mr HO, if you wish to speak on clause 4, the Secretary for Health and Welfare will propose an amendment to clause 4 later.

MR MICHAEL HO (in Cantonese): I wish to speak on the amendment that Dr LEONG Che-hung originally wanted to propose.

CHAIRMAN (in Cantonese): Mr HO, I certainly cannot restrict your freedom of expression but if I have not heard it wrong, Mr LAW Chi-kwong has already expressed on behalf of the Democratic Party that it opposes this amendment.

MR MICHAEL HO (in Cantonese): I wish to add something.

CHAIRMAN (in Cantonese): Fine, Mr HO, please speak.

MR MICHAEL HO (in Cantonese): Madam Chairman, I would like to add that the Democratic Party does not support Dr LEONG's amendment. But we think that if a professional council will be set up to regulate Chinese medicine, we have to include not only a representative of the HA but also that of the Department of Health. As the Tung Wah Group of Hospitals also provides Chinese medical services, to facilitate communication, we may need to include members of the board of directors of the Tung Wah Group of Hospitals.

I think this is an endless "pie-sharing" game. Including members of the HA in the CMC does not imply that the Government will provide Chinese medical services in organizations under the HA in future. We have said that we support the provision of Chinese medical services by public organizations, but Chinese medical services should not necessarily be provided by the Hospital Authority for they can also be provided by the Department of Health, or the Government may set up a third authority to provide such services.

Madam Chairman, we think that there is no correlation between the inclusion of a HA representative in the CMC and the provision of public Chinese medical services by the Government. This Bill actually regulates Chinese medicine and practice but not future Chinese medical services.

Thank you, Madam Chairman.

DR LEONG CHE-HUNG (in Cantonese): Madam Chairman, as so many Honourable colleagues have expressed their views, I would also like to make

some remarks.

First, I do not think I am the first or last Member to withdraw an amendment. In this Session, this is not the last amendment I have to withdraw as I will withdraw another amendment later, and I am now giving a notice in advance. I have suggested the inclusion of a HA member in the CMC for very simple reasons. Given that the HA is the biggest public medical body and the biggest medical service body, if we do not develop Chinese medicine in this respect, we will not get good results. In other words, if there is not a bridge between the HA and the future CMC, the future development may not bring about the desired results.

In its response in respect of this amendment, the Government did say that this is an amendment relating to government policy and the written consent of the Chief Executive is required in accordance with Article 74 of the Basic Law. But you, Madam Chairman, approved my application and I was not intimidated by the Government. As Chairman of the House Committee, I resolutely uphold the Rules of Procedure of the Legislative Council. Given that the President granted permission for me to propose this amendment, it means that I need not follow the Government's words. So I find this extremely ridiculous.

I have withdrawn my amendment for a very simple reason. The object of my amendment is to include a member of the HA in the CMC, and the Secretary has said that he will seriously consider appointing a member of the HA as a CMC member. I hope that the Government can maintain its credibility, and if Members think that the Government can be trusted, then my objective has been achieved. I have withdrawn my amendment for this reason. Thank you.

MR JAMES TIEN (in Cantonese): Madam Chairman, I believe that after Dr LEONG Che-hung has stated why he has withdrawn his amendment to clause 4, you should allow us to ask him questions. Dr LEONG said that the Government had promised that the HA will appoint a member to join the CMC. I wish to know if the appointment will be made by the HA then or there is a tacit agreement between the Government and Dr LEONG, that is, the Government will appoint whoever recommended by Dr LEONG as a member of the CMC. Now that Dr LEONG has said that he has withdrawn his amendment for this reason, the Secretary or Dr LEONG Che-hung owe us an account on this.

CHAIRMAN (in Cantonese): I will not call upon any Members to speak on this issue, as I believe Members should not dwell on it any longer. While Members may question their colleagues of this Council the reason why they take certain actions, the right to withdraw a proposed amendment is a right enjoyable by each and every Member under the Rules of Procedure of the Council. As regards the rationale behind a certain action taken by a certain Member, I do not think this is something this Council needs to discuss in particular. Certainly, I cannot disallow Members to engage in such kind of discussion, but I do hope that Members could show some mutual trust in each other. And I hope this kind of mutual trust is applicable to not only this particular case but also to other business of this Council as a whole.

Council will now proceed with clause 4. I will now call upon the Secretary for Health and Welfare to move the relevant amendment.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam Chairman, I move that clause 4 be amended, as set out in the paper circularized to Members. The amendment, which is introduced in response to a request by Members, seeks to enable the Chief Executive to appoint persons from scientific research institutions as members of the CMC. Thank you, Madam Chairman.

Proposed amendment

Clause 4 (see Annex II)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 4 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 7, 11, 13, 14, 18, 26, 27, 28, 29, 31, 35, 45, 46, 48, 49, 52, 53, 56, 57, 60, 62, 63, 69, 74, 79, 83, 84, 85, 94, 97, 103, 108, 114, 128, 132, 145, 150, 154 and 160.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam Chairman, I move that clauses 2, 7, 11, 13, 14, 18, 26, 27, 28, 29, 31, 35, 45, 46, 48, 49, 52, 53, 56, 57, 60, 62, 63, 69, 74, 79, 83, 84, 85, 94, 97, 103, 108, 114, 128, 132, 145, 150, 154 and 160 be amended as set out in the paper circularized to Members.

We have amended the definition of "proprietary Chinese medicine" under clause 2 on Interpretation. This will help elucidate the intended meaning of the provision. We have also added the definition of "domestic premises".

Members have expressed their views on the composition of the CMC and its various boards and committees in the meetings of the Bills Committee. We have accepted these views and proposed to amend clauses 13, 14, 26, 27, 28, 29 and 31 so that persons from scientific research institutions can be appointed as members of the CMC and the various boards and committees. We also propose to add a further lay member to the Disciplinary Committee of Chinese Medicine Practitioners and the Regulatory Committee of Chinese Medicines Traders.

Members have also expressed concern about the operation of the CMC. We therefore propose to amend clauses 11, 45, 48 and 49. In order that the CMC will have more clearly-defined powers to order the Practitioners Board and the Medicines Board under it to implement its policies, we suggest that consequential amendments be made to clause 11. Clause 45 is amended to stipulate that the CMC shall meet at least once every six months to transact its business. Clauses 48 and 49 are amended to stipulate that the CMC be subject to its standing orders should it decide to transact its business by circulation of papers. This will ensure that the procedure is used properly.

In response to Members' request, we propose to amend clauses 46, 97 and 103 to allow the CMC and the Court of Appeal to consider the extension of the time permitted to make an appeal in special circumstances. The special circumstances will be specified in the amended clause 46.

We also noted that Honourable Members and the sector are very concerned about the transparency in the operation of this regulatory framework for Chinese medicine. To address this concern, we propose amending clauses 83, 85 and 94 to require the Practitioners Board to publish from time to time by notice in the Gazette a list of educational or scientific research institutions from which applications for limited registration to practise Chinese medicine in Hong Kong will be considered. Details of registration assessment shall also be published. To protect the consumers' interest, we propose to amend clause 53 to provide for publication in the Gazette the qualifications of registered Chinese medicine practitioners in addition to their names and addresses.

The Practitioners Board under the CMC is responsible for matters related to the registration of Chinese medicine practitioners. Registration arrangements

have been discussed by Members and the Government in the Bills Committee. Amendments are proposed to certain details of the relevant provisions. We propose to amend clauses 56, 57, 62 and 63. One of the amendments made is that the Practitioners Board is required to complete expeditiously a request for review of the result of the Licensing Examination. The Board shall issue a certificate to a person who has passed the Licensing Examination. The Board is empowered to make recommendations to the CMC to set up a special committee to assess the fitness or otherwise of any registered Chinese medicine practitioner to practise by reason of his health. This is meant to protect the interest of the Chinese medicine practitioner concerned.

On the other hand, we propose to amend clause 69 in the interest of public health to empower the Practitioners Board to impose conditions and restriction on the practice of a person who has been registered as a Chinese medicine practitioner under the transitional arrangements. To enhance public acceptability of the Licensing Examination, we propose to amend clause 60 to stipulate that the Practitioners Board may appoint examiners for the purpose of the Licensing Examination.

To impose clear guidelines on the use of title of registered Chinese medicine practitioners, we propose to amend clause 74 to set out clearly the forms of description which they may use.

In matters of discipline, we are grateful to the views put forward by the Honourable Members. They point out that that the Bill does not contain any provisions to require holders of a practising certificate to inform the Registrar immediately if they are convicted of an offence punishable with imprisonment or are found guilty of misconduct in a professional respect. We propose to amend clause 79 to provide for an immediate report to the Registrar should the above circumstances arise. The name of a person in the register of Chinese medicine practitioners may be removed for health reasons. We propose to amend clauses 97 and 103 to allow the person concerned to appeal to the CMC and not to the Court of Appeal.

In the meetings of the Bills Committee, Honourable Members also reflected the concern of the sector about the possible impact of the provisions. To address the concern, we propose to amend clauses 114, 132 and 145 to increase the number of deputies who can be nominated by Chinese herbal

medicine retailers and proprietary Chinese medicine manufacturers from one to two persons. This is aimed at increasing the operational flexibility of the sector. In addition, we are of the opinion that should the conduct of employees of a licensee contravenes any section of this Ordinance, such as the provision of untrue or false representation, delay or obstruction of an inspector exercising his authority and so on, the licensee shall not be held liable. We propose to amend clause 150 to limit the liabilities of the licensee.

Some Members suggested in the meetings of the Bills Committee that provisions should be added to the effect that medical practitioners, dentists and physiotherapists who use acupuncture in practice should be allowed to continue using it after the Bill comes in operation, without being regarded as contravening the Chinese Medicine Bill.

After careful consideration, we decided to accept these proposals. We propose to amend clause 108 to give exemption to members of these three professions who use acupuncture of a type with distinguishable differences from acupuncture based on traditional Chinese medicine, as part of the professional treatment they give. They will be exempted from the regulation of the Chinese Medicine Ordinance.

The amendment to clause 160(5) seeks to adjust the power of the CMC to make subsidiary legislation so that the CMC may by way of subsidiary legislation provide for the procedures concerned and other details of enforcing the provisions as well as specifying the powers.

The amendments to clauses 7, 18, 35, 52, 84, 128 and 154 are technical or textual amendments are meant to make these provisions clear and concise.

All of the above amendments are proposed by the Government and the Bills Committee after careful deliberation. I earnestly ask Members to support them. Thank you, Madam Chairman.

Proposed amendments

Clause 2 (see Annex II)

Clause 7 (see Annex II)

Clause 11 (see Annex II)

Clause 13 (see Annex II)

Clause 14 (see Annex II)

Clause 18 (see Annex II)

Clause 26 (see Annex II)

Clause 27 (see Annex II)

Clause 28 (see Annex II)

Clause 29 (see Annex II)

Clause 31 (see Annex II)

Clause 35 (see Annex II)

Clause 45 (see Annex II)

Clause 46 (see Annex II)

Clause 48 (see Annex II)

Clause 49 (see Annex II)

Clause 52 (see Annex II)

Clause 53 (see Annex II)

Clause 56 (see Annex II)

Clause 57 (see Annex II)

Clause 60 (see Annex II)

Clause 62 (see Annex II)

Clause 63 (see Annex II)

Clause 69 (see Annex II)

Clause 74 (see Annex II)

Clause 79 (see Annex II)

Clause 83 (see Annex II)

Clause 84 (see Annex II)

Clause 85 (see Annex II)

Clause 94 (see Annex II)

Clause 97 (see Annex II)

Clause 103 (see Annex II)

Clause 108 (see Annex II)

Clause 114 (see Annex II)

Clause 128 (see Annex II)

Clause 132 (see Annex II)

Clause 145 (see Annex II)

Clause 150 (see Annex II)

Clause 154 (see Annex II)

Clause 160 (see Annex II)

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

MR MICHAEL HO (in Cantonese): Madam Chairman, the Democratic Party supports these amendments but I would like to discuss clause 108(3). This amendment exempts doctors, dentists and registered physiotherapists in practice from regulation so that they can continue to apply acupuncture after the legislation has come into effect. In the interim period, I was very glad that we could solve the problem of making arrangements for the use of acupuncture by medical practitioners, dentists and physiotherapists but when the Second Reading was going to be resumed, I still received comments from other professional bodies including registered chiropractors (although they are not officially registered) and occupational therapists that their trades did apply acupuncture too.

