

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 12 January 2000

The Council met at half-past Two o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

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

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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 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 CHAU TAK-HAY, J.P.

SECRETARY FOR TRADE AND INDUSTRY

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR TRANSPORT

MR DOMINIC WONG SHING-WAH, J.P.  
SECRETARY FOR HOUSING

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

**CLERKS IN ATTENDANCE:**

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation	<i>L.N. No.</i>
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Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2000.....	1/2000
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Mutual Legal Assistance in Criminal Matters (United States of America) Order (L.N. 278 of 1999) (Commencement) Notice 2000.....	3/2000
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Instrument	<i>L.N. No.</i>
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Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2000 .....	2/2000
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Other Papers

No. 59 — Report by the Controller, Government Flying Service on the Administration of the Government Flying Service Welfare Fund for the year ended 31 March 1999

No. 60 — Audited Financial Statements and Programme of Activities of the Hong Kong Examinations Authority for the year ending 31 August 1999

Report of the Bills Committee on Hong Kong Sports Development Board (Amendment) Bill 1999

**ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

**Provision of Secondary One Places**

1. **MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, it is learnt that the number of students reaching the starting age for Secondary One in the next school year will far exceed that in each of the past few years. In this connection, will the Government inform this Council:*

- (a) *of the number of Secondary One places available and the number of students of the starting age residing in each of the districts in the next school year;*
- (b) *of the estimated number of Secondary One students who will need to commute to schools outside their residential districts in the next school year; how the figure compares with the corresponding figures in the past three years; and*
- (c) *whether it has plans to increase the number of Secondary One classes for the next school year; if so, of the details and the additional resources to be allocated in this respect?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, before answering each part of the question, I wish to briefly explain how the present Secondary School Places Allocation (SSPA) System works. This System mainly includes a central allocation mechanism for secondary school places which is operated by the Education Department (ED). Under this mechanism, the whole of Hong Kong is divided into 18 secondary school nets. For the purpose of choosing secondary schools, Primary Six students will be allocated to different school nets according to the districts where their primary schools are located. For example, a student studying in a primary school in the Central and Western District will be allocated to the Central and Western school net. However, a school net, apart from including all secondary schools located in the same district as the concerned primary school, will also include a number of secondary schools located in other districts. As a result,

the same secondary school could be covered by a number of school nets. For example, the Central and Western school net includes all secondary schools in the Central and Western district, as well as some secondary schools in the Wan Chai, Eastern and Southern Districts. Similarly, the Wan Chai school net includes all secondary schools in Wan Chai, as well as some secondary schools in the Central and Western, Eastern and Southern Districts. Such an arrangement has already been in place for more than 20 years. The arrangement takes into consideration the aspirations of some parents and students in choosing secondary schools, including allowing students to continue their secondary education in a nominated or feeder secondary school which is not located in the same district as their primary school. Although the number of Secondary One places in each district may not correspond to that of Primary Six students therein, we will ensure that the number of Secondary One places in every school net is able to meet the demand generated by Primary Six students in the relevant net.

Furthermore, each secondary school is allowed, outside the central allocation mechanism, to admit students from any district to fill its discretionary places which account for not more than 10% of its Secondary One places.

In the light of the above, it can be seen that some Primary Six students will, under the existing system, continue their secondary education in districts other than those in which their primary schools are located.

- (a) The number of Primary Six students as well as the number of Secondary One places in respective districts in the 2000-01 school year are set out in Annex A. Although the number of Secondary One places in certain districts is fewer than that of Primary Six students therein, we will ensure that there will be sufficient supply of Secondary One places in every school net to meet the demand of Primary Six students belonging to it. Annex I does not set out the number of students within the appropriate age group for Secondary One residing in respective districts since the ED does not collate the actual figures in this respect. As I have just explained, under the present central allocation mechanism, Secondary One places are provided to Primary Six students according to the school nets to which their primary schools belong, rather than their places of residence.

- (b) We have compared the estimated number of students who, under the existing central allocation mechanism, need to attend secondary schools in districts other than those in which their primary schools are located in the next school year with the corresponding figures in the past three years. The relevant information is set out in Annex B.
- (c) In the 2000-01 school year, the number of students within the appropriate age group for Secondary One will be higher than those for previous years. This is mainly because it was the Year of the Dragon 12 years ago when the birth rate was traditionally higher than those for other years. Last year, the ED consulted all secondary schools in Hong Kong and the Secondary School Places Allocation Committee (the Committee) on how to tackle the problem of temporary shortage of school places. The Committee, which comprises primary and secondary school principals, as well as representatives from school councils, the ED and the Home Affairs Department, is responsible for giving advice to the Director of Education on the detailed operation of the SSPA System. As agreed by the Committee and the secondary schools involved, we will provide, by means of administrative measures, 5 200 additional Secondary One places, thereby increasing the number of places from 76 083 to 81 283 as indicated in column three (under "Total") of Annex A. The relevant measures include:
- increasing the number of students for each Secondary One class by one or two in 209 schools, hence providing a total of 2 000 additional places;
  - allowing schools to make use of repeaters' places, which schools will not be using, to admit new students, hence providing a total of 2 060 additional places; and
  - increasing, as far as possible, the number of Secondary One classes by using vacant classrooms. So far, with the consent of the schools involved, it has been confirmed that a total of 29 additional Secondary One classes will be operated, providing 1 150 additional places.

As can be seen from Annex A, at the moment there is still a shortage of about 360 Secondary One places, or nine Secondary One classes. The ED is conferring with schools with vacant classrooms on the feasibility of operating additional Secondary One classes. Since only nine more Secondary One classes are needed, the ED is confident that these classes could be offered. In other words, in the next school year, we plan to operate 38 additional Secondary One classes in total by making use of vacant classrooms (that is, the 29 classes mentioned above plus nine more classes). Consequential to the increased number of Secondary One classes, the ED will allocate an additional \$45 million from its recurrent funding to meet the extra expenses.

Annex A

### Secondary School Places Allocation System

Demand and supply of school places in respective districts  
in 2000-2001 school year (Note 1)

<i>District</i>	<i>Number of Primary Six Students in the District (Note 2)</i>	<i>Number of Secondary One Places in the District (Note 3)</i>
Central and Western	3 257	2 500
Wan Chai	2 869	3 530
Eastern	5 594	5 873
Southern	2 146	2 544
Sub-total (Hong Kong Island)	13 866	14 447
Yau Tsim Mong	4 178	2 891
Sham Shui Po	4 145	3 314
Kowloon City	7 370	6 234
Wong Tai Sin	4 780	4 334
Kwun Tong	5 676	5 743
Sub-total (Kowloon)	26 149	22 516

<i>District</i>	<i>Number of Primary Six Students in the District (Note 2)</i>	<i>Number of Secondary One Places in the District (Note 3)</i>
Kwai Tsing	5 455	6 430
Tsuen Wan	3 151	2 581
Tuen Mun	7 066	7 203
Yuen Long	5 713	5 776
North	4 506	4 313
Tai Po	4 895	4 892
Sha Tin	7 113	7 957
Sai Kung	3 128	4 022
Islands	599	1 146
Sub-total (New Territories)	41 626	44 320
Total	81 641	81 283

Note 1: As shown in columns two and three above, the number of Secondary One places in a district is not identical to that of Primary Six students. In addition, we hope to accommodate the aspirations of some parents and students in choosing secondary schools (for example, to enable a student to continue his secondary education in a nominated or feeder secondary school which is not located in the same district as his primary school). Therefore, although Primary Six students will be allocated to different school nets according to the district where their primary schools are located, a school net, apart from all secondary schools located in the same district as the concerned primary school, will also include some secondary schools located in other districts. Under present arrangement, the ED will ensure that the supply of Secondary One places in each school net is able to meet the demand generated by Primary Six students in that net.

Note 2: The figures in this column exclude students who do not participate in the SSPA System, such as primary students of international schools and students of private primary schools which are feeder schools of some Direct Subsidy Scheme (DSS) secondary schools.

Note 3: The number of school places include discretionary places, the 1 200 places to be absorbed by DSS schools (estimated on the basis of past parental choice), and the additional Secondary One places known so far to be provided by schools through administrative measures.

Comparison of the number of students who need to commute to secondary schools in other districts in the 2000-2001 school year with the corresponding figures in the past three years

<i>School Year</i>	<i>Number of students who need to commute to secondary schools in other districts (percentage)</i>
1997-1998	8 053 (11%)
1998-1999	7 413 (11%)
1999-2000	8 499 (12%)
2000-2001	9 700 <sup>(Note 1)</sup> (12.6%)

(Note 1): Because of their places of residence (for example, having just moved to other districts), Primary Six students may apply to the ED for cross-net allocation before the end of March 2000. Therefore, the figure for the 2000-2001 school year is an estimated one only.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, currently, the average number of students in each class of Hong Kong's secondary schools is 40, which makes Hong Kong the third highest in the world, just a little less than Korea and Thailand. It is really a disgrace to the Hong Kong education sector. Yet by next year, the year of the dragon, we will be short of 5 200 Secondary One places. As a result, some classes will end up cramming 42 students into one classroom, and the classroom will turn into a "pigeonry". Just as the Secretary mentioned in his main reply, the shortage was predicted 12 years ago. However, why are we still running short of 5 200 Secondary One places? Did the Government make a mistake in its planning? Is it a normal and reasonable thing to cram 42 students into one single classroom? Does the official who engineered the plan feel ashamed?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Madam President, we have to take a number of factors into consideration when we are planning to build more schools, including the growth of population and number of students of the appropriate age group. We build schools according*

to the medium- to long-term planning and, in fact, school construction does take time. Therefore, we believe it is not necessary to consider the long-term planning of school construction for just a specific factor, such as the possible increase of students once every 12 years. For instance, by next year, the number of students going up to Secondary One will increase, just as the case 12 years ago.

On the subject of whether 40 students in a class is a disgrace to the education sector, I think it is still an issue open to question. In fact, different educators held different opinions to such issues as the direct relation between class size and the quality of education, or whether fewer students in a class will improve the quality of education. Nevertheless, even this is the case, resources permitting, we will still consider how to reduce the number of students in classes of primary and secondary schools. We have made this point before, thus I do not think that the Government has committed any blunder in planning.

**DR YEUNG SUM** (in Cantonese): *Madam President, the Government intends to increase the number of students for each Secondary One class by one or two in order to increase Secondary One places. Can the Secretary tell this Council whether the same measure will be applied to the so-called "Band Four" and "Band Five" schools or not? Will the Government reduce the proposed increase according to the circumstances of these schools, so as to facilitate better communication between teachers and students, and thereby improve the quality of education?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I have mentioned in my main reply that we proposed to increase the number of students for each Secondary One class by one or two in certain secondary schools. However, we will not put the proposal into action before obtaining the consent of these schools after discussion. Regarding Dr YEUNG's concern about the influence on the education quality of "Band Four" and "Band Five" schools by increasing the number of students in each class to 40, we will keep an eye on the development in this aspect.

Even though some secondary schools are willing to admit one or two more students, can they achieve the ultimate goal? As I have mentioned in my main reply earlier, each secondary school is allowed, outside the central allocation mechanism, to admit students from any district to fill its discretionary places. Actually, the following phenomenon was not uncommon in the past: a number of popular schools, including schools admitting higher band students, admitted over 40 students in each class. Sometimes the number of students in one class would be as high as 45, while schools traditionally admitting Band Four and Band Five students were unable to fill up the 40 places in each class, possibly due to parental preferences.

In the meantime, Dr YEUNG's suggestion a worthy one and I will take note of it. Depending on the actual circumstances in the future, we will consider if follow-up measures are necessary.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, the Secretary mentioned in his main reply that each secondary school is allowed to admit students from any district to fill its discretionary places, accounting for not more than 10% of its Secondary One places. However, Annex B shows that the percentage number of students who need to commute to secondary schools in other districts in the past three years is higher than 10%. In some cases, the figure is even as high as 11% and 12%. May the Secretary explain the correlation between the percentage in the Annex and the maximum 10% cited by him? In theory, each school is allowed to admit not more than 10% students from other districts, thus the percentage of students who need to commute to secondary schools in other districts should not be that high. In this connection, are there any other reasons causing the discrepancy?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I would like to clarify this issue. The figures in Annex B are based on the number of students within the central allocation mechanism for secondary school places; they do not include the 10% discretionary places. As a result, the figure for the number of students who need to commute to secondary schools in other districts in Annex B is 12.6%. However, instead of the total 81 641 of Primary Six students mentioned in Annex A, its denominator is just about 77 000 as it only covers the number of students in the central allocation mechanism.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary mentioned in his main reply that the school net mechanism has been in place for more than 20 years. The Secretary also suggested the arrangement had taken the aspirations of some parents and students in choosing secondary schools into consideration, therefore the school net was broadened and students were allowed to admit to secondary schools in other districts. However, we can tell from the figures in Annex B that the situation of students commuting to secondary schools in other districts is deteriorating and the figure is rising. It would be a matter of personal preference if parents chose for their children schools in other districts. However, how many of them made the decision simply because they had no other alternatives? Will the Secretary allow the situation to deteriorate without examining into it?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Madam President, according to the information on hand, most of the students in Annex B opted for secondary schools in other districts of their own accord. Undoubtedly, under certain circumstances, we have to allocate Secondary One places for a minority of students in other districts had there been not enough places in the district in question. I will further study the relevant information thoroughly before answering the Honourable Member's question. (Annex I)*

**MISS CYD HO** (in Cantonese): *Madam President, the Secretary mentioned in section (c) of his main reply that the Government had proposed to allow schools to make use of repeaters' places, which schools would not be using, to admit new students. Accordingly, a total of 2 060 additional places can be produced. However, the problem of students booming is here not for this year only. In fact, it will last for five years. Has the Education and Manpower Bureau ever considered the extent of influence on repeaters in the coming five years? What will the Bureau do to assist repeaters at the same time when it provides additional places for students born in the Year of the Dragon, so as to ensure there are enough repeaters places to meet the need?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the allotment or quota for repeaters in secondary schools is 5%, in which the percentage is even lower for repeaters in Form One classes. In our experience from past years, few schools would use up this 5%. Let me cite a very simple example: based on the 5% quota, a class of 40 students will have 38 students go up one grade and two students stay put. As we have held discussions with schools this time around and they have agreed to reserving the two places for allocation purpose, it therefore will have very little impact on repeaters on a long-term basis.

**MR SZETO WAH** (in Cantonese): *Madam President, will the Government inform this Council that the expansion in class size will occur only this year, or is it a recurrent incident? How long will it take to reduce the number of students and cut the class size? If it is a recurring incident, then it is a problem that has not been dealt with for a very long time, not just a matter of planning for one year.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I can give a categorical answer to the Honourable SZETO Wah that the problem will only arise in the next school year. According to the figures on hand, in 2001, 2002 and 2003, we forecast that the number of Secondary One places will exceed the number of Primary Six students. In other words, we will virtually have supernumerary places in the coming years, and the number of students in each class can be reduced.

**PRESIDENT** (in Cantonese): We have spent more than 18 minutes on this question. We will now proceed to the second question.

### **Use of Prefabricated Building Components in Public Housing Works**

2. **MR LEE CHEUK-YAN** (in Cantonese): *Madam President, at present, it is common practice for public housing contractors to use prefabricated building components manufactured in factories. In this connection, will the Government inform this Council whether:*

- (a) *it knows the respective proportions and values of local and imported components among the number of prefabricated components used by public housing contractors, and the numbers of work-years involving in-situ construction processes at construction sites which have been replaced by such local and imported prefabricated components over the past three years; and*
- (b) *it will consider stipulating that the prefabricated components used by public housing contractors must be locally made, so as to increase employment opportunities for local workers?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, as regards part (a) of the main question, prefabricated building components in public housing projects over the past three years include precast facades, panel wall partitions, cooking benches and sink units, metal gatesets and wooden doorsets. The proportion of local and imported components fluctuated according to the competitive advantage of each product and of its supplier. The total value of local prefabricated component parts was about \$550 million in 1997, \$700 million in 1998 and \$1,200 million in 1999, while that of imported component parts was about \$1,000 million in 1997, \$1,300 million in 1998 and \$2,100 million in 1999. Details are given in the Annex circularized to Members for their reference.

Based on information from sites, the estimated number of tradesmen affected by the use of precast facades and panel wall partitions in worker-years in the past three years are 180 300 and 570. The estimated number of tradesmen affected by the use of prefabricated cooking benches and sink units, metal gatesets and wooden doorsets in worker-years are about 1 200, 1 400 and 1 700.

As regards part (b) of the main question, the Government is obliged as a party to the World Trade Organization Agreement on Government Procurement (WTO GPA) since June 1997 to provide treatment to foreign suppliers of goods and services no less favourably than that given to domestic suppliers. The Government cannot stipulate only the use of locally made prefabricated components in public procurement contracts.

Information on the use of prefabricated building components in public housing projects over the past three years

*Precast Facades (PCF)*

<i>Year</i>	<i>Estimated % of PCF produced by local suppliers</i>	<i>Estimated value in contracts (\$M)</i>	<i>Estimated % of PCF produced by non-local suppliers</i>	<i>Estimated value in contracts (\$M)</i>
1997	100%	438	0%	Nil
1998	78%	473	22%	134
1999	58%	826	42%	605

*Panel Wall Partitions*

<i>Year</i>	<i>Estimated % of partitions produced by local suppliers</i>	<i>Estimated value in contracts (\$M)</i>	<i>Estimated % of partitions produced by non-local suppliers</i>	<i>Estimated value in contracts (\$M)</i>
1997	67%	109	33%	54
1998	70%	222	30%	100
1999	75%	374	25%	126

*Cooking Benches and Sink Units*

<i>Year</i>	<i>Estimated % of cooking benches produced by local suppliers</i>	<i>Estimated value in contracts (\$M)</i>	<i>Estimated % of cooking benches produced by non-local suppliers</i>	<i>Estimated value in contracts (\$M)</i>
1997	5%	3	95%	50
1998	19%	5	81%	21
1999	0%	Nil	100%	149

*Metal Gatesets*

<i>Year</i>	<i>Estimated % of metal gatesets produced by local suppliers</i>	<i>Estimated value in contracts (\$M)</i>	<i>Estimated % of metal gatesets produced by non-local suppliers</i>	<i>Estimated value in contracts (\$M)</i>
1997	0%	Nil	100%	221
1998	0%	Nil	100%	254
1999	0%	Nil	100%	295

*Wooden Doorsets*

<i>Year</i>	<i>Estimated % of doorsets produced by local suppliers</i>	<i>Estimated value in contracts (\$M)</i>	<i>Estimated % of doorsets produced by non-local suppliers</i>	<i>Estimated value in contracts (\$M)</i>
1997	0%	Nil	100%	675
1998	0%	Nil	100%	791
1999	0%	Nil	100%	925

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the Task Force on Employment under the chairmanship of the Financial Secretary and the Secretary for Education and Manpower who is also present today often say that infrastructure development can create more job opportunities, and the unemployment rate in the construction industry is particularly high. However, when we return to the part concerning prefabricated components in the Annex to the main reply, we can see that the proportions of precast facades produced respectively by local suppliers and non-local suppliers were 58% and 42%; and local suppliers and non-local suppliers produced 75% and 25% respectively of the panel wall partitions. Actually, we can see that there is a trend for shifting the production of prefabricated components to overseas, which will have strong impact on the job opportunities of local workers. May I ask both Secretaries or those Secretaries who are not in this Council whether they will look at the construction of all public housing units from the angle of job opportunities, especially when we now see that prefabricated components are mostly produced in the Mainland and that the production of prefabricated components has taken*

*away more than a thousand jobs of local construction workers? In practice, will they consider procurement agreements of this kind from the angle of job opportunities?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, insofar as prefabricated components are concerned, the Government actually does not assume special control, that is to say, these suppliers can choose to set up factories in Hong Kong or they can choose to set them up overseas. However, under the present circumstances, the number of factories established in Hong Kong is relatively low while the number of such factories outside Hong Kong, especially in the Mainland, is very high. There are certainly special reasons for this, such as wages and various aspects, resulting in the establishment of such factories outside Hong Kong by these suppliers for production of prefabricated components.

As regards public housing, except for prefabricated components, local workers are definitely employed to carry out other working processes and activities. Overseas workers are employed only in very few cases, so that the job opportunities of Hong Kong workers in public housing can be maintained.

**MR HO SAI-CHU** (in Cantonese): *Madam President, in this question, our discussion concerns the use of imported prefabricated components. Apart from the comparison of wages that must be made, may I ask the Secretary whether or not the land use is also a very important consideration? This is because massive land will be required for factories to be moved to Hong Kong for production of prefabricated components. If we really need to have prefabricated components produced locally to increase the job opportunities of local workers, will the Government consider how to assist factories in acquiring low-cost land so that they will be able to produce prefabricated components in Hong Kong at competitive prices against imported components? After all, imported components will incur freight charges while no freight charges are incurred if production is done in Hong Kong. Will the Government consider this aspect?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in fact, regarding the supply of land, the Government certainly has to deal with the demands of many different areas. Housing is certainly a major element, but there are still other areas that have a great demand for land. However, the most important point is that in addition to land supply, wages and the skills of workers also play a significant part. As Members may be aware, the production of these components, especially metal gatesets and wooden doorsets, requires more floor area. Hong Kong is rather restricted in this respect. So suppliers do not carry out production in Hong Kong. Instead, much production takes place in the Mainland because there is more land there. It is easier in terms of work, the price is low and wages are relatively lower.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary mentioned the total value of prefabricated components in the main reply. The amount is very small, compared to the total value our investment in housing. Will the Government increase its demand for prefabricated components in connection with the design of housing in the future in order that more prefabricated components can be produced in factories for better assurance of quality?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I believe that the answer must be in the affirmative, because as we construct more and more public housing units, the quantity and value of prefabricated components used will be constantly rising. As we can see, the trend of using prefabricated components started 10 years ago. At that time, the use of these components was not very popular indeed. It became more popular in the late nineties, that is to say, actually its popularity has only just begun to rise over the past six or seven years. I believe that with the change of the times, prefabricated components will be used as many as possible in construction throughout the 21st century. But as far as I know, private construction firms do not attach too much importance to the use of prefabricated components, and I know that the Buildings Department has set up a team to study the development in this area. On the whole, there should be more and more occasions of using prefabricated components in public and private housing in the future.

**MR CHAN WING-CHAN** (in Cantonese): *Madam President, a couple of years ago, I saw people on a public housing site manufacturing some prefabricated components such as bay windows. Since the construction of public housing will continue on a large scale, is there still production of prefabricated components on public housing sites? If not, are there ways to encourage the continued production of these prefabricated components on public housing sites so as to create some job opportunities?*

**SECRETARY FOR HOUSING** (in Cantonese): *Madam President, there is no production of prefabricated components on substantially all of the public housing sites, but they have been manufactured elsewhere before they are delivered to the site and then installed in the housing blocks. Moreover, such on-site production will surely give rise to problems. It might be inconvenient to carry out such production projects in Hong Kong as far as location is concerned. We have done research on this and found that certain sites might have used the space of the adjacent sites for the projects. It might work sometimes, but there is no guarantee that it always works.*

**MR ANDREW CHENG** (in Cantonese): *Madam President, let us go back to the main question and the part that the Secretary has just added to his reply. The third paragraph of the main reply said that the Government had become a party to the WTO GPA and by looking again at the market share in respect of prefabricated components, I find that the approach of the Government towards local suppliers might put them more in a disadvantage. Does the Government have any concrete measures that can enable local suppliers to compete with overseas suppliers? Otherwise, as we look at the figures relating to the production of metal gatesets and wooden doorsets, we can realize that the market share of local suppliers is basically nil. Does the Government wish to go on tackling the problem in such a way that local workers or workers who make a living in the industry are unable to land jobs in Hong Kong?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I have just given an explanation in respect of prefabricated metal gatesets and wooden doorsets. It is mainly because more land is required in the manufacturing process and since the land that can be provided by Hong Kong is not attractive enough, so suppliers and manufacturers will carry out these processes out of Hong Kong or mostly in the Mainland. The other three types of prefabricated components are also produced by local suppliers. They used to have a large market, but the market has now contracted because there are suppliers producing these components elsewhere and competitiveness will naturally become one of the reasons. However, what is most important is that in my opinion, the products of Hong Kong should maintain its competitive edge, quality and value for money. As long as local suppliers can maintain the above, I believe they should be able to maintain the existing market position or even open up new markets.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the thrust of my supplementary question is on what concrete measures the Government has. As I am talking about specific measures, the Government cannot simply say it wants local suppliers to upgrade quality. They may need government assistance to some extent, such as tax concessions and the supply of land as mentioned by Mr HO Sai-chu just now, but it seems that the Government has not explained its measures specifically in the main reply.*

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

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in this connection, actually we all know that the Government pursues a free market policy. We do not have any special preferential treatment as to these work processes. We operate in a free market economy according to commercial principles and fair competition.

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, just as the Honourable LEE Cheuk-yan has mentioned in the supplementary question, the current situation affects more than a thousand local workers employed in this kind of work. Will the Secretary for Education and Manpower inform us whether this is a practice depriving local workers of job opportunities in disguise as opposed to the policy of giving priority protection to the employment of local workers? Will the Government review in this context?*

**PRESIDENT** (in Cantonese): Which Secretary is going to answer? Secretary for Housing.

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I do not think we discriminate against local workers in particular in this context. However, on the other hand, we do not offer especially favourable protection to local workers. The current situation is simply a commercial arrangement. I have said earlier that it is mainly because in these processes, commercial competition, costs and so forth have become major considerations. Provided that the products are of good quality and the price is moderate, I believe they should be able to maintain their market.

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

**MR LAU CHIN-SHEK** (in Cantonese): *Will the Government review its practice in this respect?*

**SECRETARY FOR HOUSING** (in Cantonese): Excuse me, Madam President. I do not feel there is any special reason to oblige us to review it again.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the questions raised by all Members actually show that they are concerned about the issue of workers' job opportunities. However, even though the Secretary brought forward the WTO GPA, he should know that in the WTO GPA, which the Secretary for Trade*

*and Industry had presented the previous day, it is also stated that contracts worth below \$5 million are not subject to control. In fact, prior to 1997, the Housing Authority (HA) made it a rule that prefabricated components for all public housing units must be produced locally, and the provision was only rescinded after 1997. However, will the Government now require that these components must be produced locally as stipulated in the provision made before 1997 in connection with contracts worth below \$5 million?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in principle, although Hong Kong has executed an international agreement and we should therefore act in compliance with its spirit, I dare not say whether the HA will reinstate its pre-1997 practice in this connection. I can refer the Honourable Member's suggestion to the HA for response.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, I hope the Secretary will reply in writing in future.*

**SECRETARY FOR HOUSING** (in Cantonese): Fine. (Annex II)

### **Fare Concessions to Students by Public Transport Operators**

3. **MR ANDREW CHENG** (in Cantonese): *Madam President, it is learnt that various local public transport operators require passengers at the age of 12 or above to pay adult fares. The Mass Transit Railway and the Light Rail Transit offer fare concessions to students while the East Rail and franchised buses do not. As a result, students at the age of 12 or above are required to pay adult fares when travelling on these two modes of public transport. In this connection, will the Government inform this Council whether:*

- (a) *it knows if the age of 12 is commonly adopted by public transport operators in other countries as the dividing line at which adult fares should be paid; whether it has assessed if the maintaining of such a dividing line by local public transport operators is meeting present-day needs;*

- (b) *it will, from the social policy point of view, consider promoting actively the offer of fare concessions to students by various local public transport operators; and*
- (c) *the means-tested Student Travel Subsidy Scheme was introduced with the purpose of replacing the fare concessions to students offered by public transport operators; if not, whether it will take follow-up action in regard to the refusal by some public transport operators to offer fare concessions to students on account of the existence of the scheme?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, we understand that public transport operators in different places adopt different ages and criteria to determine eligibility for concessionary fares. In cities in Japan, France and the United States, the public transport operators charge passengers under 12 children fares. In Singapore, the children status is defined by body height. Passengers of height between 0.9 m and 1.2 m are charged reduced fares. In Hong Kong, all major public transport operators offer children fares for passengers aged below 12 and in the case of the Hong Kong Tramways and the Kowloon Motor Bus Company, the criterion has remained unchanged for decades.