As we have to pass this Bill today at the last meeting in this Session to enable us to make arrangements during the summer recess so that the CMC can start working as soon as possible, I earnestly hope that we can discuss further with the Government about the application of acupuncture by other professions during the transitional period after the passage of the Bill and before the legislation comes into effect. After the legislation has come into effect, other professions will breach the law when they apply acupuncture. I hope that the Government and Members will follow up the application of acupuncture by other trades during the summer recess or during the transitional period next year. Thank you, Madam Chairman.

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

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam Chairman, I just want to say that I am very pleased to discuss further with Honourable Members the issues which Mr Michael HO has raised just now. Thank you, Madam Chairman.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 7, 11, 13, 14, 18, 26, 27, 28, 29, 31, 35, 45, 46, 48, 49, 52, 53, 56, 57, 60, 62, 63, 69, 74, 79, 83, 84, 85, 94, 97, 103, 108, 114, 128, 132, 145, 150, 154 and 160 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 153A Disclosure of confidential information obtained officially

Heading before new clause 161 Consequential amendments Public Health and Municipal Services Ordinance

New Clause 161 Interpretation

Heading before new clause 162	Pharmacy and Poisons Ordinance
New clause 162	Section substituted
Heading before new clause 163	Medical Registration Ordinance
New clause 163	Unlawful use of title etc. and practice without registration
New clause 164	Section substituted
New clause 165	Treatment of diseases of the eye
Heading before new clause 166	Undesirable Medical Advertisements Ordinance
New clause 166	Interpretation
New clause 167	Certain defences; provision as to Chinese medicine practitioners
Heading before new clause 168	Customs and Excise Service Ordinance
New clause 168	Ordinances referred to in sections 17 and 17A
Heading before new clause 169	Medical Clinics Ordinance
New clause 169	Interpretation

Heading before new clause 169A	Import and Export (General) Regulations
New clause 169A	Application and exemption
New clause 170	First Schedule amended
New clause 171	Second Schedule amended
New clause 172	Third Schedule amended
Heading before new clause 173	Pharmacy and Poisons Regulations
New clause 173	Registration of pharmaceutical products and substances.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam Chairman, I move that new clauses 153A, 161, 162, 163, 164, 165, 166, 167, 168, 169, 169A, 170, 171, 172 and 173 as set out in the paper circularized to Members, and the headings before clauses 161, 162, 163, 166, 168, 169, 169A and 173, be read the Second time.

New clause 153A is introduced at the request of Honourable Members and the sector to regulate members of the CMC, boards and committees and public officers and forbids them from disclosing or give to another person any business secret which has come to their knowledge or into their possession in the course of discharging their functions except in special circumstances. This is meant to protect the commercial interest of the sector.

New clause 161 is a consequential amendment to expand the definition of "drug" in the Public Health and Municipal Services Ordinance (Cap. 132) to include Chinese herbal medicine and proprietary Chinese medicine.

New clause 162 is a consequential amendment to relevant provisions in the Pharmacy and Poisons Ordinance (Cap. 138). It seeks to amend the provisions in the above-mentioned Ordinance on exemptions given to traditional Chinese medicine to bring them in line with the provisions in the Chinese Medicine Bill on Chinese medicine and proprietary Chinese medicine. However, should the pharmaceutical products containing Chinese medicine also have Western medicine as active ingredients, they shall be subject to the regulation of Cap. 138.

New clause 163 is a consequential amendment which expands the provisions which exempt other medical professions in the Medical Registration Ordinance to include those Chinese medicine practitioners registered or listed under the Chinese Medicine Ordinance. The provision also stipulates that prosecutions for an offence in connection with the practice of Chinese medicine shall only be brought under the Chinese Medicine Ordinance. This will avoid a duplication of prosecutions.

New clause 164 is also a consequential amendment which seeks to amend the provisions in the Medical Registration Ordinance on Chinese medicine with particular reference to the forms of address used by the Chinese medicine practitioners.

New clause 165 is also a consequential amendment to the Medical Registration Ordinance on provisions related to the treatment of diseases of the eye to enable Chinese medicine practitioners to treat diseases of the eye with methods used in Chinese medicine.

New clause 166 is another consequential amendment to expand the definition of drugs in the Undesirable Medical Advertisement Ordinance (Cap. 231) to include Chinese herbal medicine and proprietary Chinese medicine so that they will come under the regulation of this Ordinance.

New clause 167 is also a consequential amendment of a technical nature to the provision on the exemption of liability defence of native herbalists so that the provision can be invoked by registered and listed Chinese medicine practitioners.

New clause 168 is also a consequential amendment to amend the relevant provisions in the Customs and Excise Service Ordinance (Cap. 342) so that the

officers of the Customs and Excise Service can invoke the Ordinance to enforce the Chinese Medicine Ordinance.

New clause 169 is also a consequential amendment to the provisions on Chinese medicine in the Medical Clinics Ordinance (Cap. 343). The amendments to certain references in the Ordinance are proposed as a consequence of the operation of the Chinese Medicine Ordinance.

New clauses 169A, 170, 171 and 172 are consequential amendments to the Import and Export (General) Regulations under the Import and Export Ordinance (Cap. 60). They seek to incorporate certain Chinese herbal medicines into the purview of the Regulations so that import and export notices should be applied for imports or exports of Chinese herbal medicine.

New clause 173 is a consequential amendment to the Pharmacy and Poisons Regulations under the Pharmacy and Poisons Ordinance (Cap. 138) so that the Chinese Medicine Council of Hong Kong will be consulted when considerations are made by the Pharmacy and Poisons Board on the applications for registration with regard to pharmaceutical products with Chinese medicine ingredients.

Apart from clause 153A, all the new clauses are consequential amendments to certain pieces of existing legislation proposed as a result of the passage of the Chinese Medicine Ordinance. I earnestly ask Members to support the passage of these amendments. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the above new clauses, as set out in the paper circularized to the Members, and the relevant headings, be read the Second time. Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 153A, heading before new clause 161, new clause 161, heading before new clause 162, new clause 162, heading before new clause 163, new clauses 163, 164 165, heading before new clauses 166, new clauses 166, 167, heading before new clause 168, new clause 168, heading before new clause 169, new clause 169, heading before new clause 169A, new clause 169A, new clauses 170, 171, 172, heading before new clause 173 and new clause 173.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam Chairman, I move that new clauses 153A, 161, 162, 163, 164, 165, 166, 167, 168, 169, 169A, 170, 171, 172 and 173, as set out in the paper circularized to Members, and the headings before clauses 161, 162, 163, 166, 168, 169, 169A and 173 be added to the Bill. Thank you, Madam Chairman.

Proposed additions

New clause 153A (see Annex II)

Heading before new clause 161 (see Annex II)

New clause 161 (see Annex II)

Heading before new clause 162 (see Annex II)

New clause 162 (see Annex II)

Heading before new clause 163 (see Annex II)

New clause 163 (see Annex II)

New clause 164 (see Annex II)

New clause 165 (see Annex II)

Heading before new clause 166 (see Annex II)

New clause 166 (see Annex II)

New clause 167 (see Annex II)

Heading before new clause 168 (see Annex II)

New clause 168 (see Annex II)

Heading before new clause 169 (see Annex II)

New clause 169 (see Annex II)

Heading before new clause 169A (see Annex II)

New clause 169A (see Annex II)

New clause 170 (see Annex II)

New clause 171 (see Annex II)

New clause 172 (see Annex II)

Heading before new clause 173 (see Annex II)

New clause 173 (see Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is:

That the above new clauses and headings 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): Schedules 1 and 4.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 2, 3 and 5.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam Chairman, I move that Schedules 2, 3 and 5 be amended, as set out in the paper circularized to Members.

The amendments to Schedule 2 are minor amendments proposed by the

Department of Health after consulting a larger number of authoritative literature on medicine. The amendments seek to correct the names and descriptions of the Chinese herbal medicines specified in the Schedule, and most of the corrections are related to the spelling of the medicine names in Latin.

The amendments to Schedule 3 are proposed in response to a request by Members. Part I of the Schedule is to be slightly amended to set out more clearly the function of the Practitioners Board in conducting inquiry proceedings in respect of the discipline of registered Chinese medicine practitioners.

There are two amendments to Schedule 5. The first one, which is proposed in response to a request by Members, seeks to prescribe that certain functions of the Practitioners Board shall only be delegated to either the Examination Committee or the Registration Committee. The second proposed amendment provides for the delegation of the power to issue a Certificate for manufacturer from the Medicines Board to the Chinese Medicines Traders Committee.

Madam Chairman, these amendments are purely technical in nature. The Government have discussed them with the Bills Committee, I therefore earnestly urge Members to vote for their passage. Thank you, Madam Chairman.

Proposed amendments

Schedule 2 (see Annex II)

Schedule 3 (see Annex II)

Schedule 5 (see Annex II)

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

(No Member indicated a wish to speak)

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

amendments moved by the Secretary for Health and Welfare be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 2, 3 and 5 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council will now resume.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

CHINESE MEDICINE BILL

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

Chinese Medicine Bill

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Chinese Medicine Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Chinese Medicine Bill.

MR MARTIN LEE (in Cantonese): Madam President, in accordance with Rule 16 of the Rules of Procedure, I will move a motion to adjourn the Council to debate a question. The motion is "The government officials concerned are

suspected of interfering with, molesting or obstructing Members of the Council from returning to the Chamber for voting".

Madam President, in accordance with the Rules of Procedure, I know that the permission of the President is required for a Member to move such a motion but such a motion shall not require notice. Perhaps, I should first explain to the Chair why it is pressing to do so because we will discuss many highly controversial bills from now on and I do not wish to see government officials continue to affect the voting inclination of Members by certain means and I hope that they will not act in an undue manner or violate the law, therefore, it is pressing to move this motion.

I have discussed this with government officials and told them that I am going to do so, and I have also discussed this with the relevant Members and many political parties. But, Madam President, if you think that you need some time to consider this, I will sit down first but if you let me continue, I am prepared to continue speaking.

PRESIDENT (in Cantonese): I need to take some time to consider if this is a pressing and important issue. I declare that the meeting shall now be suspended.

3.48 pm

Meeting suspended.

4.06 pm

Council then resumed.

PRESIDENT (in Cantonese): Honourable Members, Mr Martin LEE has sought my permission, by virtue of Rule 16 of the Rules of Procedure, to move without notice a motion to adjourn the Council. The wording of the motion is: "That government officials are suspected of interfering with, molesting or obstructing Members of the Council from returning to the Chamber for voting".

Pursuant to Rule 16(2) of the Rules of Procedure, I shall give permission to Mr Martin LEE to move the motion only when I am satisfied that the adjournment is for the purpose of discussing a specific matter of urgent public importance. Having regard to the provision against interference with Members, officers of the Council or witnesses set out under section 19 of the Legislative Council (Powers and Privileges) Ordinance, I do believe that the matter concerned is of importance. According to section 19(a) of the Ordinance, any person who obstructs or molests any Member going to or from the precincts of the Chamber commits an offence and is liable to a fine of \$10,000 and to imprisonment for 12 months. As such, the law has made it very clear that if any person should have taken such actions and complaints were received, an inquiry would be conducted into the case. Upon completion of the inquiry, the results would be submitted to the Department of Justice, and the Secretary for Justice would then determine whether any prosecutions should be initiated.