In the 1970s and the 1980s, the Government adopted the system of reimbursing the transport operators the costs of providing fare concessions to students. This arrangement was changed in 1988 with the introduction of the Student Travel Allowance Scheme. Under this scheme, eligible students received direct grants from the Government upon application. As a result, public transport operators except the Mass Transit Railway Corporation (MTRC) and the Light Rail Transit, ceased providing concessionary fares for students. The means-tested Student Travel Subsidy Scheme was introduced in September 1991 to replace the Student Travel Allowance Scheme.

The provision of any form of fare concessions or discounts is essentially a commercial decision of individual transport operators, for example, the decision of the MTRC to introduce its own MTR Student Travel Scheme and to offer fare discounts on its Airport Express Line. The cost of doing so will need to be absorbed within the overall fare structure and receipts. The Government welcomes these initiatives as they serve to encourage the use of public transport.

However, we have no plans to impose any requirement on the public transport operators on student fare concessions.

Having said that, it is the Government's policy to ensure that no students will be deprived of education for lack of financial means. In respect of school-related travel expenses, we provide allowances to needy students under two means-tested schemes:

- the Student Travel Subsidy Scheme for full-time students up to first degree level, who are aged 12 and above and who live beyond 10 minutes' walking distance from their places of study; and
- the Travel Subsidy Scheme for Primary School Pupils for primary students who are aged below 12 and attend public sector schools outside their residing Primary One Admission Net and are living beyond 10 minutes' walking distance from their school.

Eligible needy students receive an allowance for home-school travel during term time. The allowance is calculated at the rate of half the average fare on public transport between the students' residence and the location of their place of study.

**MR ANDREW CHENG** (in Cantonese): *Madam President, in the main reply it was said that in the 1970s and 1980s, the Government adopted the system of reimbursing the transport operators the costs of providing fare concessions to students. Many parents have criticized the present Student Travel Subsidy Scheme as being draconian with the means test requirement, which I believe must be costly administratively. Will the Government inform this Council whether it would revert to the practice in the 1970s and 1980s, that is, reinstate the Student Travel Card Scheme by saving the administrative costs incurred in means testing and transferring the costs thus saved to subsidize transport operators which provide fare concessions to students to help both students and parents caught in the economic downturn?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, let me do some explaining here. The present Scheme is meant to give the subsidy directly to students. That is to say, in both the Student Travel Allowance Scheme and the new Student Travel Subsidy Scheme,

students are the direct beneficiaries. Previously, subsidy was given to transport operators, which was an indirect method compared to the present arrangement. Despite the absence of data on hand, we do not think the present Scheme involves a high administrative cost. The reason is that we are not just dealing out money to students after they have made the trips. Instead we give the subsidy in a lump sum to students in December each year, basing on an amount arrived at after a survey on the travel habit of students in the area. The lump sum is given to students to cover expenses for home-school travel. Students need not supply any document to us and we need not check any of their records. Moreover, we consider the means test appropriate because, insofar as our education policy is concerned, we should help students from families with a lack of means in paying for textbooks, school fees or travelling expenses. As a matter of fact, under our means test system, a family of four with an income not exceeding \$18,800 is entitled to subsidy. We will review the situation from time to time. For example, in recent years, a new measure has been implemented in the Student Travel Subsidy Scheme. Since last year, the upper age limit of 25 has been lifted. In future, we will continue to review our work against the circumstances for improvement. Of course, where resources are concerned we need to set priorities. Right now we do not intend to go back to former measures by reverting to the previous Scheme.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, in the first paragraph of the main reply, it was said that in cities in Japan, France and the United States, the public transport operators charge passengers under 12 children fares. Will the Government inform this Council whether there are data showing public transport operators in these countries have concessionary fares for students; and if so, in what ways? Do their governments subsidize the passengers or do their public transport operators provide the concessions voluntarily?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, we do not have detailed information in this regard, but our focus is on children fares. Roughly speaking, there are numerous transport facilities for children in countries overseas, such as buses for school children. I think our operation and our needs and demands are different from these countries.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, I would like to ask the two Secretaries how they could possibly accept that a person at 12 is an adult.*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, in my main reply, it was clearly pointed out that operation-wise different arrangements are possible and there are no fixed practices. But I want to stress that basically any public transport operator will act out of commercial considerations when providing concessionary fares for children or other passengers. I think this has nothing to do with the legal definitions of minors or adults.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, if secondary students between 12 and 18 are not adults, they should not be asked to pay adult fares. Since the Government mentioned the legal aspect just now, will it amend the MTRC By-laws or laws about public buses so that students under 18 are not required to pay adult fares or so that half fares are awarded to students below 18, and will it make such fare concessions a condition for renewing the franchise granted to public transport operators?*

**PRESIDENT** (in Cantonese): Which Secretary would answer? Secretary for Transport.

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the supplementary question may need to be answered by both the Secretary for Education and Manpower and me. That really shows the supplementary question contains two parts, and we must not mix them up. The first part is about concessionary fares provided by public transport operators. They are business concerns and they do that out of commercial considerations. If the operators consider out of commercial considerations there is a need to provide concessionary fares for students, children, the elderly or the disabled, they would do so. But the issue of providing assistance to students, including assistance for transport expenses, is related to education policy. The two should not be confused.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, may I ask the Secretary then whether the laws, including the MTRC By-laws or laws about public buses would be amended so that students under 18 can enjoy half fares or so that half fares so provided become a condition for the franchise granted to public transport operators or for renewal of such franchises? The Secretary has not answered this part of my supplementary question.*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, in fact my main reply has answered the supplementary question of Mr CHEUNG. The Government has no plans to impose any requirement on the public transport operators on student fare concessions.

**MR ANDREW WONG** (in Cantonese): *Madam President, the cost of providing fare concessions to the elderly or students under 12 will naturally be absorbed by other passengers. At first, the Government reimbursed expenses due to public transport operators arising out of student fare concessions. Later it transferred the money directly to students. I cannot agree with this arrangement because I think the expenses arising out of fare concessions provided to elderly aged 65 or above and students aged below 12 or 18 can be totally absorbed by other passengers. Will the two Secretaries inform this Council whether they will examine the issue together so as to respond to the criticisms from the Director of Audit against the Scheme? Will they think of a way to cope with that in future? The Government may have changed for the worse. Will the two Secretaries inform this Council whether they will examine the issue together?*

**PRESIDENT** (in Cantonese): Which Secretary would answer? Secretary for Transport.

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, history may of course repeat itself. The Secretary for Education and Manpower has stated we have no such plans to revert to the old arrangement. In fact, we think the Government has made remarkable improvements in the development of assistance for travel expenses provided to students. So, we have no plans to change our present practice.

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, in the main reply it was said the Hong Kong Tramways and the Kowloon Motor Bus Company have been providing concessionary fares to students for decades. These are commercial organizations. The Kowloon-Canton Railway Corporation (KCRC), however, is a public company, but it does not provide any concessions. Will the Government consider that a shame? Will the Government discuss with the KCRC to encourage it to provide similar concessions?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the Light Rail Transit is also operated by the KCRC. The Light Rail Transit, the East Rail or the KCRC have to operate on commercial principles. So does the MTRC. They set their fares on commercial considerations.

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

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, in the reply of the Secretary for Education and Manpower, he said the allowance is calculated at the rate of half the average fare on public transport between the students' residence and the location of their place of study. But the Secretary also said that an average would be calculated according to certain survey figures. If among the students, some take the MTRC and the East Rail, then part of the travel fares can be paid at half price and part of it cannot. Hence, the average so obtained will increase the burden of students of a certain area where most students take the MTRC but only a minority takes the East Rail. Is this fair?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the supplementary question is in fact related to that asked by Mr Andrew CHENG. Of course to be totally fair we need to check the records of every student to obtain an average on the fare for public transport used and the frequency for using it and then reimburse half that amount to the student. But we think this arrangement, though the fairest to each and every student, involves enormous administrative costs, and it lacks flexibility too, as more often than not calculation has to be done on an individual basis. Furthermore, the student may

also change the mode of public transport taken. Therefore, our practice is to carry out periodic investigation. With the help of the Transport Department, we will find out the proportion of transport facilities used as students commute between one area and another. We will then obtain an average and give the subsidy to the student, who will be at liberty to use the money. Whether this is absolutely fair for each student is subject to opinion, but on the whole the Government has not paid out less to students. Thus flexibility for every student can be achieved and the administrative costs mentioned by Mr CHENG minimized.

### **Regulation of Motocross Courses**

4. **DR TANG SIU-TONG** (in Cantonese): *Madam President, recently, newspaper reported the accidental death of a child in a motocross course. Will the Government inform this Council:*

- (a) *of the number of persons injured in accidents that occurred while they were riding cross-country motorcycles in local private motocross courses in the past five years; the causes of these accidents, the age of the injured and the degree of injuries sustained;*
- (b) *whether there is any existing legislation governing matters such as the design of private motocross courses, the activities permitted therein, the safety requirements for motorcycles racing and the training courses for motorcyclists taking part in races; if not, whether it will consider enacting such legislation; and*
- (c) *whether the authorities have set up a mechanism to review regularly the relevant legislation to ensure proper regulation of newly emerging sports and amusement activities, such as riding cross-country motorcycles; if so, how the mechanism operates and whether the authorities have considered, under the mechanism, the matter of regulating private motocross courses?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, my reply to the question raised by Dr TANG Siu-tong is as follows:

- (a) We do not have information about accidents involved in cross-country motorcycling activities in the past five years;
- (b) there is no existing legislation governing cross-country motorcycling activities. We will examine whether advisory, administrative or statutory measures should be introduced to help ensure that cross-country motorcycling can be enjoyed in a safe manner;
- (c) there is existing legislation to regulate and control the management of public leisure facilities which include beaches, swimming pools, stadia and pleasure grounds. The design of public sports facilities takes account of the need to meet the safety requirements and standards of the governing bodies of the respective sports. When introducing new public recreation and sports programmes, we will ensure that the participants in these programmes are led by trained instructors who are sufficiently experienced to deal with any accident that may occur. Also, before any such activity is introduced, careful consideration is given to the safety factors and the safety precautions which must be followed. We also monitor such activities closely and assess whether they will pose any safety risk to participants. If necessary, we may recommend amending the existing legislation to prevent certain activities from taking place in public venues on the grounds of public safety. As mentioned in paragraph (b) of this answer, we will examine whether there is a need to introduce measures to improve the safety aspects of cross-country motorcycling.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, as far as I know, so long as the land use of these motocross courses is not changed, they will not be subject to supervision by the Lands Department. Nor are they governed by the clubs regulations of the Home Affairs Department. If the Government intends to amend the law, which government department will be responsible for such venues and when will there be an answer to this question?*

**PRESIDENT** (in Cantonese): Which Secretary will answer? Secretary for Home Affairs.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, these motocross courses belong to private clubs. Only club members, rather than any member of the public, may participate in such activities in these venues. That is why these courses are not regulated by the Places of Public Entertainment Ordinance, which regulates public places where members of the public can enter to play or participate in activities. As I said just now, we have to examine carefully which measures to adopt. It is in my view premature to say which measures will be adopted or which government department will be responsible for their management. We have to examine the matter carefully first.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, the Secretary did not answer part of my supplementary question. I asked when this Council would be informed of the findings.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, at present, we cannot provide a timetable and say when the findings will be ready. Nevertheless, we have adopted a series of measures. For instance, we have warned the club and two other clubs which organize similar sports activities and asked them to pay special attention, especially with regard to activities in which children participate. Although the children are members themselves, the guardians or parents of the children should keep a close watch together with the management staff of the venues, if the activities they participate in are of a more risky nature, such as such cross-country motorcycling activities. I cannot give Members the relevant timetable today. However, we will of course proceed as quickly as possible.

**MR GARY CHENG** (in Cantonese): *Just now, the Secretary said they must examine the matter carefully and that a series of measures had already been adopted. What sort of measures is the Government examining? Does it intend to forbid children under 18 from participating in such activities, or restrict the types of vehicles that children can ride, such as forbidding them from riding cross-country motorcycles equipped with certain accessories? Does it wish to*

*impose restrictions on the venues, for instance, by allowing cross-country motorcycling to take place in specific venues, but not in other venues, or will it require the presence of coaches in the motocross courses before such activities can take place? In answering the question just now, the Secretary seemed to have touched everything, and yet did not. What is the aim of the series of measures? Just now, the Secretary mentioned safety. How would the Secretary define "safety" in the context of such activities?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, this is not an easy question to answer. Actually, many types of sports involve a certain degree of risk. For instance, mountaineering is not regulated. A group of people can go mountaineering as long as they are led by a trained instructor. Even water sports are dangerous. It is not an easy task to place restrictions on age and venue and forbid people from participating in dangerous activities. The Honourable Gary CHENG said that I seemed to have touched everything, and yet did not. Actually, we have to examine the matter from various aspects. First, we have to discuss with the Sports Federation and Olympic Committee of Hong Kong (SF&OC). Activities that are included in the SF&OC have governing bodies, which have the professional knowledge to examine the matter with us. In the present case, the club has many members and there are similar activities overseas. We cannot hastily forbid persons below a certain age from participating on account of this accident. We can only make a decision after discussion with people from various sides. That is why we have to examine the matter together with several government departments. Therefore, in terms of the approaches to this problem, I cannot say right away which approaches will be adopted.

**MR GARY CHENG** (in Cantonese): *Madam President, the Secretary did not say what the "safety bottomline" was in this case. Just now, the Secretary said that these activities carried out by members in their clubs are not regulated. Does this mean that members' safety needs not be considered? The Secretary has still not named the "safety bottomline".*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, it is certainly not easy to say what the "safety bottomline" is. Nowadays, there are many kinds of sports. Very often, we see small children doing somersaults in

mid-air and all sorts of feats in the Asian Games or Olympic Games. Generally, it is rather unsafe for children to perform those feats. It is even unsafe for adults to perform them. However, certain sports are recognized and regulated by governing bodies. The performance of certain feats under the guidance of experts is acceptable. In fact, the whole world finds it acceptable. As I said, mountaineering is also quite a risky activity. As we all know, accidents occur in relation to mountaineering activities overseas or in Hong Kong every year. While they might not pose a risk to lives, accidents do occur. In view of this, if we have to define what is considered "safe", we must discuss with sports professionals and various parties and look at the degree of international recognition of such activities. Therefore, it is difficult for me to answer this supplementary question in a few words. However, I promise that we will examine the matter with various departments in order to find a safe way for Hong Kong people to engage in such activities.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, at present, the Transport Department requires all road users to have a driving licence. However, motorcyclists in private venues such as these motocross courses need not have any licence and are not subject to any restrictions. In view of the lack of restrictions, can the Secretary tell us whether the Government thinks that the matter is not urgent and that these activities are not too dangerous?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, in terms of transport management, our position on motorcycle racing and other forms of motor racing is very clear. We do not and will not allow the racing of motorcycles or vehicles on public roads. This is out of consideration for the safety of road users as a whole. However, the Road Traffic Ordinance does not apply to private venues or places that outsiders cannot enter. At present, this Ordinance does not apply to any private venues.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, this is exactly the question that I asked. Can the Secretary tell us whether this means that there is no need to worry about the risk of accidents in private venues?*

**PRESIDENT** (in Cantonese): Which Secretary will answer? Secretary for Transport.

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, there are many dangerous traps at home as well. The Government also has no means of legislating to prevent these dangerous traps from posing safety risks to the individual. We can only trust that common sense will make any persons engaged in these activities pay attention to their own safety.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, safety is the most important consideration. In the main reply, the Secretary for Home Affairs mentioned that they would consider and examine some measures or legislate to regulate cross-country motorcycling activities. At the same time, he said that no timetable could be provided, nor did he know how long the study would take. In part (b) of the main reply, the Secretary said they would examine whether advisory measures should be introduced. Can the Secretary tell us why even the tender of advice has to be examined? Before examining whether measures should be adopted, will the Government consider issuing guidelines for persons engaging in such activities to follow? Just now the Secretary for Transport said that there are many traps at home too. However, the Government has issued a number of guidelines on home safety for the public to follow. Why does the Government not consider issuing guidelines on dangerous activities such as cross-country motorcycle racing as soon as possible for the persons concerned to follow?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I am very grateful to the Honourable Member for asking this supplementary question. As I said in part (b) of the main reply, we will consider introducing various measures, including advisory, administrative or statutory measures. I also said in answering one of the supplementary questions that we had given the first advice and that is, they should keep close watch and that parents, guardians and operators should pay extra attention when children participate in this activity. We will implement a series of measures as soon as we can. In this respect, I believe Mrs LAU does not have to worry too much, since we have already issued the first warning, that is, stressing that the activity is dangerous. We will discuss with various sides, including experts of the governing bodies. If we

consider that guidelines could be issued, we will use administrative means to issue guidelines to the people engaging in such activities and then further examine the introduction of legislation. We will follow up this matter step by step.

**PRESIDENT** (in Cantonese): We have spent exactly 18 minutes on this question. Although Members are still waiting for their turn to ask questions, we have to proceed to the fifth oral question.

### **Robberies on Picnickers**

5. **MR LAU KONG-WAH** (in Cantonese): *Madam President, it is learnt that a number of picnickers were robbed by suspected illegal immigrants in recent months. In this connection, will the Government inform this Council:*

- (a) *of the number of reported cases of picnickers who were robbed and the number of victims injured or killed in these robberies over the past year, together with a breakdown of the cases by places and months in which the robberies occurred; and the number of offenders prosecuted and convicted of such crimes, as well as the percentage of illegal immigrants among those convicted;*
- (b) *of the actions normally taken by the police upon receipt of the reports of such crimes; and*
- (c) *whether the police will consider adopting other measures to combat crimes of this kind?*

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

- (a) Twenty-one cases of robberies of picnickers in country parks were reported to the police in 1999. A breakdown of these cases by month and place is at the Annex.

Among these 21 cases, eight victims were slightly injured. None was killed. A total of seven suspects were arrested for committing

robberies, with one convicted and sentenced to six years' imprisonment. The police are still seeking legal advice on whether to prosecute the remaining six suspects. All the seven arrested people are illegal immigrants (IIs).

- (b) The actions to be taken by the police after receiving reports of such crimes depend on the circumstances of each case, for example, the location of the crime scene, whether any victims have been injured and, if so, to what extent. Generally speaking, the police will first search the area for the offenders. Formation commanders may arrange searches by more than one police unit, such as beat patrol officers, Police Tactical Unit, Emergency Unit and the Quick Reaction Force, supplemented by assistance from the Government Flying Service where appropriate. Further investigative actions, where appropriate, will include constructing identikits of the suspected offenders, alerting pawnbrokers to details of identifiable stolen property and monitoring the use of stolen cellular phones.
- (c) The police have adopted the following measures to prevent and combat robberies in country parks:
  - (i) routine patrols by Uniform Branch officers in country parks and nearby areas;
  - (ii) establishment of Rural Area Patrol Teams which are specifically tasked to combat such crimes. Tai Po, Sheung Shui and Yuen Long Police Divisions in the New Territories North Police Region have created such teams;
  - (iii) establishment of a regional strategy called "Country Parks Crime Prevention". This is a crime prevention programme initiated by Hong Kong Island Region of the police focusing on intensive public education, enhance police presence and co-ordinated strategic operations in country parks. Actions include distribution of crime prevention leaflets in country parks, stepped-up police motor cycle patrols and provision of police stationary posts and police dog patrols during weekends and public holidays; and

- (iv) publicity programmes through other channels, such as radio and television, to raise public awareness of the recent robbery cases and to caution them not to walk alone in remote areas.

Other than the police, the Agriculture, Fisheries and Conservation Department (AFCD) and the Civil Aid Service (CAS) have also implemented a number of measures to prevent the occurrence of robberies in country parks.

- (i) Daily patrol of country parks by AFCD staff. They maintain close contact with local police stations and will report to the police any irregularities in the parks involving criminal activities. They will also assist the police by providing details of trails and assistance in detecting suspected hide-outs of IIs in country parks;
- (ii) Patrol of popular country parks by CAS patrol teams on Sundays and public holidays during peak hiking season (October to April). These include those at Pat Sin Leng, Plover Cove, Sai Kung, and so on.
- (iii) Installation of emergency telephone help-lines directly connected to the 999 emergency service and public telephones are installed in country parks. There are some 34 emergency help-lines installed in various country parks. Mobile phone stations are established in country parks to improve the coverage of mobile phones to facilitate communication by picnickers; and
- (iv) Distance posts along hiking trails are installed to help visitors identify their locations in emergency cases and facilitate the police searching the position of the victims and the offenders.

The police and AFCD will maintain vigilance in the country parks and consider stepping up patrols in country park areas, where necessary.

## Annex

<i>Month</i>	<i>No. of reported cases of robberies in country parks</i>	<i>Location of occurrence</i>
January	1	Kam Shan Country Park
February	1	Ping Fung Shan
March	2	Ping Fung Shan
April	1	Wu Tip Shan
May	1	Tai Tam Reservoir
June	2	Hok Tau Reservoir, the Peak.
July	2	Kam Shan Country Park, Parker Park
August	2	Wu Tip Shan, Golden Hill Country Park
September	0	-
October	4	Tan Chuk Hang Tsuen, Ping Fund Shan, Nam Chung Nature Trail
November	1	Bride Pool Road
December	4	Ping Fung Shan
Total	21	-

**MR LAU KONG-WAH** (in Cantonese): *Madam President, recently many picnickers and morning walkers have reflected to us that they too began to worry about being robbed by IIs. Recently, IIs have also been spotted in the vicinity of the Honourable President's residence. According to part (c) of the Secretary's main reply, the Hong Kong Island Region of the police and the New Territories North Police Region have already adopted measures to combat robberies in country parks; however, I somehow feel that different police regions are doing things separately. In this connection, could the Secretary inform this Council whether the police have in place any comprehensive strategy to combat robberies committed by IIs; and whether the strategy would be applied to other police regions such as the New Territories South Police Region?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the first step of our territory-wide strategy is to enhance publicity efforts including distribution of crime prevention leaflets in country parks to raise picnickers' awareness as well as to remind them of the things that they must be aware when going on a picnic. For example, we will caution them not to walk alone or spend the night sleeping out in rural areas since it is dangerous to do so. It should be best for picnickers to go on a picnic in groups. Picnickers should also inform their families of the destinations concerned beforehand and carry with them mobile phones. In the event of robbery, they should try to hide their mobile phones as far as possible.

Certainly, the police also need to step up patrols by police officers in country parks and rural areas. In most cases, such patrolling duties are discharged in the light of the environment of the police regions concerned. Different police regions and divisions will adopt different action plans depending on the geographical conditions and intelligence collected. Naturally, the police would also take preventive actions. For example, last weekend the police searched through the Pat Sin Leng Country Park on their own initiative, with a view to seeking out the IIs and arresting them before they commit any crime.

On the whole, although we do have in place a territory-wide strategic programme, the actual action plans still need to be appropriately adjusted by the various police regions and divisions in the light of the specific geographical conditions as well as the intelligence collected.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, in paragraph (a) of the main reply, the Secretary mentioned that the police are still seeking legal advice on whether to prosecute the remaining six suspects. May I ask the Secretary whether this is a routine procedure or a special arrangement necessitated by the fact that the relevant suspects are IIs?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President, this is not any special arrangement. The suspects concerned were arrested recently. It is a normal practice of the police to submit all information on the arrested suspects to the Department of Justice, which will then determine whether or not to charge the suspects with, on top of their robbery offences, any other immigration offences they might have involved in. So, this is just a routine procedure.*

**MR WONG YUNG-KAN** (in Cantonese): *Madam President, the majority of the IIs arrested in 1999 had sneaked into Hong Kong by sea. In this connection, could the Secretary inform this Council why she has only referred to a Country Parks Crime Prevention Committee in her main reply but made no mention of the measures to be taken by the Marine Police?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President, actually, according to the analysis made by the police, normally the ratio of illegal immigrants entering Hong Kong by land to those by sea is 6:4. In recent years, the ratio has been adjusted to 5:5. Basing on the intelligence collected, the police will regularly send officers to lie in ambush near illegal entry black spots to find out the landing routes and hideouts of IIs. In addition, patrols by Uniform Branch officers and Rural Area Patrol Teams will also be stepped up. Actually, we have been taking such actions all along.*

**MR WONG YUNG-KAN** (in Cantonese): *Madam President, I was asking about the measures to be taken by the Marine Police. Just now the Secretary said that the ratio of IIs entering Hong Kong by land to those by sea is 5:5, but what*

*measures have the Marine Police adopted in this respect? In particular, have the Marine Police stepped up actions in relation to some illegal entry black spots including certain bays and inlets for crime prevention purposes?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the major duty of the Marine Police in this connection is to intercept IIs entering Hong Kong by sea. Drawing on their experience in intercepting IIs, naturally the Marine Police will know where the illegal entry black spots are. The information concerned will then be sent to the police information task force responsible for co-ordinating intelligence regarding IIs, so that arrangements could be made for police officers to lie in ambush at the relevant black spots to keep track of the landing routes of IIs, with a view to arresting them upon landing.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, could the Secretary inform this Council whether it is due to insufficient police strength that the crime rate has remained at such a high level; whether such robbery cases usually take place in early mornings; and whether the Government would consider deploying more auxiliary police officers to help tackle the situation?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, with regard to crime rates, the Commissioner of Police made an explanation to the Panel on Security at the meeting held last week when giving a brief report on the crime situation in 1999. Although both the overall crime rate and the rate of serious crimes have recorded a 6% increase, the rate of serious and organized crimes remains unchanged. The increase in crime rates is partly attributable to the increase in "fast buck" offences such as pick-pocketing, theft, and some criminal intimidation cases or criminal damage offences relating to illegal debt collection activities. We do not agree that the increase in such crime rates should be attributed to any insufficiency of police strength. As a matter of fact, the number of front-line police officers has increased by 2 000 since 1993-94. The Commissioner of Police is satisfied that there are enough regular police

officers to discharge patrolling and other crime combating duties. It is upon this basis that the establishment of the auxiliary police has been adjusted.

As regards robbery cases in country parks, figures have shown that there was a slight increase at the beginning of the year, compared to that of the end of last year. However, we do not have any evidence indicating that the victims of robberies were mainly morning walkers or weekend picnickers. We believe that the increase in crime rates should be partly attributed to the fact that IIs are having more difficulty finding any illegal employment in construction sites or restaurants in the face of the current economic downturn. Besides, the success of the police and the Immigration Department in combating illegal immigrant labourers has also impacted on their chance of getting any illegal employment. To some of the IIs, the easy way out would be to rob picnickers in country parks.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Secretary mentioned in part (c)(ii) of the main reply that Tai Po, Sheung Shui and Yuen Long Police Divisions in the New Territories North Police Region have also created Rural Area Patrol Teams to discharge duties in country parks. Perhaps these are the areas where most of the robberies committed by IIs took place. Indeed, we have seen from relevant information papers that the robberies were mainly concentrated in certain areas. Besides, we have also noted that similar robberies also occurred at Kowloon Peak, the area where the Secretary used to live. In this connection, could the Secretary inform this Council whether police patrols in the areas concerned would be enhanced, and whether other measures would be stepped up to track down and arrest the IIs?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I explained earlier, apart from the territory-wide strategy, the various Police Regions would also adjust their respective actions in the light of their respective geographical conditions. For example, the New Territories North Police Region would be served by Rural Area Patrol Teams. As to other districts, such as the East Kowloon District where I am still living, although it is not served by any Rural Area Patrol Teams, the district is still frequently patrolled

by Uniform Branch officers and even plain-clothes police officers. With regard to hillsides, the police would be keeping a close watch at potential hideouts to see if any IIs are hiding there. Where necessary, the police would take the initiative to search the hills.

**MR CHAN WING-CHAN** (in Cantonese): *Madam President, the Secretary mentioned in paragraph (c)(iii) of the main reply that police presence in country parks would be enhanced. Given that there are many country parks and hiking trails in Hong Kong, may I ask the Secretary what specific measures would be taken to enhance police presence? Could the Secretary inform this Council whether the police would focus the actions on a number of country parks or on areas where most robberies have taken place, while the locations where no robberies have ever taken place would not be patrolled?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I explained earlier, in addition to the Rural Area Patrol Teams which are specifically tasked to serve certain police regions, each and every police region is in fact patrolled by Uniform Branch officers, including police motorcycle patrols and police dog patrols. As to the areas to be patrolled, it would be determined in the light of the latest intelligence collected, the intelligence analysed, the past crime trends and so on. Apart from the reports made by members of the public, the police would also take action upon receipt of reports from the AFCD and the CAS. Actually, while some 100 AFCD staff members are deployed to patrol the various country parks every day, patrol of country parks by CAS patrol teams on Sundays will also be maintained during peak hiking season. If these patrol teams should receive any information which indicates that IIs or other suspects are hiding somewhere in the country parks, they would pass the information to the police. Upon careful analysis, the police may also step up patrols in high-risk rural areas.