However, I do not consider this a matter of urgency. As I believe, all Members and government officials sitting in this Chamber understand very well that the law has clear provisions inhibiting such actions. If any person should have taken any of such actions, he or she would be held liable for the consequences. If any person should be suspected of having done so, the case would need to be substantiated by evidence. Now that Mr Martin LEE has brought up the matter and I have taken great pains to expound on it, I am sure Members and government officials alike are aware of the need to behave in a proper manner, and that they will be held liable for the consequences of their improper conduct.

Taking into account the many items of business on the Agenda that have yet to be debated, decided and voted on by Members, and the fact that this is the last meeting of the current Session of this Council, I have decided not to grant Mr Martin LEE my permission.

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Legislative Council (Amendment) Bill 1999.

Under Rule 21(4) of the Rules of Procedure, I have permitted Mr Ronald ARCULLI, Chairman of the Bills Committee on Legislative Council (Amendment) Bill 1999, to address the Council on the Committee's Report.

Resumption of Second Reading Debate on Bill**LEGISLATIVE COUNCIL (AMENDMENT) BILL 1999****Resumption of debate on Second Reading which was moved on 3 February 1999**

MR RONALD ARCULLI: Madam President, in my capacity as the Chairman of the Bills Committee on Legislative Council (Amendment) Bill 1999, I would like to give a brief report on the deliberations of the Bills Committee.

The major provisions in the Bill seek to amend the Legislative Council Ordinance in order to provide the electoral law for the second term of the Legislative Council.

The Bills Committee held 23 meetings and also received submissions from a total of 69 individuals and organizations.

The Bills Committee has noted that the function of the Election Committee (EC) provided for in Annex I of the Basic Law is to elect the Chief Executive. Its term of office is five years. The function of the EC provided for in Annex II of the Basic Law is to elect six Members of the second Legislative Council. Annex II of the Basic Law states that except in the case of the first Legislative Council, the EC mentioned therein refers to the one provided for in Annex I of the Basic Law.

Members express concern over whether the provisions relating to the composition of the EC in the Bill, if passed, would contravene the Basic Law or would pre-empt a decision on the composition of the EC prescribed in Annex I. They also point out that the functions of the EC will affect a person's decision on whether or not to run the candidature for an EC member.

The Legal Adviser has advised that from the plain and literal meaning of Annex II, the EC which returns six Members for the second term of the Legislative Council is intended to be the same as the EC electing the Chief Executive.

The Bill provides that an EC be established for the purpose of returning six Members in the 2000 Legislative Council Election. The EC as proposed in the Bill is formed in accordance with Annex II of the Basic Law. Annex I prescribes the method of selection of the Chief Executive. The Administration will introduce a separate bill on the Chief Executive Election later.

Members are dissatisfied with the reply. Notwithstanding Members' repeated requests, the Administration has not provided a definite reply on whether the EC proposed in the Bill will be the same EC responsible for the election of the second term of the Chief Executive, but has merely assured Members that the bill providing for the election of the Chief Executive will not contravene the provisions of the Basic Law.

Under the Bill, Hong Kong Deputies to the National People's Congress (NPC) and Legislative Council Members holding office on 30 June 2000 are to become *ex officio* members of the EC established for returning six Members to the second-term Legislative Council.

The Bills Committee has raised concern over this issue. It is of the view that if the registered *ex officio* members of the EC are not elected to the second-term Legislative Council or the next term of office of the NPC, they should cease to be *ex officio* members of the EC.

After consideration, the Administration agrees to move Committee stage amendments to provide for a mechanism for updating the *ex officio* membership of the EC. Under the arrangement, all Legislative Council Members and the Hong Kong Deputies to the NPC holding office on 30 June 2000 should be registered as *ex officio* members of the EC. When there are subsequent changes to the membership of the Legislative Council or the Hong Kong Deputies to the NPC, the names of those who no longer hold either of those offices should be removed from the final register of the EC. The names of those newly elected to the new term of the Legislative Council or the NPC will be added in the register.

The Administration will move Committee stage amendments to adjust the electorates of individual Functional Constituencies (FCs) and to amend the

names of some existing eligible electors. In response to some Members, the Administration has agreed to add constituents to the Transport FC and the Wholesale and Retail FC. Some individual Members may move Committee stage amendments to expand the electorates of the Transport FC, Wholesale and Retail FC, Textile and Garment FC and Information Technology FC to allow for wider representation and participation.

To minimize the risk of disruption to the electoral process, the Bill provides that if the Returning Officer of a Geographical Constituency becomes aware of the death or disqualification of a validly nominated candidate before the polling day, he may strike out the name of the candidate from the list and add the name(s) of the surplus nominee(s) to the list to make up the difference, and allow the election proceedings to continue.

A few Members have asked the Administration to reconsider the proposal which is unfair to a person who contests the election as a single candidate. Having considered the views of Members, the Administration agrees to introduce Committee stage amendments to delete the provision which allows the Returning Officer to revise the list of validly nominated candidates and to make other consequential amendments.

The Bill also proposes that the election proceedings should continue if a candidate is disqualified or died before the polling day. Some Members have suggested that as far as the FC Election is concerned, if the Returning Officer becomes aware of the death or disqualification of a validly nominated candidate after the close of nomination and before the polling day, he should terminate the election proceedings and a by-election should be arranged. This is because many FC Elections have only two nominated candidates. In the event that one of the candidates has become disqualified or died, the remaining one will be automatically elected, hence depriving electors from having a choice.

Having regard to Members' views, the Administration proposes to introduce Committee stage amendments to require the Returning Officer of a FC Election to terminate the election proceedings if he becomes aware of the death or disqualification of a validly nominated candidate after the close of nomination but before the polling day. The Electoral Affairs Commission should then arrange for a by-election.

The Bill also proposes to allow electors to apply for voting before the general polling day. While Members are in general supportive of the proposal, they have asked the Administration to address a number of issues including their concern that if the results of exit polls conducted on advance polling day are released before polling on the general election day, it may undermine the fairness and impartiality of the election.

After consideration of Members' views and having regard to the court ruling made in Canada last year, the Administration believes that legislating against the release of exit poll results by the media before the close of all polls may run the risk of contravening Article 27 of the Basic Law, which provides that Hong Kong residents shall have freedom of speech, of the press and of publication. Taking into consideration the paramount importance of fair and impartial elections, the Administration has come to the view that advance polling should not be introduced in the next year's election before the problem mentioned is resolved.

Some Members have expressed great disappointment over the Administration's change of stance on the matter.

But, Madam President, the great disappointment of the Administration's change of stance does not end there. As you are aware, Madam President, the Administration through the Secretary for Constitutional Affairs, sought your permission to move two amendments, originally proposed to be moved by the Honourable Eric LI and Dr the Honourable LEONG Che-hung, if these were to be withdrawn by their proposers. Mr LI's amendment concerns the deletion of corporate voters in the Social Welfare FC and one of Dr LEONG's amendments seeks to include Chinese medicine practitioners who will be registered or listed under the Chinese Medicine Bill, which is passed today, into the existing Medical FC. As Chairman of the Bills Committee of this Bill, I convened an urgent meeting today to enable members of the Committee to discuss the matter.

Madam President, you have been advised that a majority of the Bills Committee members were against the Administration's proposed course of action and some fairly strong views were expressed about the Administration's apparent change of stance. Understandably, Members were concerned at this

last minute change of stance so much so that the standing difference between this Council and the Administration over the position on Article 74 of the Basic Law surfaced once again. But be that as it may, members of the Committee saw for the first time the proposed amendments by the Administration when we met earlier today. So, effectively, what we were asked to do as a Committee and as Members of this Council were to endorse these last minute amendments without, and I emphasize, without, the opportunity of detailed scrutiny. I confess that I find it quite difficult to understand what possessed the Administration to embark on such course. Several Members asked the Administration to explain whether it was possible for us to proceed with Mr LI's amendment and if it was passed, to deal with any shortcomings by way of an amendment bill later. As for Dr LEONG's proposed amendment, if that is withdrawn, could the Administration bring it back in the same amendment bill? Sadly, no satisfactory reply was forthcoming.

Madam President, the tragedy of the situation is that Members of this Council will probably be unable to bring a Member's bill to rectify any shortcomings or fill any void. I hope that this will be a salutary lesson for all of us and, in particular, the Administration — please do not ask this Council to diminish our resolute position and stand that Members can and will continue to use our power and right to move Committee stage amendments to government bills.

Thank you, Madam President.

MR LAU CHIN-SHEK (in Cantonese): Madam President, no matter whether this Bill can be passed today, and how many amendments to the Bill are finally approved, this cannot change the tragic fact that the election of the second term of the Legislative Council next year will still not be a democratic election.

The democratic progress of the Legislative Council of the Special Administrative Region (SAR) is subject to the provisions of the Basic Law and it can be said that a fully directly elected Legislative Council is not realizable within the foreseeable future. Only one third of the seats of the current Legislative Council are returned by "one-person, one-vote" direct elections and there will be a nominal increase of four seats next year. By 2004, directly

elected members will only take up half of the seats of the Legislative Council. What will be the case after that? There is no guarantee that there will be a fully directly elected Legislative Council.

The Government must say that the Basic Law has specified that the method for forming the Legislative Council shall be "in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage". A policy review will be made 10 years after the establishment of the SAR to determine if "full direct election" will be implemented. But I can forecast today that the policy review to be made a few years later will certainly be an "empty review" and the implementation of full direct election then is simply an "Arabian Nights' tale".

Everybody knows that it is extremely hard to develop democracy further in the 2007 review because any amendment must be approved by a two-third majority of all Members of this Council and consented to by the Chief Executive as well as reported to the Standing Committee of the National People's Congress for the record. If we do not want to deceive ourselves and others, I do not think Honourable colleagues present will believe that the motion on a full direct election will be supported by a two-third majority of the Council, or that the Chief Executive elected by an Election Committee composed of 800 members will support a fully directly elected Legislative Council.

In fact, the Chief Executive and the Administration are unenthusiastic about the full direct election of the Legislative Council. To maintain an executive-led administration, the Chief Executive suppresses the Legislative Council for fear that the Legislative Council will challenge the rule by the executive authorities. Naturally, it is all the more unconvincing that the Chief Executive will support a fully directly elected Legislative Council.

The speech delivered by the Secretary for Constitutional Affairs at an international seminar on constitutional development last month is representative of the Government's unenthusiastic attitude.

The Government is unenthusiastic and it tries its best to slow down the democratization of Hong Kong by offering some specious reasons. Summing

up, there are three main reasons for opposing full direct elections. First, the public is concerned only about economic and livelihood issues but not democracy; second, the political parties in Hong Kong are not mature enough; third, we should consider the relationship between the executive authorities and the legislature when we decide whether the Legislative Council should be fully directly elected.

It is an irrefutable fact that most people support full democracy and that all Members of the Legislative Council should be returned by universal and fair direct elections. More importantly, I believe that it is the basic right of every Hong Kong people to choose a representative of his opinions by equitable "one person, one vote". To negate democracy on the ground that the community has not reached a consensus is only an excuse for maintaining autocratic rule.

To say that the political parties in Hong Kong are not mature enough is actually putting the cart before the horse. The relationship between full direct elections and the development of political parties is a hen and egg relationship. If there are no full direct elections or representatives of public opinion who have the actual powers to make policy decisions, how can political parties and political groups of certain scale be developed?

It is certainly more important for Members of the Legislative Council to reflect the wills of the general public. Regardless of whether Members have the support of political parties, so long as they have the mandate given by the public, they have the strongest foundation for participation in political policy-making.

As regards the relationship between the executive authorities and the legislature, frankly speaking, this precisely shows why the Chief Executive and the Government will definitely strongly oppose a fully directly elected Legislative Council. I believe the crucial point concerning the relationship between the executive authorities and the legislature is that the Chief Executive is selected by a small group of people and he lacks popular support, while on the contrary, there are more democratically elected Members in the Legislative Council, hence the tense relationship between the executive authorities and the legislature. To improve the relationship between the executive authorities and the legislature, the most thorough solution is for the Chief Executive and all

Members of the Legislative Council to be elected by universal suffrage and to be accountable to all Hong Kong people, unlike the practice of the present Government which slows down the democratization of the Legislative Council and suppresses the prestige of the Legislative Council in order to maintain its executive hegemony.