**PRESIDENT** (in Cantonese): The question time shall end here.

**WRITTEN ANSWERS TO QUESTIONS****Resources for the Audit Commission**

6. **MR KENNETH TING** (in Chinese): *Madam President, regarding the work of the Audit Commission, will the Government inform this Council whether:*

- (a) *it has assessed if the Commission has adequate financial and manpower resources as well as investigative powers to deal with its increasingly complicated audit work; and*
- (b) *it will consider expanding the purview of the Commission and providing additional resources for the Commission, so that it can audit the accounts of various government departments more effectively?*

**SECRETARY FOR THE TREASURY** (in Chinese): Madam President, with regard to the part of the question relating to financial and manpower resources, the established practice is for the Director of Audit, as the Controlling Officer for the Audit Commission, to seek additional allocations when he considers necessary to enable the Commission to carry out its duties effectively. The Government will consider the Director's requests and, where justified, provide additional resources. For example, we have increased the financial provision for the Audit Commission for the current and four preceding years as follows:

<i>Financial year</i>	<i>Estimate of expenditure \$m</i>	<i>Growth over previous financial year</i>
1999-2000	131.1	8.0%
1998-1999	121.4	11.1%
1997-1998	109.3	9.7%
1996-1997	99.6	7.2%
1995-1996	92.9	11.2%

With regard to the part of the question relating to the investigative powers of the Commission, the powers of the Director of Audit are laid down in section 9 of the Audit Ordinance. Based on work done by the Audit Commission, we consider these powers adequate to enable the Commission to deal with its audit work.

As explained, the Government will carefully examine all requests for additional resources from the Director of Audit to ensure that the effectiveness of the Audit Commission in discharging its duties will not be impaired. We also consider the existing purview of the Audit Commission adequate to enable it to effectively audit the accounts of various government departments.

### **Starting Salary Points of Dental Officers and Veterinary Officers**

7. **DR LEONG CHE-HUNG:** *Madam President, the current starting salary points of Dental Officers and Veterinary Officers in the civil service establishment are respectively two and three pay points lower than that of Medical and Health Officers. Given the similarity in job nature and academic requirements of the three professions, will the Government inform this Council of the rationale for such differences?*

**SECRETARY FOR THE CIVIL SERVICE:** Madam President, Dental Officers, Veterinary Officers and Medical and Health Officers are all under the Civil Service Qualification Group of Professional and Related Grades; and their starting salaries are pitched variously at two to five pay points above the benchmark of the Qualification Group. These additional pay points were awarded in recognition of the special job factors pertaining to these grades.

The Standing Commission's 1999 Review on Civil Service Starting Salaries is confined to the civil service qualification benchmarks and starting salaries. It is not a review of the job factors of each and every civil service grades. For the purpose of the latest review exercise, all job factors are therefore taken as given assumption and the new starting salaries for civil service grades within the various Qualification Groups are determined having regard to their existing pay relativities.

As the Standing Commission has recommended to lower the benchmark for the Qualification Group of Professional and Related Grades by five pay points from Master Pay Scale (MPS) 27 to MPS 22, the starting salaries for the Dental Officers, Veterinary Officers and Medical and Health Officers are correspondingly lowered by the same magnitude to MPS 25, MPS 27 and MPS 24 respectively.

### **Complaints about Unscrupulous Business Practices**

8. **MR BERNARD CHAN:** *Madam President, will the Government inform this Council of:*

- (a) *the number of complaints about unscrupulous business practices received by the Consumer Council and a breakdown of such complaints by their type of trade; and*
- (b) *the number of cases brought to the court involving tourists as victims and, among them, the number of tourists who returned to Hong Kong subsequently to testify in court,*

*in the past 12 months?*

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

- (a) From January to December 1999, a total of 1 168 complaint cases about unscrupulous business practices were received by the Consumer Council. A breakdown of these complaints by their type of trade is at the Annex.
- (b) Of these complaints, 363 cases involved tourists as victims. However, the Consumer Council does not keep statistics on the number of such cases brought to the court and the number of tourists returning to Hong Kong subsequently to testify in court.

In general, the Consumer Council accords priority to complaints lodged by tourists so that the cases can be resolved before these tourists' departure from Hong Kong. In addition, the Small Claims Tribunal has arranged for cases involving tourists to be handled within 24 hours (on weekdays). The police and the Customs will also handle complaints lodged by tourists expeditiously. For cases which cannot be settled before the departure of the tourists concerned, the police and the Customs will maintain contact with the complainants in writing until the cases are concluded.

Annex

### Complaints about unscrupulous business practices in 1999

<i>Nature of Complaints</i>	<i>Number of Complaints</i>
Ginseng and dried seafood shops	300
Modelling agencies	112
Time sharing	62
Electrical appliances	236
Photographic equipment	325
Telecommunications services	100
Further education services	33
Total	1 168

### **Declaration of Personal Investments and Financial Interests by Government Officials**

9. **MR NG LEUNG-SING** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of key government officials holding Tier I posts who failed to comply with the requirements to declare personal investments and financial interests within the prescribed period in the past three years, and the reasons for and details of such non-compliance cases;*

- (b) *whether it has taken disciplinary actions against the above government officials who were in default of declaration; if so, of the details of such actions; if not, the reasons for that; and*
- (c) *whether it has reviewed if the prescribed period for declaration is reasonable; if it has, of the results of the review; if it has not, of the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President, the existing system for declaration of investments by civil servants was introduced in September 1998. Under the system, 27 key posts in the Government are designated as Tier I posts. Officers holding Tier I posts are required to declare annually their personal investments and financial interests to the Civil Service Bureau (CSB). In addition to the regular declaration, they should also report to the CSB any single investment transaction equivalent to or exceeding \$200,000, within seven days of the transaction. The CSB is responsible for seeking and examining declaration returns from these officers and maintaining the register of financial interests for public inspection.

As key government officials, Tier I officers are mindful of the importance of strict compliance with the prescribed declaration requirements. Since the introduction of the new requirements in 1998, all Tier I officers submitted their declarations according to instructions and within the timeframe agreed by the CSB. No officer was disciplined for not complying with the instructions.

The CSB has recently reviewed the prescribed declaration periods for Tier I officers. It is considered that they are appropriate and no change is necessary at the present stage.

### **Hiring and Charging Policies for Assembly Halls on University Campuses**

10. **DR LUI MING-WAH** (in Chinese): *Madam President, all local universities in Hong Kong have assembly halls of different sizes on their campuses. In this connection, will the Government inform this Council whether it knows:*

- (a) *the monthly average number of hours of usage for each of these halls in the past year;*
- (b) *if community organizations are allowed to hire these halls; if they are allowed, of the relevant hiring policies and levels of venue rental charges; and*
- (c) *if students and internal bodies of various universities are allowed to use the assembly halls on campus free of charge, for meeting or performance purposes; if they may not use such facilities without paying, the reasons for that?*

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

- (a) All publicly-funded higher education institutions have assembly halls or theatres. The monthly average numbers of hours of usage for each of these assembly halls/theatres in the past year are shown in Table 1.
- (b) and (c)

All institutions have their own policies on the hiring of assembly halls/theatres to their internal bodies and outside organizations. They normally give priority to academic activities and functions organized by their own departments and student associations. Subject to availability, they also rent these venues to outside community organizations. Details of the rental charges are set out in Table 1. The institutions are prepared to waive or reduce hiring charges for academic and extra-curricular activities organized by their students and internal bodies.

Table 1: Utilization and Charges of Assembly Halls/Theatres of Publicly-funded Higher Education Institutions

<i>Institution</i>	<i>Name of Assembly Hall/Theatre</i>	<i>Seating Capacity</i>	<i>Hours of Utilization Per month in 1999</i>		<i>Basic Hiring Charges Per Session (about four hours)</i>
			<i>Range</i>	<i>Average</i>	
City University of Hong Kong	Wei Hing Theatre	320	-	233	\$2,000
Hong Kong Baptist University	Academic Community Hall	1 346	36-280	161	Range from \$4,500 to \$26,770 depending on the nature of the function and the duration. Full rental charges will be levied on all organizations but discounts may be given to religious, educational, charitable, and non-profit-making organizations upon application.
Lingnan University	Chan Tak Tai Auditorium	1 031	-	30	Range from \$4,000 to \$12,000 depending on the duration and day of the week.
The Chinese University of Hong Kong	Sir Run Run Shaw Hall	1 468	73-274	202	Range from \$9,150 to \$18,300 depending on the nature of the function.
The Hong Kong Institute of Education	Lecture Theatre	600	0-308	209	(a) Charitable organization: \$1,250 (b) Public/community service organization: \$1,800 (c) Commercial organization: \$2,500
The Hong Kong Polytechnic University	Chiang Chen Studio Theatre	247	106-327	219	Range from \$945 per hour to \$2,625 per hour
	Jockey Club Auditorium	1 090	34-193	125	Range from \$8,000 to \$10,000 per session depending on the nature of the function

Institution	Name of Assembly Hall/Theatre	Seating Capacity	Hours of Utilization		Basic Hiring Charges Per Session (about four hours)
			Per month in 1999 Range	Average	
The Hong Kong University of Science and Technology	Citibank Lecture Theatre	400	-	120	(a) Non-profit-making activities: \$2,000  (b) Profit-making activities (approved only under exceptional circumstances): charges determined on a case by case basis
The University of Hong Kong	Loke Yew Hall	600	96-243	146	Non-profit-making organizations: \$6,460
Hong Kong Academy for Performing Arts	Lyric Theatre	1 181	-	294	Range from \$13,450 to \$33,620
	Drama Theatre	415	-	223	Range from \$6,320 to \$10,565
	Concert Hall	382	-	242	Range from \$5,420 to \$9,560
	Recital Hall	133-202	-	292	Range from \$2,455 to \$3,775
	Studio Theatre	120-240	-	278	Range from \$3,575 to \$6,455
	Dance Studio	100	-	253	Range from \$2,215 to \$3,750  (depending on the nature of the function)

### **Progress of Investigation into Collapse of Peregrine Group of Companies**

11. **MR ERIC LI** (in Chinese): *Madam President, in April last year, the Financial Secretary appointed Mr Richard Henry FARRANT, former Chief Operating Officer of the Financial Services Authority in the United Kingdom, as an independent inspector to investigate the collapse of the Peregrine group of companies and the Government expected the investigation to take about six months to complete. In this connection, will the Government inform this Council:*

- (a) *whether the investigation has been completed; if so, when the Administration will announce the findings; if not, of the current progress of the investigation; and*
- (b) *of the estimated total costs of the investigation?*

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

- (a) The Financial Secretary appointed Mr Richard Henry FARRANT in April 1999 to investigate the collapse of Peregrine Companies. At the time, the Government expected that the investigation would be completed in six months. The investigation has however taken longer than originally expected to complete and is still ongoing at the moment. Nonetheless, it is unlikely that the investigation will be too protracted.
- (b) The expenses of the investigation have so far been within budget. We estimate that the cost of the investigation would not exceed \$9.8 million.

**Data Communication with Computer System of Customs Office on the Mainland**

12. **MR SIN CHUNG-KAI:** *Madam President, will the Government inform this Council whether it has drawn up any plan with the relevant mainland authorities for setting up data communication links between the computer systems of the customs offices on both sides, so as to shorten the customs clearance time for cross-border goods; if so, of the details of the plan; if not, the reasons for not doing so?*

**SECRETARY FOR TRADE AND INDUSTRY:** Madam President, there are no plans at present for setting up data communication links between the Customs offices on the two sides of our boundary with the Mainland. However, to shorten clearance time at the land boundary control points, the Customs and Excise Department has conducted a study on a "pre-arrival clearance system" for processing cross-boundary vehicles. Under the system, manifests will be submitted to Customs in advance which will in turn facilitate the profiling of cargoes prior to the arrival of the vehicles involved. As most of the documentation and verification work can be done in advance, vehicular traffic at the boundary is expected to speed up. A pilot test of the system is scheduled to be conducted at Lok Ma Chau control point in March 2000.

For the longer term, the Department has commissioned a consultancy to review the existing Customs clearance requirements and service by land, sea and air to ensure that they are effective and efficient for control and enforcement purposes, while maintaining a business-friendly environment for traders to operate. We will consider the need to set up a data communication link between the Customs offices on the two sides of the boundary and its implications in the light of the consultancy study.

### **Review of School Net for Islands District**

13. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, the current school nets for allocation of secondary school places are delineated in accordance with the district boundaries for district administration. However, for those secondary school students who live in the Islands District, which covers an extensive area, the time required for travelling to some secondary schools within their school net but distant from their places of residence is often longer than that required for travelling to schools in an adjacent school net. For example, it takes more time for students living in Tung Chung of Lantau Island to go to secondary schools on Ping Chau and Cheung Chau than to those in Tsing Yi, Kwai Chung and Tsuen Wan. In this connection, will the Government inform this Council whether it will consider revising the school net concerned so that Secondary One entrants-to-be who live in Tung Chung can choose to go to secondary schools in Tsing Yi, Kwai Chung and Tsuen Wan; if not, the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, under the existing central allocation mechanism of the Secondary School Places Allocation System, the whole of Hong Kong is divided into 18 school nets. Primary Six students will select secondary schools covered by the school net to which their primary schools belong. Apart from secondary schools in the district where the primary school is located, a school net will also cover some secondary schools in other districts for students and parents to choose from. In addition, we allow all secondary schools to admit at their own discretion, outside the central allocation mechanism, Primary Six students from any district to fill up 10% of their Secondary One places.

According to the latest projection on the demand and supply of Secondary One places, Tung Chung will have sufficient Secondary One places to meet the demand of Primary Six students attending schools in that area in the coming few years. Therefore, Primary Six students studying in Tung Chung can all be allocated Secondary One places in Tung Chung unless they choose schools in other areas. Under the central allocation mechanism, Primary Six students in Tung Chung may also select some secondary schools in Hong Kong Island covered by the Islands District school net. Other than central allocation, they may apply to secondary schools in any district for discretionary places.

We will not, for the time being, consider revising the Islands District school net to allow Primary Six students attending schools in Tung Chung to choose secondary schools in Tsuen Wan and Kwai Tsing under the central allocation mechanism. This is because the supply of Secondary One places in these two districts is already very tight. Indeed, there are insufficient Secondary One places in Tsuen Wan to meet its own demand and some of the school places in Kwai Tsing are required to alleviate the shortage.

### **Polluted Site Designated for Disney Theme Park**

14. **DR RAYMOND HO** (in Chinese): *Madam President, it was reported that the soil on the proposed site for the construction of the Disney theme park, currently occupied by a ship-breaking plant, has been seriously polluted over the years by oils, heavy metals, dyes and organic solvents brought about by ship-breaking activities. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the extent to which the site in question has been polluted; if it has, when the assessment results will be made public; and*
- (b) *of the specific measures in place to ensure that the pollutants will not affect the health of the staff of and visitors to the future theme park?*

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

- (a) First of all, the proposed site for the Disney theme park is not within the area currently occupied by Cheoy Lee Shipyard. The Shipyard area will be mainly used for construction of roads leading to the park. Concerning the probable land contamination issue at the Shipyard, the Civil Engineering Department (CED) is currently conducting a preliminary assessment in the Northshore Lantau Development Feasibility Study and expects that it will not be an insurmountable problem to the development of the Northshore Lantau as a recreation/tourism area. The concerned Environmental Impact Assessment (EIA) Report will be submitted to the Director of Environmental Protection for approval. It is expected that the Report will be exhibited for the public to comment in March/April this year and the advice from the Advisory Council on the Environment will also be sought.
- (b) To ascertain the detailed methods and procedures to decontaminate the Shipyard site, the CED will conduct a decommissioning EIA and such would require detailed site investigation. However, as the Shipyard is located within a private lot and at the moment the Government cannot obtain the lot owner's consent to carry out site investigation, the Government may need to wait until the land is resumed. Based on the current land resumption programme, the decommissioning EIA Report will be completed and submitted to Director of Environmental Protection for approval by 2002. The Report will be exhibited for the public to comment and the advice from the Advisory Council on the Environment will also be sought.

Finally, it should be noted that the decommissioning of the Shipyard is a designated project under the EIA Ordinance. The CED will commence the decommissioning works only after the Director of Environmental Protection has approved the EIA Report and issued the corresponding Environmental Permit.

**Particulate Emissions Attributable to Diesel used by Cross-boundary Vehicles**

15. **MISS CHRISTINE LOH:** *Madam President, in its reply to my question on 31 March 1999, the Government estimated that 876 million litres of light diesel oil, or 53% of the total consumption of light diesel oil in 1998, were brought into Hong Kong in the year by cross-border vehicles returning from the Mainland. On the other hand, in response to another question of this Council on 24 March 1999, after stating the facts that the sulphur content of diesel used by cross-border vehicles was about six times of that used in Hong Kong and vehicles using diesel with this level of sulphur content could result in about 10% higher particulate emissions, the Government estimated that the overall particulate emissions from vehicle fleet might be reduced by only 1% to 2% if all cross-border goods vehicles used diesel with a sulphur content meeting Hong Kong's standards. In this connection, will the Government inform this Council of the detailed calculations showing how such percentage reduction in particulate emissions was arrived at, and how this percentage reduction can reconcile with the figures stated in the reply to my question?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD:** Madam President, in the then Secretary for Planning, Environment and Lands' reply to a Legislative Council question at the meeting of 24 March 1999, the Government estimated that the overall particulate emissions from the vehicle fleet might be reduced by about 1% to 2% if cross boundary goods vehicles only use diesel meeting Hong Kong standards. This figure was estimated on the basis that about 12 000 cross-boundary goods vehicles operated between Hong Kong and the Mainland each day, as compared with the total number of 150 000 diesel vehicles in Hong Kong. The detailed calculations are as follows:

- (a) the 12 000 cross boundary vehicles were assumed to be medium and heavy diesel vehicles. We estimated that the 40 000 medium and heavy diesel vehicles operating in Hong Kong contributed to about 30% of the particulate emissions from the motor vehicle fleet. The proportion of total particulate emissions which could be attributed to cross boundary vehicles would, therefore, be about 10% (30% x 12 000/40 000). At the same time, we also assumed that the distance driven within Hong Kong by cross-boundary vehicles would be longer than that driven by other vehicles. The

contribution of cross boundary vehicles to emissions from the diesel vehicle fleet was therefore estimated at between 10% and 20% of the total; and

- (b) given that vehicles using diesel meeting Hong Kong standards emit about 10% less particulate, the overall reduction in particulate emissions from the entire diesel vehicle fleet was estimated to be between 1% and 2% (10-20% particulate emissions by cross boundary vehicles multiplied by 10% reduction in particulate emissions) if cross boundary goods vehicles used Hong Kong standard diesel.

In the Secretary for the Treasury's reply to another Legislative Council question at the meeting of 31 March 1999, the Government estimated that the quantity of duty-not-paid light diesel oil brought into Hong Kong from the Mainland by cross-boundary vehicles in 1998 was about 876 million litres. This constituted about 53% of the 1 641 million litres of light diesel oil used by diesel-driven vehicles excluding franchised buses, or 46% if account were taken of the 265 million litres of light diesel oil used in 1998 by franchised bus companies (which is not subject to duty).

In the estimate given by the Secretary for Planning, Environment and Lands, the impact of particulate emissions was derived from the mileage driven by cross boundary vehicles in Hong Kong using high sulphur diesel. In the estimate given by the Secretary for the Treasury, the focus was on the duty-not-paid diesel carried in the fuel tanks of cross boundary vehicles when they entered Hong Kong. In the second reply, no regard was given to the amount of diesel consumed in the Mainland when the cross-boundary vehicles returned to operate there.

### **Promotion of a Unified Chinese Language Interface**

16. **MISS EMILY LAU** (in Chinese): *Madam President, regarding the promotion of a unified Chinese language interface, will the executive authorities inform this Council:*

- (a) *of their total expenditure in this respect in the past three years;*

- (b) *whether they have assessed the effect on the validity of the legal documents involved in litigation where such documents contain characters which are included in the Hong Kong Supplementary Character Set (HKSCS) but the interpretations of such characters are not available in authoritative Chinese dictionaries; and*
- (c) *whether they have assessed if the development of Chinese-based information technology and the promotion of Chinese-based education will be adversely affected by the inclusion in the above Character Set of a large number of characters the interpretations and pronunciations of which are not available in authoritative dictionaries?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Chinese): Madam President,

- (a) In 1997-99, the Government incurred about \$8.5 million in staff cost for promoting the development of a common Chinese language interface. In addition, a small sum of general departmental expenses was also incurred for promotional activities and support to the Chinese Language Interface Advisory Committee (CLIAC).
- (b) The basic principle for the inclusion of a character in the HKSCS is that it should have a known source and is required by either the Government or the public for information exchange. The characters included in the HKSCS have been in existence for some time and are being used by the local community. Some of these characters can be found in authoritative dictionaries. Some are used in names of persons, places and companies, and others are used in colloquial Cantonese expression. The HKSCS contains only the glyph and the code assignment for these characters. It does not give the meaning of these characters. Therefore, the inclusion of such characters in the HKSCS would not affect the validity of a legal document or the litigation involving such a document. In the absence of a dictionary meaning of any such characters so used in a legal document, the parties involved may agree on their meaning or adduce evidence on their meaning.

- (c) The objective of developing the HKSCS is to collate Chinese characters which computer users need for practical purposes and which are not at present included in commonly used coding schemes in Hong Kong (that is, ISO 10646 and the Big-5 coding scheme). In doing so, we seek to establish a common Chinese language interface so as to facilitate accurate electronic communication in Chinese. This has a positive effect on the development of Chinese computing.

Those characters in the HKSCS which cannot be found in authoritative Chinese dictionaries are mainly characters that are unique to Hong Kong, such as Cantonese expressions adopted through common usage as well as names of persons, companies, and places. The inclusion of these unique characters in the HKSCS is solely for the purpose of meeting the practical needs of electronic communication in Chinese. There is no intention to encourage the public or the educational sector to use them. The HKSCS can be viewed as a tool box which contains different tools. Different users may select and use the appropriate tools therein according to their own circumstances and needs.

### **Assessment of Land Premiums**

17. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, regarding the assessment of land premiums, will the Government inform this Council:*

- (a) *of the number of property development projects along the railway lines in respect of which the Mass Transit Railway Corporation (MTRC), or the real estate developers with which it co-operated, appealed to the Administration against the premium assessment in the past five years; among the appeal cases, the number of projects in which the premiums were lowered by the Administration, and the range of reduction for each project;*
- (b) *whether it has any plans to negotiate with the real estate developers concerned over the land premiums before they are formally offered;*

- (c) *whether it will, in assessing land premiums, take into account the expected rate of return for real estate developers in developing the projects concerned; if it will, of the permissible target rate of return;*
- (d) *of the composition of the Valuation Committee, the Valuation Conference and the Appeal Conference; and*
- (e) *how it will ensure that all market-related factors are fully considered in assessing land premiums?*

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

- (a) In the past five years, there were eight appeals against the Lands Department's premium assessment in respect of property development projects along railway lines. These appeals were all made by the MTRC as the grantee of the sites concerned. In each of the eight cases, the premium was lowered after the Lands Department had considered the justifications provided by the MTRC and the changes in market value in the course of the appeal. The range of premium reduction in each case is set out below:

<i>Premium reduced by</i>	<i>Number of cases</i>
6%	1
9%	2
12%-14%	4
20%	1
Total:	8

- (b) The existing practice is that the premium offered to the developer is determined by the Lands Department's Valuation Committee (if the premium is less than \$50 million) or Valuation Conference (if the premium is \$50 million or more). Before deciding the amount of premium, the Lands Department encourages the developer

concerned to submit any information they consider relevant to the premium assessment. The Valuation Committee or Valuation Conference would take this into account in addition to the information mentioned in (e) below.

- (c) The sole criterion in assessing land premium is market value of the development arrived at through analyses of market transactions. One of the elements taken into account in premium assessment is developer's profit. For typical residential development, the developer's profit is calculated currently at 20% of the estimated costs of development at the time of premium valuation. It is 25% for commercial development.
- (d) The Valuation Committee is chaired by the Assistant Director (Valuation). Its members comprise a Chief Estate Surveyor, Senior Estate Surveyors and Estate Surveyors. The Valuation Conference has the same composition except that it has the Deputy Director (Specialist) as Chairman. The Appeal Conference has the same composition as the Valuation Conference except that the former has either the Director of Lands or the Deputy Director (General) as Chairman, depending on the case's complexity.
- (e) In assessing land premium, the Lands Department takes into account relevant market-related factors. These include analyses of updated land and property sales transactions obtained from the Land Registry, government land sale results, the overall property supply and demand situation, economic performance indicators, building costs and bank interest rates that affect the property market.

### **Fire Safety in Public Rental Housing Estates**

18. **MR LAU KONG-WAH** (in Chinese): *Madam President, it was reported that the design of the staircases used as fire escapes in Trident 2 and Trident 3 Public Rental Housing (PRH) estates failed to meet the relevant requirements under the Building (Planning) Regulations (Cap. 123 sub. leg.). In this connection, will the Government inform this Council:*

- (a) *of the names of PRH estates in which the fire escapes are not in compliance with the above Regulations and, among them, the PRH estates that have been included in the Tenants Purchase Scheme (TPS) and will be subject to monitoring by the Buildings Department starting from July this year; of the measures it will adopt to make these PRH estates comply with the above Regulations;*
- (b) *whether it has commissioned consultancy firms to assess if fire safety in PRH estates will be adversely affected by fire escapes which do not comply with the above Regulations; if it has, of the assessment results; if it has not, of the reasons and the improvement works or measures that it will implement to ensure fire safety in those PRH blocks; and*
- (c) *whether it will commission improvement works for the PRH estates which do not comply with the above Regulations before putting them up for sale under the TPS?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, the fire safety provisions in all Trident 2 and Trident 3 blocks of the Housing Authority (HA) are confirmed to be in compliance with the Building (Planning) Regulations.

The HA has recently engaged an independent consultant to verify the adequacy of the means of escape in these Trident blocks. The study has confirmed the adequacy. The Fire Safety Committee, set up under the Buildings Department, comprising representatives from the Buildings Department and the Fire Services Department, professional and academic in the fire engineering field, has considered the findings and has agreed that the fire safety provisions in these Trident blocks constitute an acceptable fire engineering approach, which is recognized as one of the means under the Code of Practice for the Provision of Means of Escape in Case of Fire issued by the Buildings Department to meet the performance safety requirements of the Building (Planning) Regulations.

There is no need for the HA to commission improvement works in Trident 2 and Trident 3 blocks.

### **Construction of the Lindingyang Bridge**

19. **MR NG LEUNG-SING** (in Chinese): *Madam President, it was reported that the advance works carried out by the mainland authorities for the construction of the Lindingyang Bridge, which will link Hong Kong with Zhuhai, had been suspended due to a shortage of funds. In this connection, will the Government inform this Council whether:*

- (a) *it knows the progress of the works carried out by the relevant mainland authorities on the Lindingyang Bridge; and*
- (b) *it has assessed if the state of such works will have any impact on the current consultancy studies under the Crosslinks Further Study; if it is assessed to have impacts, of the details of them; if it is assessed to have no impact, the justifications for that?*

**SECRETARY FOR PLANNING AND LANDS** (in Chinese): *Madam President, we understand that the reported advanced construction works for the Lindingyang Bridge relate only to the road links within Zhuhai. The Zhuhai Authorities have not consulted with the Government of the Special Administrative Region on the progress and details of such works.*

*These construction works do not have any impact on the progress of our Crosslinks Further Study. Stages 1 and 2 of the Study are near completion and our summary of findings has been passed to the mainland authorities for their consideration through the Roads and Bridges Panel of the Hong Kong and Mainland Cross-Boundary Major Infrastructure Co-ordinating Committee.*

### **Adopting a Postal Coding System in Hong Kong**

20. **MR SIN CHUNG-KAI**: *Madam President, will the Government inform this Council whether the Hong Kong Post Office has plans to introduce the Zone Improvement Plan (ZIP) Code or similar postal coding systems to Hong Kong; if so, of the details of the plan; if not, the reasons for that?*

**SECRETARY FOR ECONOMIC SERVICES:** Madam President, postcode systems are used in some countries to enable mail to be sorted with greater speed and efficiency. Typically, such systems involve assigning to different postal districts and locations within them, such as a single building or a flat of a building, numeric or alphanumeric codes to facilitate letter sorting.