Within the frames of the Basic Law, the election method of the second Legislative Council prescribed in this Bill will not in any way produce a democratic assembly that really represents Hong Kong people. I have to point out to all Hong Kong people that full direct elections will not come by automatically, and they should not harbour any wishful thinking that the Chief Executive will give consent to full direct elections. The democrats still have a long way to go and we should continue to drive the democratic movement outside the establishment until democracy arrives.

Madam President, I have just mentioned the executive hegemony of the Government, in fact, as Mr Ronald ARCULLI has said, it even wants to cripple the existing Legislative Council. To stop Honourable colleagues from proposing amendments, the Government suddenly told us yesterday that it wanted to take over two amendments originally proposed by two Honourable colleagues. The Government insists on its being "executive-led" and "a master", and its hegemonist attitude makes me feel very sorry and frustrated! Madam President, I so submit.

MR ERIC LI (in Cantonese): Madam President, whenever we have a debate over the Legislative Council election, it will inflict political "pains" as this topic of debate is highly provocative and Members will make some unexpected arguments such as the so-called "conspiracy theories". However, Members of the Council will never be bored and they will argue day and night for their own ideas.

The debate today reflects that there is still ample space and much energy for open discussion on policies after the reunification. Regardless of the voting results today, I think the spirits of "one country, two systems" and "Hong Kong people ruling Hong Kong" has been realized.

Certainly, such spirits may not necessarily enable us to achieve the best results. The SAR Government has a good grasp of the political situation in Hong Kong and I think that it should give the legislature more freedom to determine its future. If the Government opposes all the motions proposed by

Members and makes efforts to lobby Members to support its position, it will give people a feeling that the Government lacks the political mind and self-confidence it should have. When I prepared this draft yesterday, I found that the Government had different views on at least two motions. Although it has come rather late, it is a step forward after all. In this respect, the Government is not an "iron plate". Similarly, the demeanour of Members in political discussions can be an overall review of our political mind and position.

As Members have proposed a lot of amendments, we can hardly touch upon all of them during the Second Reading debate and, most probably, some views can only be supplemented at the Committee stage. Today, I will focus on the amendment in relation to the Social Welfare Functional Constituency to which I belong. Actually, this is definitely not a new topic and I believe it still remains fresh in the memory of Honourable colleagues who were in office during the time of the Provisional Legislative Council that we had debated issues concerning the relevant constituencies on 27 September 1997 and 29 October 1997. Members should have received the relevant information submitted by me.

The debate on 27 September started with intense emotions but when I read the record of proceedings afterwards, I found that the debate had ended in a fairly rational and peaceful manner. The contentious point at the beginning was the Hong Kong Council of Social Service (HKCSS) should have a specific status and the right to vote and if other social service bodies which were not members of the HKCSS should also have the right to vote. At that time, the Government and I adopted the same stance and opposed changing systems that had been operating well.

But the contentious point gradually changed later and I recall that Mr Gary CHENG asked me this question: Should the HKCSS withdraw from voting? Or, should everybody have the right to vote? It came as a choice for me. This is a question, not a position. When I spoke in response, I said that as Chairperson of the HKCSS, I would, without the least hesitation, call upon members of the HKCSS to give up the right to vote.

Although I made this suggestion, my suggestion had to be supported by the HKCSS bodies. I was glad that the HKCSS bodies had not abandoned me after I had made this suggestion. They re-elected me as the Chairperson and conducted a questionnaire survey in October 1997. The result of the questionnaire survey showed that 88% of the members agreed to my arrangement to abolish the transitional role of the HKCSS and fully support the

proposal of one person, one vote for professional social workers.

In the written information I provided to Members, I have cited the views of a few Honourable colleagues and stated that no Member had spoken in opposition (probably not today) to this ultimate objective of giving professional social workers one person, one vote.

This amendment is made in line with this ultimate objective. In fact, for a functional constituency that has some 8 000 votes (by registered social workers) and more than 200 corporate votes, the amendment cannot change the political reality or achieve any substantial effect. For professionals, amending this ordinance will undoubtedly recognize that their professional status is just like that of accountants, engineers, doctors, teachers and nurses, and they will be fairly and identically accepted like some constituencies with similar professional background. In this sense, the objective merits our support.

Some oppose this because they think that this will deprive newly registered voters of their rights, but I do not agree with them. With the changing political situation, the rights to vote of the functional constituencies and the Election Committee have frequently changed in these few years. The Legislative Council cannot and will not refrain from making amendments because of the political changes in voting rights. I believe every party and group has supported similar amendments before.

Legislating and amending legislation will inevitably restrict, abolish or change the rights of individuals such as political and other rights. The amendments to legislation will be accorded a proper objective after open debates, and proposing these amendments for discussion should not constitute an obstacle to legislative amendment.

The HKCSS has taken the initiative to give up the right to vote and only 11 Members opposed. We do not know how many of the seven newly registered bodies mentioned by the Government have voiced opposition. Even if all the seven bodies opposed, but given that 8 500 professional social workers and some 200 bodies in the whole functional constituency support the amendment while only more than 10 bodies oppose it, the wish of the functional constituency as a whole is not open to doubt.

The minority should be respected when a democratic decision is made but there are diversified and different views in our community and nothing is immutable. We should also give due consideration to major mechanisms and rules and subordinate the minority to the majority. I will be disappointed if the Government or some Members oppose the amendment in order to "preserve" a few votes, and seek to change or interpret this pattern. Time is almost up. Although I have proposed withdrawing the amendment to clause 44, it definitely does not mean that I will not propose an amendment in future. In view of the technical problems, and after I have listened to the views of the Government and the legal adviser of the Council, I agreed that it is not essential to propose an amendment to this clause as it will not render the principal legislation any different. I will persist in proposing my amendment.

Thank you, Madam President.

DR YEUNG SUM (in Cantonese): Madam President, in these two years after the reunification, I believe people generally think that Hong Kong today is worse than before and there is a general regression in our economic situation and people's livelihood. For instance, the unemployment rate has increased and deflation endures. There is also political regression, for instance, the District Councils will have appointed seats once again and the Government has resolutely sought to abolish the two elected Municipal Councils. Recently, the right of abode issue has brought about a regression in the rule of law. Putting it briefly, in these two years after the reunification, I believe people generally think that Hong Kong today is worse than before and there is an overall regression in Hong Kong.

To solve this problem, Madam President, it is crucial to democratize our political system so that the legislature and the Chief Executive will be elected by "one-person, one-vote" universal suffrage as soon as possible. This way, the authority of the Government will come from the people and the Government can take good care of and reflect the views and interests of the people. The Democratic Party has proposed four amendments, including an amendment on the return of 60 seats of the Legislative Council by direct elections in 2000. But pursuant to a ruling made by the President, we cannot propose such an

amendment. We respect the President's view but an opinion poll we conducted a few days ago showed that over 65% of the interviewees support that all of the 60 seats of the Legislative Council should be returned by direct elections in 2000.

The second amendment proposed by us is to restore the "single seat, single vote" system in place of the "proportional representation". The result of our opinion poll shows that 61% of the interviewees fully support restoring the "single seat, single vote" system. In the third amendment, we propose a cooling-off period for the prohibition of canvassing activities on polling day. In our opinion poll, 57% of the interviewees support this. This indicates that the public basically supports democratizing the political system and development towards universal suffrage. We have proposed through Mr CHEUNG Man-kwong an amendment for the Government to subsidize election expenses. If a candidate gets 5% of the valid votes, the Government should pay him back some of his expenses. Although more than 46% of the interviewees oppose this, more than 30% support this. Even though the concept is very popular in other European countries and our neighbouring regions, it is fairly new to Hong Kong. However, I believe that if we discuss more about this, as time goes by, the public will understand more about its importance, and it will normalize the development of political parties to make them less susceptible to influence by pecuniary politics.

Madam President, Honourable colleagues have made great efforts in scrutinizing this Bill because we all know that the Legislative Council election in 2000 will entail demarcation of constituencies. But the Democratic Party feels sorry about the way the Government has handled this Bill. Late last night, the Government expressed its hope to take over the amendments proposed by Dr LEONG Che-hung and Mr Eric LI and propose them with their consent. In fact, the amendments of Mr LI and Dr LEONG were proposed long ago but the Government neglected them because of its reservations. It only made a statement yesterday that it wanted to take over them and propose the relevant amendments with their consent as their amendments had technical problems. This shows that the Government has neglected the amendments proposed by Members. The Government rashly made such a decision at the eleventh hour probably out of the consideration that their amendments may or may not be approved. The Government is leading this Council by the nose. Very often, the Government adopts whatever it finds suitable and neglects whatever it finds unsuitable.

The Democratic Party is most disgusted with the fact that the Government has told Members that they will violate Article 74 of the Basic Law if they propose amendments. According to the Government, Article 74 of the Basic Law applies to government motions and Committee stage amendments, therefore, even if the amendments proposed by Dr LEONG Che-hung and Mr Eric LI are approved, they will encounter legal problems in future. I am not sure if this is the reason why they are affected. In any case, the Government's remarks have neglected the unanimous view of the Legislative Council, that is, Article 74 of the Basic Law applies only to government motions but not Committee stage amendments. I hope that Members will stick to their stance. The voting mechanism that divides the Council into two is restricting our democratic progress and if Members' bills are also restricted, our power to monitor the Government will be greatly reduced. If Committee stage amendments are similarly restricted, I believe our powers will be further reduced and this is extremely undesirable.

The President has permitted the Democratic Party to propose three of its four amendments. I hope that Members would take this opportunity to extensively discuss the amendments. I also hope Members will support them. Thank you, Madam President.

MR GARY CHENG (in Cantonese): Madam President, today, we are going to discuss a bill relating to the Legislative Council. As far as my understanding goes, after the reunification, whenever we discuss the elections of the Legislative Council or the political system of Hong Kong, we must base our discussions on the gradual and orderly approach specified by the Basic Law and its Annexes. If we depart from this basis, our discussions will become largely meaningless, unless, of course, such a basis is changed.

My colleagues belonging to the Democratic Alliance for the Betterment of Hong Kong (DAB) will speak on the various amendments today. But before they do so, let me first say a few words on some of the more vital issues.

First, the DAB will oppose Dr YEUNG Sum's amendment on replacing "proportional representation" by "single seat, single vote". Our justification is that "proportional representation", which was adopted for the election of the

first Legislative Council after the reunification, is actually a time-tested system. Dr YEUNG Sum used the verb "restore"; in other word, he wants to restore "single seat, single vote". In reality, however, when direct elections were first held in Hong Kong, the electoral system adopted was not "single seat, single vote". In the election of the former Legislative Council in 1991, the electoral system adopted was "double seats, double votes". So, one can hardly use the verb "restore" for "single seat, single vote". While I think that "proportional representation" is a time-tested electoral system, I must also point out that it is also a democratic electoral system based on the concept of "one person, one vote". There have recently been some misleading arguments, some misleading surveys, which make people think wrongly that "single seat, single vote" is the only democratic electoral system, and that "proportional representation" is not democratic enough. Some even say that only "single seat, single vote" can conform to "one person, one vote", and that "proportional representation" cannot. I hope that people will stop spreading these misleading arguments in the community.

In terms of achieving the desired effect of enabling electors to elect the appropriate candidates to represent their views, "proportional representation" does have its own strengths. We have argued about this point many times before, both inside and outside the legislature, and it has been pointed out that "proportional representation" will at least prevent the occurrence of one scenario in all constituencies — a scenario under which the political party or group which gets 51% of all the votes in a constituency can already get all the seats in that particular constituency, while those which get 49% of all the votes may fail to get even one seat. With "proportional representation", we can at least prevent the occurrence of such a scenario.