Since 1990, the Hong Kong Post Office has been using a mechanized letter sorting system capable of reading typewritten addresses in English. This allows the sorting of letters to delivery routes of individual postmen. Recently, more powerful mechanized letter-sorting equipment has become available in the market. The Postmaster General considers that, if such equipment and a postcode system were in place, wider application of mechanized sorting would be possible, extending to smaller and more specific locations and to the sorting of mail with postcode, irrespective of whether the addresses are handwritten or typewritten, in Chinese or English.

We are currently examining the feasibility, and the costs and benefits, of introducing a postcode system and the letter-sorting equipment needed to support it.

## **BILLS**

### **First Reading of Bill**

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

### **FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) (NO. 2) BILL 1999**

**CLERK** (in Cantonese): Factories and Industrial Undertakings (Amendment)  
(No. 2) Bill 1999

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

**Second Reading of Bill**

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

**FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT)  
(NO. 2) BILL 1999**

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, I move that the Factories and Industrial Undertakings (Amendment) (No. 2) Bill 1999 be read the Second time.

The Bill seeks to enable the Commissioner for Labour to be more effective in taking out prosecution against proprietors or contractors for failing to comply with the requirement of notifying the Commissioner for Labour before the commencement of certain industrial process, operation or work.

Proprietors or contractors are required to notify the Commissioner for Labour the commencement of certain industrial process, operation or work under the Factories and Industrial Undertakings Ordinance (FIUO) and its three subsidiary regulations, that is, the Construction Sites (Safety) Regulations, the Factories and Industrial Undertakings (Work in Compressed Air) Regulations and the Factories and Industrial Undertakings (Asbestos) Regulation. This requirement aims to enable the Labour Department to have early information on the commencement of such industrial process, operation or work by industrial undertakings so that timely inspections can be made, and where appropriate, advisory or enforcement action be taken to improve work safety and prevent industrial accidents.

As time limit is not stipulated for the initiation of prosecution for any of the offences under the FIUO and its subsidiary legislation, by virtue of section 26 of the Magistrates Ordinance, prosecution should be initiated within six months from the date of the commission of the offence. In other words, the time bar of six months for prosecution in respect of non-compliance will be counted from the date of commencement of the industrial process, operation or work.

In 1998, the Director of Audit conducted a review of the Labour Department's efficiency and effectiveness in reducing industrial accidents, and recommended that the Labour Department should take positive action to ensure compliance with the notification requirement.

Actions have already been taken to strengthen the publicity of the notification requirement. Meanwhile, in order to solve the problem encountered in prosecution (the Commissioner for Labour may not be aware of the offence within six months from the date of failure to give notification), we propose to amend the FIUO to enable the Commissioner for Labour to initiate prosecution within six months from the offence being discovered by or coming to his notice. The proposed amendments will come into immediate effect upon passage by this Council.

I would like to point out that the proposed amendments are intended to give the Administration sufficient time in taking out prosecution. The amendments will not change the penalty or coverage of the existing legislation, nor bring about additional operating cost for proprietors and contractors in the relevant industries.

We have consulted and obtained support from the Labour Advisory Board and its Committee on Occupational Safety and Health last year on the proposal of the Bill. In addition, the Legislative Council Panel on Manpower was consulted on 25 November last year and also gave its support to the proposal.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Factories and Industrial Undertakings (Amendment) (No. 2) Bill 1999 be read the Second time.

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

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Stamp Duty (Amendment) Bill 1999.

**STAMP DUTY (AMENDMENT) BILL 1999****Resumption of debate on Second Reading which was moved on 13 October 1999**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Stamp Duty (Amendment) Bill 1999.

Council went into Committee.

**Committee Stage**

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

**STAMP DUTY (AMENDMENT) BILL 1999**

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

**CLERK** (in Cantonese): Clauses 1, 2, 4 and 5.

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

(Members raised their hands)

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

(No hands raised)

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

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

**SECRETARY FOR THE TREASURY**: Chairman, excuse me, are we on the Stamp Duty (Amendment) Bill 1999?

**CHAIRMAN** (in Cantonese): Yes.

**SECRETARY FOR THE TREASURY:** Thank you very much. I am sorry that I am late. Chairman, I am grateful to this Council for supporting the resumption of the Second Reading debate on the Stamp Duty (Amendment) Bill .....

**CHAIRMAN** (in Cantonese): Secretary, we are on clause 3 and you have to move the amendment to clause 3. Please move the amendment to clause 3.

**SECRETARY FOR THE TREASURY:** I am sorry. Chairman, I move that clause 3(b) be amended as set out under my name in the paper circularized to Members.

Clause 3(b) of the Bill stipulates, among other things, the types of instruments which fall under the category of mandatory adjudication, and the conditions under which applications for refund of adjudication fee which has been inadvertently paid can be made. Cases where refund for adjudication fee may arise are essentially cases which are treated initially as voluntary adjudication and the adjudication fee has been paid accordingly, but are subsequently found to be cases belonging to the category of mandatory adjudication upon detailed examination by the Collector of Stamp Revenue.

In brief, applications for refund can be made under the following conditions. First, the instrument has been stamped under section 13(3) of the Ordinance which stipulates how the Collector of Stamp Revenue will stamp the instruments upon adjudication in accordance with whether they are chargeable with stamp duty or not. Second, the adjudication fee paid is in respect of an instrument which falls under the category of mandatory adjudication. Third, application for refund is made not later than two years after the Collector of Stamp Revenue has expressed his opinion on the instrument concerned.

We propose to amend clause 3(b) so that the new section 13(1C) will set out more clearly the conditions under which an application for refund of adjudication fee can be made, in order to avoid doubt. It is a technical amendment. Specifically, it seeks to make it clear that a refund can be made regardless of whether or not the stamped instrument is chargeable to stamp duty upon mandatory adjudication, and that the timing of application for refund is not restricted to the time when the instrument is presented for stamping.

I beg to move.

*Proposed amendment*

**Clause 3 (see Annex III)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

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

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bill**

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

### **STAMP DUTY (AMENDMENT) BILL 1999**

**SECRETARY FOR THE TREASURY**: President, the

Stamp Duty (Amendment) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Stamp Duty (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Stamp Duty (Amendment) Bill 1999.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Merchant Shipping (Safety) (Amendment) Bill 1999.

### **MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 1 December 1999**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Merchant Shipping (Safety) (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1999**

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

**CLERK** (in Cantonese): Clauses 1 to 19.

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

**Third Reading of Bill**

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

**MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1999**

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

Merchant Shipping (Safety) (Amendment) Bill 1999

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Merchant Shipping (Safety) (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Merchant Shipping (Safety) (Amendment) Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Hong Kong Sports Development Board (Amendment) Bill 1999.

**HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1999****Resumption of debate on Second Reading which was moved on 7 July 1999**

**PRESIDENT** (in Cantonese): Under the Rules of Procedure, I have permitted Mr Timothy FOK, Chairman of the Bills Committee on the Hong Kong Sports Development Board (Amendment) Bill 1999, to address the Council on the Committee's Report.

**MR TIMOTHY FOK:** Madam President, as Chairman of the Bills Committee on Hong Kong Sports Development Board (Amendment) Bill 1999, I now report on its deliberations.

The Bill seeks to increase the Sports Development Board (SDB) by one more representative from the Sports Federation and Olympic Committee (SF&OC) plus six others. The Bills Committee held three meetings with representatives from the SDB, the SF&OC, the Cycling Association, the Tenpin Bowling Congress and the Yachting Association as well as received two written submissions.

The Bills Committee agreed to focus on the Sports Development Board (Amendment) Bill and on sports policy that the Home Affairs Panel had discussed. Members from the SF&OC felt that having one more of its own representative in the SDB actually did not make much difference and asked for a third of the board members to be chosen from the National Sports Association. Several of my Bills Committee colleagues said that nine out of 13 board members already came from the sports community and wanted more public participation.

One fellow Bills Committee member also asked for board members from the Legislative Council and the District Councils to replace the two from the now defunct Municipal Councils. The Administration did not rule this out and promised not to reduce public representation on the SDB.

The Bills Committee supports the Bill. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Secretary for Home Affairs, do you wish to reply?

(The Secretary for Home Affairs indicated that he did not wish to reply)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Hong Kong Sports Development Board (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Hong Kong Sports Development Board (Amendment) Bill 1999.

Council went into Committee.

**Committee Stage**

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

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

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Hong Kong Sports Development Board (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 1 to 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.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

**Third Reading of Bill**

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

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

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

Hong Kong Sports Development Board (Amendment) Bill 1999

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Hong Kong Sports Development Board (Amendment) Bill 1999.

**MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Proposed resolution under the Organized and Serious Crimes Ordinance.

**PROPOSED RESOLUTION UNDER THE ORGANIZED AND SERIOUS CRIMES ORDINANCE**

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I move that the resolution set out on the Agenda regarding the Organized and Serious Crimes Ordinance (Amendment of Schedule 1) Order 1999 made by the Chief Executive in Council on 12 October 1999 be approved.

By including copyright piracy and trade mark counterfeiting offences under Schedule 1 to the Organized and Serious Crimes Ordinance (OSCO), the Order enables Customs and Excise officers to draw on the special powers available under the Ordinance to combat these offences.

Madam President, the overwhelming majority of the submissions we received in response to the public consultation exercise conducted early last year were in favour of more stringent legislation against piracy and counterfeiting offences, including the proposal to amend the OSCO. The proposal was also strongly supported by the Legislative Council Panel on Trade and Industry.

We consulted the Legislative Council Panel on Trade and Industry on the above Order last November. The Legislative Council subsequently decided to set up a Subcommittee to study the Order. I am pleased that the Subcommittee has decided to continue to support our proposal after detailed discussions. I would like to take this opportunity to express our appreciation for the efforts of the Honourable Mrs Selina CHOW, Chairman of the Subcommittee, and other Members of the Subcommittee.

In the course of our deliberations, an optical disc manufacturing association objected to the use of OSCO powers because of difficulties in verifying the authenticity of authorizations to produce optical discs. We believe that this does not constitute a valid reason to oppose stronger action to combat piracy activities.

Firstly, the amendments aim to tackle the more serious piracy and counterfeiting offences. Law abiding manufacturers should therefore have no cause to worry about being implicated. In addition, there is adequate protection in place under sections 118(3) and (5) of the Copyright Ordinance, which stipulate that it is a defence for the accused person to prove that he "did not know and had no reason to believe" that the material in question was an infringing copy of a copyright work. Whether such a defence is accepted by the court will of course depend on the merits of individual cases.

Like other business activities, both parties engaged in a transaction should ensure the legitimacy of the transaction concerned. Thus an optical disc manufacturer is obliged to verify whether he has obtained proper authorization from the copyright owner before accepting an order. Furthermore, we understand that there are already well established practices whereby the authenticity of such authorizations is verified by copyright organizations. The major copyright organizations have also publicly undertaken to step up their support for optical disc manufacturers in verifying copyright authorization documents.

As regards the proposal of the optical manufacturing association to set up a "centralized copyright registration system", it is neither feasible nor in line with international practices. This is because no registration system can cover all copyright works. Moreover, the international treaties that apply to Hong Kong stipulate that copyright should not be restricted by any obligatory registration requirements.

We appreciate that it may be more difficult to verify the authenticity of copyright authorizations of some mainland works than those for works of other origins. In this regard, the Customs and Excise Department has already contacted the State Copyright Administration and the State Press and Publications Administration to enhance communications and to seek assistance in the verification process. We have reflected to the relevant mainland authorities the difficulties encountered by the local optical disc industry and will discuss with them ways to simplify the verification process. The Trade and Industry Bureau will liaise with the optical disc manufacturers concerned and provide assistance as appropriate. Of course, optical disc manufacturers have to fulfill their own responsibilities under the law.

Finally, I would like to assure Members that the Customs and Excise Department will not exercise the powers under the OSCO lightly. This is because the Ordinance has laid down very stringent provisions on the application of its investigation and enforcement powers as well as the procedures for exercising such powers. For example, an application for a "witness order" under section 3 of the OSCO could only be made to the court if law enforcement officers have sufficient reason to suspect that the offences concerned involve "organized crime" and have obtained the approval of the Secretary for Justice. It will then be up to the court to decide whether to grant such an order.

I now move that the resolution to approve the Organized and Serious Crimes Ordinance (Amendment of Schedule 1) Order be adopted by this Council.

Thank you, Madam President.

**The Secretary for Trade and Industry moved the following motion:**

"That the Organized and Serious Crimes Ordinance (Amendment of Schedule 1) Order 1999, made by the Chief Executive in Council on 12 October 1999, be approved."

**PRESIDENT** (in Cantonese): I now proposed the question to you and that is: That the motion moved by the Secretary for Trade and Industry, as set out on the Agenda, be passed.

**MRS SELINA CHOW** (in Cantonese): Madam President, as Chairman of the Subcommittee on the Organized and Serious Crimes Ordinance (Amendment of Schedule 1) Order 1999. I shall report on the deliberations and decisions of the Subcommittee and speak in support of the resolution moved by the Secretary for Trade and Industry.

The Subcommittee recognizes that the establishment of a comprehensive legal framework for the protection of intellectual property rights is one of the important factors conducive to making Hong Kong a centre of technology and innovation. The Subcommittee agrees that the Administration's proposal of incorporating copyright piracy and trademark counterfeiting offences into

Schedule 1 of the OSCO would be an effective way for Customs and Excise officers to invoke the special powers conferred under the Ordinance to combat these crimes. It also reflects the consensus of this Council reached during the deliberations on the Copyright Ordinance passed in 1997 and in the motion debate in respect of pirated compact discs in 1998.