Even before we formed the DAB, we had already fixed our position regarding the various forms of democratic elections based on "one person, one vote". In the late 1980s, when the Basic Law was being drafted, our members (the DAB had not yet come into being) compared the many different forms of elections, and they came to the conclusion that "proportional representation" was more suitable for Hong Kong.

We also oppose the amendment proposed by Mr LEE Wing-tat, which proposes a "no canvassing day", or a "cooling-off" period. We are of the view that the elections of our representative assemblies have always been characterized by calmness and order; this was the case before the reunification,

and is still the case now. So, I cannot see any urgent need for the introduction of a "cooling-off" period, unless we think that there was no calmness, or no order, in our past elections, and electors were thus scared off from polling stations. If we really implement a no-canvassing day, the kind of atmosphere found in our past elections, which should in fact characterize all elections and which people are so used to, may well vanish; we do not think that this is at all desirable.

During its scrutiny of the Bill, the Bills Committee also discussed the relevant experience of other places, and we noted that Members belonging to the Democratic Party had conducted a very thorough study on the adoption or otherwise of a "cooling-off" period in different countries and places. As revealed by the information they gathered, those countries which have a longer and more mature culture of elections, such as the Netherlands, Germany, the United States, Britain, Canada, Italy and so on, generally see no need for a "cooling-off" period. In contrast, Albania, Estonia, Lithuania, Taiwan, Japan, France and, most importantly, Indonesia all have a "cooling-off" period. We all know why there must be a "cooling-off" period for the elections in Indonesia; but, even with a "cooling-off" period, is the election atmosphere there calm enough? We all know the answer very well. Unfortunately, when I read recently again the information provided by the Democratic Party, I noticed that Indonesia was struck off from the list. I hope that when they submit their views again, they can put Indonesia back on the list. To sum up, we do not think that there is any need for a no canvassing day, not least because such a prohibition is directed at all people. In other words, all people, whoever they are, are not allowed to conduct any canvassing activities on the day specified. This leads me to ask this question: On the no canvassing day, can the Government call upon electors to vote? The answer should naturally be "yes".

On the question of "one person, one vote" for the social welfare sector mentioned by Mr Eric LI a moment ago, we will also vote against such a proposal today. Mr Eric LI distributed to Members a letter from the body to which he belongs. It is pointed out in this letter that during the relevant overnight debate by the Provisional Legislative Council, we supported and even advocated the idea of introducing "one person, one vote" for the social work sector and the social welfare sector. Our colleagues will make a clarification later on by quoting the records of our remarks in the Provisional Legislative Council then. At that time, at least three of us spoke on the matter, and I admit that we did at that time think that the social work sector, as a professional

functional constituency, should move in the direction of "one person, one vote". But we also think that we must first resolve the following problem: How are we going to deal with those organizations which are already given the right to vote or which are already exercising their right to vote? The Hong Kong Council of Social Service is just one of these organizations. Mr Eric LI said the number of these organizations was very small, and there were only several of them. But at that time some people talked about "vote-rigging", saying that the DAB had planted some of its own people in the sector. What has turned out to be the truth now? We can all see what has really happened very clearly. Even if the number of such organizations is really very small but even within the Hong Kong Council of Social Service itself (let me also quote the survey mentioned by Mr Eric LI), more than 10% of its members do not actually want to give up their right to vote; and, let us not forget those organizations which have already lodged their applications. So, we should not take away their right so very easily, because it is their right to vote at stake. If we do not resolve this problem before we implement "one person, one vote", we will be depriving these organizations of their right to vote; and, remember, this is in fact a political right. Should we not then first deal with this matter and come up with a solution before implementing "one person, one vote"? Mr Eric LI may of course think that the President will not possibly agree to putting a particular sector into the Election Committee, so as to enable its members to vote. Therefore, we are prepared to support the implementation of "one person, one vote" for their sector, only when their voting right is not taken away.

For "advance polling", the DAB thinks that the provisions relating to it should be deleted. The reason is that when there is advance polling, there will be advance exit polls. We cannot accept any scenario under which other elections and other people's voting decisions are affected by the results and exit polls relating to the advance polling of just a minority. It may well be argued that whenever there is any election nowadays, there are invariably lots of opinion polls, almost everywhere and every day, saying how many votes those "mercury poles" represent. But I must point out very clearly that ordinary opinion polls and exit polls are different in nature, in very much the same way as results forecasts and reviews are entirely different. In the case of an exit poll, the respondent has already cast his vote. Of course, it can be argued that there is no way for us to verify the truth or otherwise of his response. But after all, it is only after he has cast his vote that he is asked to disclose his voting decision to the exit poll organizer; he has cast his vote after all. This is completely different from the above-mentioned results forecasts, which seek only to portray

people's predictions. So, the leading effect of advance polling should by all means be avoided. I am sure that this point is well accepted in many places all over the world. If not, why are the results of exit polls not released earlier? Why are the announcement of results not permitted before the completion of polling? The reason is always the same. To sum up, we agree that the provisions on "advance polling" should be deleted.

In addition, I wish to talk about the electors in the Chinese medicine profession. Although Dr LEONG Che-hung has withdrawn his amendment, we still want to state our position regarding this matter. We do not agree that the catering sector should be replaced by the Chinese medicine sector. But we agree that the Chinese medicine profession should be classified as a functional sector which is eligible for voting within the medical sector. However, if we really decide to support this idea, we must first deal with a problem; the seats in the Election Committee originally belonging to the Chinese medicine profession must not be affected. We have just passed the Chinese Medicine Bill today. We therefore urge the Government to complete the registration of the Chinese medicine functional sector as soon as possible, so as to enable the Chinese medicine sector to vote in the functional sector. We will certainly support this idea.

Lastly, about the reimbursement of election expenses on the basis of polling rates, we will abstain from voting. My colleagues will give a detailed explanation later on.

Madam President, I so submit.

MISS CHRISTINE LOH: Madam President, at last we are seeing that the gloves are off. It is now clear that Hong Kong is going through the real political transition.

Today, we find out that two Members withdrew their amendments to the Legislative Council (Amendment) Bill as the Legislative Council starts to debate the Bill. Of the many amendments proposed by other Members, including myself, I believe that those two amendments had enough votes to pass.

Why would they therefore give up their amendments? Well, I really do

not know. They have explained themselves, but I am still at a loss. But what we do know is that they were approached by members of the Government at the last minute, proposing to take over the amendments. Up until then, the Government was vehemently against the amendments. I am sure that many Members, Madam President, have received lobbying documents in which the Government has gone into details about every aspect of why it was against those amendments.

I suspect that the Government made its eleventh hour proposal because it did not want any Member to succeed in proposing Members' bills or even amendments. As the Government believes that Article 74 of the Basic Law does not permit Members to raise bills and even amendments that differ from its policy, if it were to allow any amendment to actually pass, presumably the Government would feel that the Basic Law would have been breached.

Well, then what? Would the Government then ask the Court to make a ruling on whether the Basic Law had been breached? And, if it does not like the Court's ruling, then what? Go back to the Standing Committee of the National People's Congress to get an interpretation so that we know in this Council what we can and cannot do?

Madam President, you know that the Government has offered to take over my Protection of the Harbour (Amendment) Bill, to which I am waiting for your ruling as to whether I can raise it on the floor of this Council. I am, of course, interested to get the Bill passed to help save the harbour from excessive reclamation, and it would be done better if the Government was to take over the Bill. I have always suspected that there is a hidden constitutional perspective to the Government's offer to me.

How ironic, Madam President, that it was going to be this morning that I would have met the government officials to discuss whether I agree to allow them to take over the Harbour Bill. But because of your decision to advance today's meeting to 9 am, I have to delay that particular meeting. With what has happened today with the amendments by the Honourable Eric LI and Dr the Honourable LEONG Che-hung, things have become ever more clear.

Members are understandably upset with what has happened, because of course, we are protective of the little powers that we do have in this Council. This is all I wish to say at this stage. I only want to record that I am incredibly upset with what is happening, and with the tactics of the government officials. Perhaps they feel that politics is dirty and therefore, they are entitled to play

around with the rules to get what they want. But may I repeat, if what the Government is trying to do is to make sure that no Members' amendments will pass, what it is really trying to do is to bend the rules. I will address the Committee stage amendments, including the one that I want to move at Committee stage.

MISS EMILY LAU (in Cantonese): Madam President, on behalf of the Frontier, I oppose the Second Reading of the Legislative Council (Amendment) Bill 1999.

Madam President, ever since I ran in the direct elections of the Geographical Constituencies (GCs) of the former Legislative Council in 1991, I have been advocating that our legislature and our Chief Executive should be returned by direct elections based on "one person, one vote". I ran three times in GC direct elections, and these elections took many different forms: The single-seat system, the double-seat system, the block list system and so on. But invariably, I got a very strong message from electors: Most people support, or want to see, a government returned by full direct elections. I am sure that if we were so fortunate to be able to have a referendum on this matter several months later, most people would definitely vote in favour of full-scale direct elections. Unfortunately, Madam President, as you and I know, we are not going to have any referendum. This so-called executive-led government of ours has strangled the right of the people to pursue a democratic political system.

Why do we in the Frontier oppose this Bill? Because the Bill's amendments specify that only 24 out of the total of 60 seats in the Legislative Council shall be returned by direct elections. That is why we will oppose both its Second and Third Readings. I am sure that this is a bill abhorred by the people of Hong Kong.

Madam President, one of the most significant reasons why we oppose this Bill is that it is a downright violation of Article 25 of the International Covenant on Civil and Political Rights (the Covenant).

Madam President, in July 1995, the United Kingdom submitted the fourth periodical report to the United Nations Human Rights Committee on behalf of the then colonial administration of Hong Kong. It was pointed out at a hearing of the Human Rights Committee that the elections of the then Legislative Council (basically Functional Constituency (FC) Elections and Election

Committee Elections) were not in line with the requirements prescribed in Article 25 of the Covenant concerning the right to participate in public life. The British Hong Kong Administration at that time advanced the sophistry that when the United Kingdom started to apply the Covenant to the colony of Hong Kong, it already made a saving on this particular Article. However, Madam President (I believe the Secretary will also have to admit that the Human Rights Committee did not actually accept such sophistry), the Human Rights Committee commented that if there was going to be no election forever, well, people might well have no alternative but to put up with the saving clause. But the Committee added that once elections based on the system of "one person, one vote" were introduced, the whole thing should be implemented in earnest, so that eventually the people of Hong Kong could elect their own representatives through popular and equal elections based on this very system. So, as we can see, such were the comments made by the Human Rights Committee as early as 1995.

Madam President, the Government has recently submitted another report to the United Nations. Precisely, the report was submitted a few months ago, and hearings have not yet started. We have learnt that the hearings of this year may start a bit later than usual, and they may even be held as late as March next year, in New York. In this report, the Government admits that the Human Rights Committee did criticize it for violating Article 25 of the Covenant. But the Government also insists that it does not agree to the views of the Human Rights Committee. We find it very difficult to accept the argument of the Government. Madam President, who should be the highest authority of interpreting the human rights covenants of the United Nations? Naturally, the Human Rights Committee of the United Nations should be the highest authority. But despite its repeated criticisms that the electoral arrangements in Hong Kong are in breach of the Covenant, the Government still adopts a "could-not-care-less" attitude in the report. It even says that it is in the right, and that it has not done anything wrong at all. Since the Government has virtually turned a deaf ear to the criticisms of the Human Rights Committee, we cannot help wondering whether the Government is really sincere in implementing the Covenant. Is the Government really willing to allow the Human Rights Committee to monitor the human rights situation in Hong Kong? Madam President, the behaviour of the Government in this respect should be severely condemned.

Madam President, why do we so strongly oppose elections based not on "one person, one vote"? Madam President, I believe that you also know that many such elections are coterie elections. These coteries are indeed incredibly small. How small are they? For some, as Mr Ambrose CHEUNG and Dr TANG Siu-tong know their coteries — but there are none this time and they will be deleted next time — are indeed very, very small, each comprising just a few dozen electors. Let us just look at the electorates of the FCs in the election held last year: 132 electors for the Heung Yee Kuk; 165 for the agriculture and fisheries sector, to which our Honourable WONG Yung-kan belongs; 96 for the insurance sector, to which the Honourable Bernard CHAN belongs; 137 for the transport sector, to which the Honourable Mrs Miriam LAU belongs; and, 207 for the finance sector. Madam President, there were altogether 837 electors in the five functional constituencies mentioned above, and these electors elected five Legislative Council Members. The New Territories East, to which Miss Cyd HO, Mr Andrew CHENG, Mr LAU Kong-wah, Mr Andrew WONG and I belong, also returned five Legislative Council Members. But there were 1.37 million residents in the New Territories East, and 590 000 of them were electors. Madam President, there were five Legislative Council Members for 590 000 electors, but then there was also the same number of Legislative Council Members for just 837 electors. Besides, in some cases, there was not only "one person, one vote", but also "one company, one vote". Madam President, I am sure you can still remember that the system of corporate votes was once adopted during the colonial era by the British Government. Even so, however, they were abolished during the governorship of Christ PATTEN. Now, the Government of the Special Administrative Region (SAR) has "revived" such a system. The system of corporate votes has made more and more people think that some rich people who control many companies can in fact control many votes. Late last year, the Hong Kong Human Rights Monitor conducted some studies and compiled a report on the Legislative Council Election held last year. They looked briefly at a number of real estate tycoons: WONG Chi-cheung of the Sino Group, KWOK Ping-sheung of Sun Hung Kai and Peter WOO of the Wharf (Holdings) Limited. They also looked at the companies controlled by these tycoons. They noticed that WONG Chi-cheung controlled some 10 companies, and all of these companies were registered. In other words, WONG Chi-cheung had more than 10 votes. Besides, WONG also had several votes in the Election Committee and the tourism industry. So, when all these votes were added together, he had as many as 41 votes. In the case of KWOK

Ping-sheung of Sun Hung Kai, he had some 10 votes in the real estate sector, several votes in the transport sector and several other votes in the Election Committee. So, he had at least 31 votes, even without counting the votes his hotels had in the tourism sector. In the case of Peter WOO, who wanted to become the Chief Executive, he had several votes in the real estate sector and several other votes in the transport sector. So, when other votes were counted, he had totally 17 votes. I am sure that the figures given by the Hong Kong Human Rights Monitor are definitely an underestimation of the actual situation. So, why do our executive authorities still want to implement such unfair electoral arrangements, under which most people can each have only one vote, while those real estate tycoons who own billions of dollars may each have 20 votes, 30 votes, 40 votes or even more? How can the people of Hong Kong support such electoral arrangements? We in the Frontier must express our strong protest; we oppose such electoral arrangements.

Madam President, we have looked at these electoral arrangements, and we also notice how people look at this legislature. If ever people discover that some Members were returned by elections of this kind, how can they have any respect for this legislature, and how can they support or trust these Members? Of course, we know that the Chief Executive, Mr TUNG Chee-hwa, would never want the people to trust or respect this legislature. And, we also know that he has been doing his utmost to belittle this legislature.

Madam President, last week, I mentioned the list of precedence in the SAR. In this list, the President of the Legislative Council ranks seventh, that is, after the convenor of the Executive Council, and the ranking of Legislative Council Members is very, very low. However, if we look at the similar list of the Hong Kong Government before the handover of sovereignty in 1997, we will see that the ranking of Members of the former Legislative Council was very high, just after Members of the then Executive Council. Just after one or two years, that is, right after the change of sovereignty, why do the executive authorities led by Mr TUNG Chee-hwa now want to downgrade the Legislative Council so very much, Madam President? I do not intend so much to assert the status of the Legislative Council here, but I must say that in Hong Kong, this legislature is the highest representative assembly of public opinion. Why does the TUNG Chee-hwa syndicate want to kick us down to the bottom ranks of the list, from a position behind the former Executive Council (bearing in mind that the former

Executive Council was also not elected by the people)? If we look at the list at that time, that is, the list during the colonial period, we will see that judges of the High Court ranked thirteenth, and Policy Secretaries, now called Bureau Secretaries, ranked eighteenth. But after the change of sovereignty, their rankings have all been greatly elevated, and they now all rank higher than us. Other matters aside, Madam President, I think this alone can already show that to Mr TUNG Chee-hwa, this Council is really nothing compared to his wealthy apologists. That is why our ranking has been dropping. The list is very enlightening indeed. From it, we can see how the executive authorities look at the status of those people.

Madam President, I am sure that we all know only too well how the Chief Executive despises us, how he has tried to belittle us. He is willing to come to this Council only three times a year to answer Members' questions. In the past few months, many unexpected events occurred, and Members were deeply worried and extremely anxious as a result, because these were all emergencies. We, Members in the democratic camp, asked to meet the Chief Executive many times, but we could not meet him even once. People may say that the Frontier is just too small, too insignificant, but even a big political party like the Democratic Party, which is the biggest party in the Legislative Council, also failed to meet Mr TUNG Chee-hwa. What we could do was just to wait, until Mr Michael SUEN had the time to meet us. Besides, Madam President, as you may also be aware, we have been talking about one thing recently: It seems that it has never occurred to Mr TUNG Chee-hwa that when Beijing leaders visit Hong Kong, he should arrange some meetings between them and Members of this Council, so that they can discuss matters of common concern. And, many of our Honourable colleagues cannot even go to the Mainland, because they are not issued any home-visit permits. I have personally raised this matter with Mr TUNG Chee-hwa, questioning him whether he had advised China not to let us in. The reason for my asking this question is that he once remarked that we were against China on all matters.

Madam President, if the Chief Executive really looks at the directly elected Members of the Legislative Council in this way, is it then all wishful thinking to count on him as a person who will lead and assist in the democratization of Hong Kong?

Madam President, we Members in the democratic camp are the eyesores of Mr TUNG Chee-hwa and Beijing leaders. But Madam President, this will not change our ideals, our principles, and we will definitely do our utmost to fight for a democratic political system. For this reason, we in the Frontier are extremely angry today, because such a bill is now put before this Council for voting. For most Members, their interests are at stake because they are not returned by "one person, one vote". So, it is only natural that they do not want to introduce such a system. Perhaps, they are fearful of such a system — I really do not know. In any case, they will never approve of such a system. A moment ago, Mr LAU Chin-shek referred to a Harvard University forum held last month, in which Mr Michael SUEN remarked that the Legislative Council had repeatedly failed to reach any consensus on this matter. Madam President, of course, there can never be any consensus, because these Members are in effect asked to vote for the deletion of the seats held by their respective FCs. So, how can they be willing to do this? This is indeed sophistry, but the Secretary for Constitutional Affairs has still presented it to foreign visitors, telling them that the Legislative Council has so far failed to reach any consensus after many discussions. The Secretary even remarked that the political groups in Hong Kong were not well-developed at all, that they needed more time to develop themselves, and that if ever they can achieve any progress at all in 10 years' time, one should be very pleased already.

Madam President, perhaps, we are really not yet well-developed. But how can we become well-developed? Madam President, the answer is precisely that we must put in place an electoral system. In the absence of an electoral system, how can any political group become well-developed? If we look at some countries where there has never been any electoral system, we will see that if elections are suddenly held, dozens and even hundreds of political parties may emerge. So, if the development of electoral systems is persistently stifled, how can we become fully-developed?

Madam President, finally, I wish to raise one more point. Some people say that Hong Kong is indeed very lucky, because in contrast to neighbouring countries, we possess many types of freedom, including the freedoms of speech, religion and assembly. It is said that we have much more freedom than others.

Is this really true? Maybe, this is true, but Madam President, we do not have the most important type of freedom — the freedom to elect our own government. In other countries, perhaps because the people have the freedom to elect their own governments, there may thus be a need to impose various kinds of control on them. In Hong Kong, however, just one kind of control is enough. Since the people of Hong Kong can never have the freedom to elect their own government, what big problems could there be, even if they were allowed to speak whatever they like? And, the authorities may not even bother to arrest anyone for speaking out freely. But in the final analysis, such freedoms are largely meaningless.

Madam President, when it comes to the vote today, we will absolutely not cast any vote on those parts relating to FCs, because we simply do not endorse the proposed classifications of functional sectors. That said, we will still support the proposals on "one person, one vote" put forward by Members belonging to the Democratic Party. But the Frontier will oppose the Second Reading and Third Reading of the Bill. Thank you, Madam President.

MR CHAN WING-CHAN (in Cantonese): Madam President, our electoral and political systems are all drawn up in accordance with the Basic Law. The views expressed by some Members just now are frequently heard in this legislature, and they are thus well-known to us all. For this reason, I do not intend to respond to all these views.

The Legislative Council Ordinance was enacted by the Provisional Legislative Council. Since the term of office of the Provisional Legislative Council was very short, lasting for only one year, it had to do a "rush job" when it dealt with the bill. Similarly, the term of office of the current (the first) Legislative Council is almost as short — just two years, it also had to do a "rush job" when scrutinizing the Legislative Council (Amendment) Bill 1999. Also, because the Bill involves the more controversial issue of restructuring the municipal organizations, the scrutiny of it could only be completed after 23 meetings. I believe that the Bill will eventually be passed by this Council, but a longer time may be required. And, perhaps, the time taken may well make a new record again.

Here, I must say a word of praise to the President. Madam President, you should be praised for your foresight. Under the original schedule, this meeting may well run for four days (on 14 July, 15 July, 16 July and 19 July (Monday)). But for the first time in the history of this Council, you have given

permission for a Council meeting to be held on a whole-day basis, from morning to night. So, hopefully, this meeting will finish within three days. But, even if the meeting cannot finish within three days and must be continued on the coming Monday, I will still attend it until the end.

Madam President, before the reunification of Hong Kong with the Mainland, the political sub-group of the Preparatory Committee already worked out some specific proposals on the composition of the first Legislative Council of the Hong Kong Special Administrative Region. In particular, it made a series of proposals on the arrangements for various functional sectors, including the catering sector. Then, during the time of the Provisional Legislative Council, I also made very vigorous attempts to advise the Secretary for Constitutional Affairs that a seat for the catering and hotel sector should be created in the first Legislative Council of the Special Administrative Region, so as to ensure that the views of the sector can be represented in the Council. But in the proposal subsequently submitted by the Government, the sector was not included in the composition for the first Legislative Council. This disappointed the sector for quite some time.

This time around, taking the opportunity provided by the reorganization of the three tiers of representative government, the Government has proposed to include the "catering sector" in the list of functional sectors constituting the Legislative Council. Our sector, that is, the catering sector, is extremely pleased and encouraged. I welcome and support the proposal of the Government, and I also hope that colleagues of this Council will render their support too. Actually, the catering industry has a workforce of 200 000 people, and there are more than 9 000 restaurants and food establishments in Hong Kong, operating a wide range of food businesses. So, it can be said that this industry has extensive influence in Hong Kong (especially in terms of employment of workers).

From the ancient times to now, whether in western or eastern societies, food-related businesses have always been one of the main economic activities in the market. The Chinese people often say, "Food is as important as heaven". Hong Kong, in particular, is a place where both the Chinese and Western cuisine traditions are blended in perfect harmony. Many of its people are engaged in the catering and food services, and it enjoys a reputation as being a "Gourmet's Paradise", a "Gourmet's City". So, if a seat for the "catering functional sector" is really created in the Legislative Council to further promote and

improve the catering industry, the tourism industry will certainly be given a very positive boost in its development.

Although many restaurants and food establishments have closed down over the past two years as a result of market downturn, we can still see that in the foreseeable future, as our economic conditions turn better, and as our different trades and industries gradually recover, the catering industry will bound to see yet another boom. When this happens, the number of workers it can employ will increase, and many will join this industry, either as old hands or novices. But I must point out that as an industry supporting the local services industry, the tourism industry and the hotel industry, the catering industry must still try to regularize its development. The Government has finally realized the social function of the catering industry and made it one of the functional sectors constituting the Legislative Council; this is not only the result of community-wide recognition, but also an important starting point for the development of the catering industry.

Under the Mandatory Provident Fund Scheme due to be implemented in the SAR late next year, "trade funds" will be set up for both the construction industry and the catering industry. This shows that the problems in these two industries have aroused the concern of the Government. Nevertheless, as an age-old industry, the catering industry is still marked by many old practices which must be regularized. For example, there is an absence of any reasonable leave system for its employees, and some even do not have any leave the whole year round (This is the case with only a handful of employees). Employees who want to take leave have to hire "stand-ins" at their own expenses. Such practices have not only resulted in a high staff wastage rate, but have also affected the manpower quality of the entire industry. Therefore, there is indeed a need to include the catering industry as one of the functional sectors constituting the Legislative Council.

Madam President, when it came to the discussions on including the "catering sector" during the course of scrutinizing this Bill, some Members looked at the sector as a new functional sector, and as a "delicious dish". It looked as if they had already put on their napkins, and as if already holding their forks or chopsticks, they expressed a desire to eat a big meal, to get themselves a share and even to get the whole thing. Madam President, I will speak on how I feel about their reaction at the Committee stage, and I will also comment on the amendments proposed by some Members then.

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

DR TANG SIU-TONG (in Cantonese): Madam President, very briefly, I wish to express my discontent about the Legislative Council (Amendment) Bill 1999, which seeks to delete the Legislative Council seats held by the two Municipal Councils.

Mr CHAN Wing-chan said that many people want to eat a big meal. I think these people are right now giving serious thoughts to the matter, and I also think they do have a chance. The only thing is that we do not know who will eventually be able to eat the meal.

In the three tiers of representative government in Hong Kong, the two Municipal Councils are the most representative tier, and they are vested with concrete policy-making powers on municipal services. As revealed by recent opinion polls, 74% of the people of Hong Kong agree that the two Municipal Councils should be merged and allowed to continue to take charge of municipal services. Besides, 86% of the people support the idea that the delivery of municipal services should be overseen by an elected council, and that such a council should also formulate the relevant policies. Hence, it can be seen that the continuation of the two Municipal Councils and the retention of their seats in the Legislative Council are in fact supported by public opinion. For this reason, I oppose the deletion of the Legislative Council seats held by the two Municipal Councils as proposed by the Government in the Legislative Council (Amendment) Bill 1999, and I will not support any amendments moved by Members on how to deal with the seats so vacated.

The Government has so far offered only one reason to explain why it has proposed to delete the Legislative Council seats held by the two Municipal Councils: Since the two Municipal Councils will be dismantled on 31 December 1999, their seats in the Legislative Council should not be retained any more. This shows that the proposed deletion of seats is not caused so much by the failure of the two Municipal Councils to fulfill any functional sector requirements, but by the need to complete the tidy-up work necessitated by the forcible act of the Government to "kill" the two Councils. Madam President, I do not intend to debate the meaning and significance of retaining the two

Municipal Councils here. But I must draw Members' attention to one point: The Provision of Municipal Services (Reorganization) Bill, which will directly determine the retention or otherwise of the two Municipal Councils, is still being scrutinized. Its Second Reading has yet to resume, and it has not been passed. So, even if we discard all political considerations and look at the matter from the perspective of pure logic, Members simply should not surrender their voting rights to the Government "in advance", before they themselves have reached any agreement and voting decisions on the retention or otherwise of the two Municipal Councils. We simply should not act so unreasonably today and delete the seats held by the two Municipal Councils "in advance". This is obviously unfair to the members of the two Municipal Councils.

With these remarks, Madam President, I oppose the Legislative Council (Amendment) Bill which seeks to replace the seats held by the two Municipal Councils, and I also oppose all related amendments.

MR AMBROSE CHEUNG (in Cantonese): Madam President, I rise to speak today with the purpose of opposing the Second Reading and Third Reading of the Bill. As pointed out by quite a number of colleagues, two years into the reunification of Hong Kong with the Mainland, we now notice many aspects of retrogression in the metropolis of Hong Kong: retrogression in its economy, people's livelihood, democracy and the rule of law. What have actually gone wrong? I suppose the Government should really think about all this very seriously. Frankly speaking, I have got many reservations about the various administrative measures taken by the Government. With respect to its attitude towards the Legislative Council, as rightly pointed out by many Members, it simply does not respect the constitutional status conferred on the Legislative Council by the Basic Law. As a result, the Legislative Council has failed totally to go about its work owing to its structural constraints and the problems plaguing its relationship with the Executive Council. Against such a background, the Bill today is really yet another example of the ungentlemanly and infamous administrative acts of the Government. I shall raise three points to substantiate my argument.

The first point concerns the matter of procedures. As clearly pointed out by Dr TANG Siu-tong a moment ago, the Bill seeks to transfer the two seats currently held by the two Municipal Councils to the catering sector and district councils. But in terms of procedures, this involves a pre-assumption which

may lead to problems. The legislation on restructuring the municipal organizations has not yet been enacted, and it is expected that the voting on this matter will not be held until October this year. Judging from the current progress, we can foresee that many practical problems will emerge one after another in the interim. These problems are not confined to food safety, and the Government should be well aware of the many voices of discontent about the administrative framework for sports development. I can foresee that for the arts and culture, people will probably continue to fight for their cases in the review on district organizations. The reason is that this is going to be the one and only one chance for the culture, arts and sports sectors to fight for reforms from the Government. However, at a time when people are still debating the relevant legislation, the Government has already asked us to endorse the transfer of seats under this Bill, on the assumption that the two Provisional Municipal Councils will definitely be dismantled. This is indeed a reflection of the executive-led mentality of the Government. It is of course good for the Government to have confidence. But it should have adopted a better approach. It should have respected the current legal and constitutional arrangements and retained in the Bill the two seats held by the two Municipal Councils until October, when the bill on reorganizing the Municipal Councils is discussed. It is only when the legislation is really passed, and when there is a consequent need to dismantle the two Municipal Councils, that amendments should be made. This is the only legal, logical and sensible procedure to follow. This is my first point.

My second point is that the Government has set a very bad precedent; it has also requested all our colleagues in the Legislative Council to side with it and support such a bad precedent. What precisely is this bad precedent? The bad precedent is that for the first time during a term of office of the Legislative Council, the Government has requested the Legislative Council to delete some of its seats (which in the present case belong to the functional sectors of the two Municipal Councils) in the middle of its term. This means that the representativeness of these seats will also be gone. In the present case, the seats will be deleted on and after 31 December. And, the Government has tried to "package" the deletion by saying that the seats concerned will not really be deleted in actual effect. It explains that though these seats no longer represent any electors, the register of electors may still be there. In other words, though the two Municipal Councils will no longer exist, the register of electors comprising the 100 Municipal Council members will still be there. So, even if the Members concerned no longer represent the two Municipal Councils, they

can still represent those 100 former Municipal Council members on the register. Therefore, the Members concerned can continue to serve through the current term of office of the Legislative Council. However, if the seats they hold are left vacant, either voluntarily or otherwise, no by-elections should be held. The reason is that since there is no longer any representativeness or actual use, there is no point to conduct any by-elections. But I must say that the retention of the Members concerned is nothing but a show put up by the Government. This is a bad precedent. With such a precedent, the Government will be able to "axe" any seat in the Legislative Council even before a certain term of office comes to an end.

This leads to my third point. The proposal is in breach of the Basic Law, and I would even say that it violates the spirit and legal basis laid down in the Basic Law. This violates the Basic Law in two ways. First, if I remember it correctly, when the Preparatory Committee finalized the composition of the first Legislative Council, it stated very clearly that there should be 30 seats for FCs, and these 30 seats should be returned by elections held in 28 functional sectors, two of which should be the two Municipal Councils. This is the composition of Legislative Council laid down in the Basic Law, and the Basic Law also sets out very clearly that the two Municipal Councils shall hold seats in the Legislative Council as functional sectors.

These seats in the Legislative Council should be constituted by three essential elements: first, the seats themselves; second, the representatives holding these seats; and, third, electors. This means to say that if these three elements are missing, one can say that these seats no longer exist in the Legislative Council in the real sense. If we look at the Legislative Council Bill proposed by the Government, we will see that the Municipal Councils will cease to exist on 31 December this year, and there will be no electors. And, before or after 31 December, if the Members of these two functional sectors leave the Legislative Council, either voluntarily or otherwise, even the representatives will be gone. Besides, the Government says that no by-election will be conducted on 1 January. This means that there will not be any representatives any more. But then, the Government says that even though there are no representatives and no electors, the seats left vacant are still there, and so are the functional sectors concerned. In this way, the Government thinks that the requirements of the Basic Law can be satisfied. I will certainly continue to argue with the Government on this point, because I am of the view that this violates the spirit and legal basis laid down in the Basic Law. The second point

also violates the Basic Law. Article 39 of the Basic Law states very clearly that the International Covenant on Civil and Political Rights (ICCPR) will apply to Hong Kong. And, Article 25 of the ICCPR gives every Hong Kong citizen the right to participate in public services. And, through the relevant literature, Article 25 of the ICCPR also explains very clearly what this right is all about. This right can be analysed at two levels. The first level involves the scope of participation, which should cover the legislative assembly, the executive authorities and political affairs. The other level covers the context of such participation — international, national, district and regional. Actually, before the implementation of the Basic Law, that is, before the reunification, this right was already exercised in Hong Kong through the two Municipal Councils. And, how exactly has this right been exercised? The answer is that within the scope of municipal services, the two Municipal Councils have been operating as financially autonomous bodies responsible for the formulation and execution of municipal services policies. The two Municipal Councils have been performing these two functions, and the people have been able to participate in the formulation and execution of municipal services policies by electing their own representatives through direct elections. This is the right to participation enjoyed by the community as a whole. Such was the situation even before the reunification. Now, after the reunification, the Government has put forward a proposal which will in effect abolish such a right. This is a violation of Article 25 of the ICCPR; the right of the people to participate in public services will be gone, because such a right will no longer be found in any representative assemblies. Neither the Legislative Council on the top nor the district boards at the bottom can give expression to such a right since they are just advisory and monitoring bodies. And, the tier which is actually responsible for the formulation of municipal services policies is going to be removed. This is actually a means of taking away the people's right to participate in public services, proposed both by the governments before and after the reunification.

To be honest, are we really trying to defend our own seats in the Legislative Council, as was mentioned by Miss Emily LAU? Absolutely not. Let me emphasize once again (for I have said this many times before) that our aim in the review on district organizations is simply to fight for a streamlined system which is more democratic and rationalized. On this basis, if the Government is going to tell us that the two Municipal Councils can either be retained or merged I mean, even if this will also result in the deletion of our seats in the Legislative Council, we are still prepared to conduct discussions. What we are trying to defend are not our seats in the Legislative Council, but a

democratic system which can enable the people to participate in public services through the representatives they elect. Participation in public services actually involves two matters: the availability of political talents and training and exposure. Training and exposure in turn involves two matters: First, consultation and political discussions, and second, policy formulation. Some political groups hope that they can gradually become ruling parties. This is only natural and healthy as a development. But they must note the two matters involved.

Once the two Municipal Councils are dismantled Well, the district boards which are left behind are mere advisory bodies offering no training and exposure on policy formulation, and the Legislative Council also does not offer any such training because it is just an organization responsible for monitoring the Government and providing checks and balances; it offers no training on policy formulation too. The two Municipal Councils are the only representative assemblies which encompass consultation, policy formulation and execution, monitoring and comprehensive training for political talents. If the Government is politically liberal, if the Government is not even more conservative than the Central Government, it should then consider the idea that even if it is to dismantle the two Municipal Councils, it should still implement another political model called regional administration. This is what such a model should be like: Fine enough, even if Hong Kong really insists on a two-tier system of representative government by doing away with the middle tier of the two Municipal Councils, but it should still form five major regional assemblies by integrating the 18 district boards with the five Geographical Constituencies of the Legislative Council. These regional assemblies can then move gradually in the direction of regional administration, and real powers can be given to them, to enable them to formulate and execute policies. That way, a retrogression in democracy can be avoided; people will be able to manage their own affairs, and there will be public accountability. This is particularly necessary when our Government is not elected by the people. So, we must move in this direction. If the current three-tier system is not good enough, a two-tier system can be considered. But in any event, the two-tier system proposed by the Government is not advisable. Thank you, Madam President.

MR RONALD ARCULLI: Madam President, I rise to support the Second Reading of the Bill before this Council and I speak on behalf of the Liberal Party. There are several issues that I would like to deal with, and the first is the

amendment put forward by the Honourable Howard YOUNG regarding the splitting of his Functional Constituency (FC) into two FCs, and that is, the hotel industry and the tourism industry in two separate FCs.

There was also a proposal put forward by myself for splitting the real estate part of my FC from the construction side, and likewise, my colleague, the Honourable Edward HO, had sought to do something similar when we were before the Bills Committee. But suffice it for me to say that when each of us did this, we were in full realization that as far as the Liberal Party was concerned, the Party's position was that it could not support any of the three requests, but nonetheless, we were given exemption to put forward the proposals before the Bills Committee. Mr Edward HO and myself together with our constituents decided that when not having got adequate support on our proposals, we would not pursue the attempt to secure an additional seat for each of them. Of course, the difficulty would have been that if all three of us have put forward proposals for splitting them, we would necessarily be voting against each other. So that is why from the outset, the Party's position was that it would in fact abstain, should any one of us put forward such a proposal.

For the second point that I would like to deal with, I did not mention it in my capacity as Chairman of the Bills Committee, but I would like to mention it now and it is about the Election Committee and the concern of the Bills Committee regarding the Election Committee under Annex II and the Election Committee under Annex I of the Basic Law. What has not surfaced, Madam President, is that we did discuss at the Bills Committee the concern that some of us have and this was shared by Members of the Liberal Party. If the amendment in the Bill today embraced or stated clearly that the Election Committee to elect the six Members for this Council next year was to be the same as the Election Committee that would select the Chief Executive in the year 2002, unwittingly, we might be creating a body which would or might have a fairly influential role to play in the formulation of government policy and even other aspects of Hong Kong activities. Seeing that its particular task was only to really select the Chief Executive in the year 2002, some of us thought that such a concern was legitimate.

I do not know why the Government did not in fact take on this argument but simply said "Do not worry, we will produce an Election Committee in due

course for the election of the Chief Executive that will not be inconsistent or that will comply with Annex I to the Basic Law." Be that as it may, that is really one of the reasons why we are in a position as a Party to actually support the composition and the formation of the Election Committee in its present form.

The next point, Madam President, concerns advance polling. We have in fact had long discussion on this, and if I remember correctly, advance polling was in fact one of the points that would have been raised by some of us in this Council prior to the Bill being brought forward. It was only when the Bill was brought forward to the Bills Committee that we really launched into fairly detailed consideration of it, and we were concerned with the exit poll or the releasing of the result of the exit poll. Although we did look at the situation regarding other countries that have advance polling, we could not, as it were, get over our concern that where you have FC Election on the same day, with exceedingly limited number of voters, even 50 or 100 votes in any given constituency, if in fact there was an exit poll conducted, the possibility of an exit poll would be relatively high. This is simply because although the Government did not make their minds up finally, they had initially thought about only having one polling station. If we have one polling station, it is very easy to actually solicit the views of voters going in and out of that station on one day of polling.

It really was our concern for the fairness and the level playing field of an advance polling that we ask the Government to reconsider the position. That having been said, we also expect the Government to give full consideration to see whether this concern can be overcome, and if it can, we would expect the Government to bring the proposal of that advance polling right back to the Legislative Council in due course.

Members of the Bills Committee indeed on this occasion spent 23 meetings looking at every aspect in great detail. Some of the amendments

adopted by the Government, in fact, were brought forward by members of the Bills Committee, for instance, the change of *ex officio* members of the Election Committee. When in due course there was disqualification on the election of one of our Members in the Council today, why would the non-Legislative Council Member remain on the Election Committee when another new member came in? That was one of the things that the Government decided that it was reasonable and took on.

The other one was the deletion of a provision in the Bill that provided for a revision of candidate list for Geographical Constituency (GC) Election. On probing, we found out that there are some parties which are able to put forward reserve candidates. In other words, if you have a GC comprising five seats, they would put forward seven members in numerical order. Nos. 1 to 5 will go onto the list. But if for some reasons, candidate No. 4 either dropped out or is disqualified, the Returning Officer could put No. 6 onto the list. We felt that this was not right. The Government accepted the Bills Committee's argument and in fact decided to change that.

On the FC Election, again, there is concern that generally the case is that there are two candidates on a FC. If, for instance, one of the two candidates died or was disqualified, the remaining candidate would in fact be elected and this was a situation that prevailed in the original Bill where this event arose after closure of nomination. What we will ask the Government to do is that if before the polling day, this event happened, there would be a by-election declared for that particular FC.

Madam President, that is why it makes us all the more puzzling as to why the Administration wanted to take on the Honourable Eric LI and Dr the Honourable LEONG Che-hung's amendments. Those two amendments are generally in fact far less controversial than some of the amendments that the Government has taken on. Mr Eric LI would be going ahead with his amendment and I wish him luck, because we will be supporting him in that amendment. Dr LEONG Che-hung has withdrawn his. Indeed, I asked a question earlier as Chairman of the Bills Committee and I hope that the Secretary for Constitutional Affairs would give us an answer. My question is that will the Government, in fact, bring an amendment bill to this Ordinance to include Chinese medicine practitioners as part of the Medical FC, assuming of

course that Dr LEONG's attempt to seek a separate FC for them is unsuccessful? Will the Government bring a bill like this back to us, say, in October? They have already drafted it. Perhaps they should not waste all their time and effort in seven pages, in both English and Chinese. And I am quite sure that it is consistent with Hong Kong's desire to develop Chinese medicine as a world renowned centre. That would not be a bad thing. In fact, it would be a good thing if they were represented in this Council.

Madam President, before I sit down, I would like to make a few comments on what the Honourable Miss Emily LAU said about FCs. All of us know that Miss Emily LAU has her sort of hobbyhorse and some of us respect her for holding such passionate and strong views to the extent that she has castigated particularly against my FC in this respect. But in her fair mindedness, I am happy to say that at least, despite the fact that she thinks that I should not here, I am here and am working with her, she treats everything as business. She is very professional and she is business-like. She deals with all of the representatives of FCs in this Council despite her passion, and I think this is fair and this is the way to go. In terms of the democratic development that Hong Kong is going through, I think that we have heard of this discussion time and time again. I do not think that it is going to be an easy problem to solve. It is going to be difficult. And indeed, Miss LAU anticipated that how representatives of FCs would be expected as it were to vote themselves out of office, particularly when there are 30 of us. But there we are, I think all I can say is that hopefully, Members of this Council pay attention not just to the interests of their own constituents or their own voters, although that is in fact the way of politics. I am quite sure that if we were to take a large chunk of New Territories East back to put it with the airport there, the five members from that particular GC would fight fairly and squarely to block that attempt. That is the way of politics and that is the way how representatives in the Parliament do represent their voters' interests. Nonetheless, I am quite sure that the overall interest of Hong Kong is also a consideration that will raise in their minds when they consider what to do.

With these words, we support the Second Reading of the Bill.

MR FUNG CHI-KIN (in Cantonese): Madam President, the Hong Kong

Progressive Alliance (HKPA) supports the Legislative Council (Amendment) Bill 1999 as a whole. In order to help enhance efficiency, I will speak on the stance of the HKPA in relation to several points we have discussed.

The Legislative Council (Amendment) Bill 1999 is the legal framework formulated to facilitate the smooth conduct of the Legislative Council Election. It is therefore of utmost importance to the realization of the principle of "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". As such, the amendments introduced in the Bill merit our attention and discussion.

Two years into our reunification with China, the democratic development of Hong Kong is still at its inception stage. Hence, the Government should make use of all feasible means to actively encourage voters to take part in elections. The HKPA believes that allowing candidates to conduct canvassing activities on polling day could help spice up the atmosphere of election, thereby giving voters a greater impetus to vote. As a matter of fact, canvassing on polling day has never been banned since election was first introduced to the legislature, while the polling days we have had so far were all in good order. Besides, it is worth noting that in the United States and many European countries where democratic elections have been practised for a great many years, canvassing on polling day is not forbidden in any way. So long as the canvassing activities will not affect the fairness of the election concerned or pose any nuisance to voters, and provided that such activities do not violate any of the election rules and regulations, the SAR Government should continue to allow candidates to conduct canvassing activities at any time and in any manner as they consider fit.

Madam President, while the impartiality and fairness of elections must be

ensured, we must also strive to satisfy the public that the elections are actually conducted in an impartial and fair manner. In relation to the issue of advance polling, concern over the disclosure of the results of advance polling exit polls has been expressed by the Government, certain Honourable Members of the Council, as well as some members of the public. In addition, they have also expressed concern over the influence of exit polls on the voting inclinations of voters, which may in turn impact on the impartiality and fairness of elections. For these reasons, the HKPA holds that the proposal should be shelved until the Government could come up with appropriate solutions to the problems arising from advance polling.

With regard to the system of proportional representation, the HKPA agrees very much that while electoral systems should evolve with the needs of the times, proportional representation is still a system comparatively more suitable for Hong Kong at the present stage. According to the arrangement provided for under the Basic Law, the number of Members to be returned by geographical constituencies will increase gradually. Taking into account the arrangement whereby several Members will be returned for a single geographical constituency, implementing the system of proportional representation will help to avoid the need for frequent substantial amendments to the demarcation of constituencies. Otherwise, confusion might be caused to voters, thereby rendering them at a loss as to what to do next. Another point which is equally important is that when the system of proportional representation was introduced for the first time in the First Legislative Council Election, it operated very smoothly and was well received by the public. What is more, it was also one of the factors contributory to the record high turn-out rate then. Given the proven effectiveness of this system, we cannot see any reason for rashly replacing it with another system which might serve to cause confusion to voters.

As to the 12 seats which could be held by Members who are not of Chinese nationality, the HKPA cannot agree to the proposal to draw lots to decide the functional constituencies to which those 12 seats shall belong. The original ordinance has specified 12 functional constituencies from which Members returned could be of nationalities other than Chinese. The purpose of the provision is to encourage members of those functional constituencies who are not of Chinese nationality to stand in elections. If those 12 functional constituencies should be determined by drawing lots, the original intent of the relevant provision would be defeated. Certainly, the number of non-Chinese residents in each of the functional constituencies who are interested in standing in elections would vary from time to time. As such, the HKPA holds that the Government should adopt measures according to circumstances and regularly review the relevant provisions to ensure that Members of nationalities other than Chinese will be returned for the most appropriate functional constituencies. That way, the fairness and impartiality of elections could be further enhanced as well.

Last but not least, I should like to speak on the issue related to veterinary surgeons. In this connection, the HKPA is opposed to the inclusion of veterinary surgeons into the medical functional constituency. Without doubt, veterinary surgeons are professionals whose contribution to the community is recognized by all. For this reason, the HKPA supports in principle that veterinary surgeons should be given voting rights in their functional sector. However, since veterinary surgeons are concerned with medical matters related to animals, they differ significantly from the medical sector concerned with human health in terms of their functions. Including veterinary surgeons into the medical functional constituency could highlight neither the role played by them nor the functions of the medical sector. But in the long run, the Government should consider enabling veterinary surgeons to have the right to vote in an appropriate functional constituency.

Madam President, I so submit.