The Subcommittee met 10 deputations to listen to the opinions of the industry concerning the Order. The deputations included optical disc manufacturers and representatives of software, music and the movie industries. Representatives from copyright-based businesses expressed strong support for the introduction of the Order for it would provide an effective tool to crack down on the copyright piracy network. However, some of the optical disc manufacturers were of the view that the Order would seriously affect their operation because they might face difficulties in verifying the authenticity of the authorization certificate for optical disc production, especially copyrights originating from the Mainland and Southeast Asian countries. Therefore, they strongly objected to the making of this Order.

The Subcommittee has exchanged views with the Administration regarding the Order's impact on optical disc manufacturers. The Administration reckoned that the relevant manufacturers should exercise due diligence to ensure all business transactions are in compliance with the laws of Hong Kong, suggested that the industry should formulate and observe an effective set of guidelines on verification. In addition, the Administration made an undertaking that it would not casually exercise the powers conferred by the OSCO unless the offence was proved to be in connection with organized crime syndicates. Furthermore, the Administration pointed out that the Copyright Ordinance would provide adequate protection to all law-abiding manufacturers.

Owing to the undertaking made by the Administration, the prevalent support of the industry, and the undisputed recognition of the urgency to combat copyright piracy and trademark counterfeiting offences, the Subcommittee agreed that the Order should be implemented as soon as possible.

Regarding some manufacturers' request for immunity from the Order and deferring the implementation of the same, the Subcommittee eventually considered that no exemption should be allowed concerning the application of the Order. However, being appreciative of the difficulties encountered by optical disc manufacturers in verifying authorization certificates, the Subcommittee

urges the Administration to take more proactive measures to assist manufacturers in the verification process. I am pleased to hear the Secretary say that they would make more positive efforts in that aspect. For instance, the Customs and Excise Department should elucidate the provisions and legal base of enforcement to the manufacturers. In order to strike a balance between the protection of copyrights and the protection of manufacturers' interests, the Administration should handle the matter cautiously, so as to ensure that the innocent will not be inculcated. As these issues are associated with the enforcement of the Prevention of Copyright Privacy Ordinance (Cap. 544) to which the said Order is not directly related, the Subcommittee recommended the concerns and worries of manufacturers be referred to the Panel on Trade and Industry for follow-up.

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

**MR CHAN KAM-LAM** (in Cantonese): Madam President, the Democratic Alliance for the Betterment of Hong Kong (DAB) supports the proposal of incorporating counterfeiting offences into Schedule 1 of the OSCO, as the Customs and Excise officers may be given greater powers to combat the rampant piracy activities.

The Trade and Industry Bureau conducted public consultation on the combat against piracy activities last year. The DAB supports a reinforcement of the relevant legislation, including the resolution submitted by the Secretary today, as well as the prohibition of pirating films in cinemas.

During our deliberations on the Order, some optical discs manufacturers pointed out that the operation mechanism within the industry was yet to be improved and there were difficulties in verifying the authenticity of copyright authorizations, and requested a grace period of two years. Some even raised objection to the Order.

Madam President, the DAB fully understands the worries of law-abiding optical disc manufacturers, but we consider it is the manufacturers' responsibility to verify the legitimacy of the authorization as production orders are placed. Although their investigation shows that over 80% of the manufacturers do not know if they are infringing on copyrights or not as production orders are placed, we think manufacturers may contact foreign copyright authorities to conduct verification via international organizations as a verification system is already in

place. Therefore, we believe manufacturers are well capable of achieving that as long as there are specific provisions in law. Regarding the specific difficulties optical disc manufacturers may face in the verification process, I, in my capacity as Chairman of the Panel on Trade and Industry, have acknowledged the opinion of the Panel and will follow up the matter in the next Panel meeting, in order to assist manufacturers in establishing a verification mechanism.

We do not think it is appropriate to set up a "centralized copyright registration system" emulating the practice of the Companies Registry, as proposed by the Optical Disc Manufacturing and Technologies Association Limited. It is because the copyright of any author or copyright owner will be automatically protected and obligatory registration is unnecessary in the light of international copyright treaties on the protection of intellectual property rights. As a result, we should not force anyone to register. In the same way, it does not mean that unregistered copyrights are open to infringement at liberty.

Madam President, although the DAB approves of the proposal of incorporating copyright piracy offences into Schedule 1 of the OSCO, we hope the Government will not stop at that in its combat against copyright piracy. In view of the recent sweeping raids of the Customs and Excise Department, piracy operators are switching to other ways of selling pirated products, such as direct mail order or online purchase. As the saying goes, every law has a loophole. We believe the Government will appreciate that. Therefore, we hope the Trade and Industry Bureau and the Customs and Excise Department can enforce effective measures targeting on these kind of hi-tech illegal activities, so as to protect the interest of copyright owners, and to wipe out Hong Kong's notorious name of being the "Piracy Paradise".

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

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, being a representative of the information technology constituency and the relevant spokesman for the Democratic Party, I rise to speak in support of the resolution.

First of all, I am not going to repeat our views here. Nevertheless, I hope the Government will conduct follow-ups after the resolution is passed, in particular to find ways of improving the ability of optical disc manufacturers in coping with difficulties, for example, to help them in formulating codes of practice and the verification of the authenticity of authorizations. The Government should be able to provide assistance in these aspects.

Secondly, the Government should strengthen the co-ordination with the association of copyright owners, and ask them to draw up codes of practice or performance pledges, such as the procedure for the submission of verification requests. Both copyright owners and optical disc manufacturers should design their own guidelines to improve the quality of verification and minimize unnecessary misunderstandings.

Lastly, I believe the Customs and Excise Department should enhance its transparency in this aspect, such as publicizing its regular investigation or provision of information required of manufacturers during inspection, so as to avoid causing unnecessary trouble to manufacturers. In short, we do not want the Customs and Excise Department to miss the mark and inculcate the innocent. In fact, manufacturers may face numerous difficulties in connection with verification.

We support the passage of this resolution as it will enhance the deterrent effect. However, we consider it necessary to reduce the difficulties faced by manufacturers so that the genuinely law-abiding will not be incriminated innocently. I hope the Government will enhance the communication between copyright owners and manufacturers through the Trade and Industry Bureau, so as to help them to draw up a more effective code of practice. Finally, I hope the Government will conduct follow-ups in these aspects after the resolution is passed. Thank you, Madam President.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I would like to thank Mrs Selina CHOW, Mr CHAN Kam-lam and Mr SIN Chung-kai for their speeches. I have listened carefully to and noted their suggestions and exhortations, and I will certainly follow them up in future.

Mr CHAN Kam-lam said that we should plan our combat against the sale of pirated compact discs in new ways by criminals, I can assure him that the Customs and Excise Department will surely spare no efforts and continue to crack down on lawless elements. We have all witnessed the outstanding performance of the Department in the past six months and I am absolutely confident that it will spare no efforts in combating these illegal activities.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Proposed resolution under the Trading Funds Ordinance.

**PROPOSED RESOLUTION UNDER THE TRADING FUNDS  
ORDINANCE**

**SECRETARY FOR INFORMATION TECHNOLOGY AND  
BROADCASTING** (in Cantonese): Madam President, I move the motion printed on the Agenda.

The Electronic Transactions Ordinance passed by this Council last Wednesday establishes a clear legal framework for electronic transactions. It also introduces a voluntary recognition scheme for certification authorities (CAs). Under the scheme, the Government will grant recognition to those CAs that offer trustworthy certification services. This will enhance the quality of local CAs, which in turn will strengthen the public's confidence in conducting electronic transactions over open networks.

In order to provide safe and secure certification services as soon as possible so as to promote the development of electronic commerce, the Government will take the lead in establishing a CA through the Hongkong Post. However, I would emphasize that the Hong Kong Post, as a recognized CA, does not have any exclusive rights. Other bodies are welcome to set up CAs in accordance with market needs and to seek recognition from the Government.

The Hongkong Post is a recognized CA under the Electronic Transactions Ordinance. The objective in moving this resolution today is to amend, pursuant to the Trading Funds Ordinance, the Post Office Trading Fund Resolution in order to allow the Post office Trading Fund to provide CA services and other services that are incidental or related to such services. If the motion is passed by this Council today, the Hongkong Post will start providing certification services to both individuals and businesses at the end of this month.

The Hongkong Post, like other recognized CAs, will have to comply with the code of practice issued by the Director of Information Technology Services under the Electronic Transactions Ordinance so as to ensure that the quality of its services will be up to standard. As a trading fund department, the Hongkong Post will provide its certification services on a self-sustaining basis. In order to give Members a clear report of its financial status in operating as a recognized CA, the Hongkong Post will maintain in its overall Post Office Trading Fund account, as well as in the certified statements for the Post Office Trading Fund to be tabled in the Legislative Council annually, a specific part in respect of its operation as a recognized CA.

The Bills Committee on Electronic Transactions Bill supported the resolution to be moved by me today when it examined the Bill earlier. I urge Members to support this resolution.

Thank you, Madam President.

**The Secretary for Information Technology and Broadcasting moved the following motion:**

"That Schedule 1 to the resolution establishing the Post Office Trading Fund by the then Legislative Council made and passed on 19 July 1995 be amended by adding -

"10. Providing the services of a certification authority within the meaning of the Electronic Transactions Ordinance (1 of 2000) and services incidental or related to such services."."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Information Technology and Broadcasting, as set out on the Agenda, be passed.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, the Bills Committee on Electronic Transactions Bill has also discussed the issue and indicated support for this resolution of the Government. However, during the discussions, we have also raised questions regarding the advantageous position of the Hongkong Post as a government department, and the fact that it would be recognized as a CA without undergoing any application process. Given that the Hongkong Post would be competing in such an advantageous position with other CAs from the private sector, the Government has promised that the Hongkong Post would be operating on a self-financing basis, with a view to further ensuring the fairness of the playing field.

In order to ensure a level playing field, I hope that the Government would review from time to time the role of the Hongkong Post as a CA. In this connection, I hope the Government could particularly take into account the edge enjoyed by the Hongkong Post, including the fact that it is a government department and that part of its expenditure has been waived.

**PRESIDENT** (in Cantonese): Secretary for Information Technology and Broadcasting, do you wish to reply?

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): I thank Mr SIN Chung-kai for his suggestion. Under the framework agreement executed between the Information Technology and Broadcasting Bureau and the Hongkong Post, we can maintain a close liaison with the Hongkong Post with regard to its policy as a CA and the implementation of that policy. As for Mr SIN's suggestion that we should regularly review the services provided by the Hongkong Post as a CA, in order to ensure fair competition between that department and private CAs, we can undertake to do so.

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. I believe Members know very well the time limits on their own speeches. I only want to remind Members that I am obliged to stop them from continuing with their speeches if they have exceeded their time limits.

First motion: Political reforms.

## **POLITICAL REFORMS**

**MISS EMILY LAU** (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

Madam President, in his policy address delivered on 6 October last year, the Chief Executive put forward the concept of "sustainable development". According to Mr TUNG Chee-hwa, this concept includes pursuing economic wealth, improving social lives and reducing environmental pollution and wastes. Madam President, some people — including me — pointed out at that time that political development seemed to have been missed out from this concept. Actually, the executive already put forward the concept of "sustainable development" in 1998. It was at that time fiercely criticized by some people that this concept had been "emasculated" or "hijacked". How can political development be missed out?

Madam President, the consultation on "sustainable development" has now entered the second phase. A few weeks ago, some relevant officials came to this Council. Last week, in the afternoon of 6 January, the Planning Department held another consultation forum and I attended it as a representative of the Frontier. This old issue was brought up in the forum again. Madam President, it was raised not by me alone. People from the business sector, university academics and professionals at the forum held the same view that it was impossible for Hong Kong to pursue "sustainable development" in this manner. A question was raised then as to why political indexes including democracy, rule of law, freedom and so on could not be used as yardsticks for sustainable development? According to the Department, this is because there is no objective assessment in these few areas. Nor can they be used as indexes for measurement. Madam President, people present at the forum were not convinced at all. Finally, someone from the real estate sector stood up and said, "The Government had better not put it in such a "high-sounding" manner. For honesty's sake, perhaps it'd be better for the Government to refer to it as "sustainable development (in planning, environment, lands) rather than "sustainable development"."

Madam President, sometimes we heard people say that the Mainland had pursued development in various areas. As it has enjoyed such a terrific economic development, why has it failed to pursue development in the political area by way of liberalization and reform simultaneously? Actually, these

criticisms and problems are applicable to Hong Kong as a Special Administrative Region too. For these reasons, Madam President, I move the motion today to urge the executive authorities to conduct a public consultation as soon as possible and consult the public on how the entire political system should develop. In the motion, I have proposed a few areas for consultation though it should not be restricted to these few areas only. This is because, in order to carry out a full consultation in concrete terms, we should listen to views from all sides. Nevertheless, the relationship between the executive and the legislature is of grave concern to all of us at the moment. Some people even asked whether we should consider adopting the "ministerial system". We should also discuss how major officials should be appointed. The Secretary has also said repeatedly in his previous speeches that a review is necessary. Apart from these, the election of the Chief Executive and all Members of the Legislative Council should also fall within the purview of this review. For these reasons, I hope Members in this Chamber today will support me in proposing this motion on behalf of the Frontier to urge the executive authorities to conduct this consultation as soon as possible.

Madam President, why should we conduct this consultation? I believe you, Madam President, Honourable colleagues, government officials as well as members of the public know it only too well that the present development is absolutely unsatisfactory. In an earlier radio broadcast, the Honourable Jasper TSANG even described the situation as "not sustainable". Why is it "not sustainable"? Why is the situation so bad? Most of the time, we can actually say Members support the Government on a great number of issues. We could see just now that all of us raised our hands and gave our support, though not all Members necessarily gave their support on some extremely controversial issues. But the Government, that is the executive, would try every means possible to get its motion passed. It would frequently resort to various means, or even used means we considered very dirty to pressurize Members. Sometimes, Members were forced to surrender and "make a U-turn". The Government would do a lot of things, but what consequences would that lead to in the end? Madam President, the reputation and creditability of our Council and Members would be undermined ultimately. Of course, throughout the entire process, the executive is not better off either. This is because, as Members said, both sides performed so "badly". It is really terrible that things have turned out like that. Some people therefore hold the view that if the system remains unchanged, nobody will want to be civil servants or Members. There are actually a lot of outstanding talents in Hong Kong. After looking at the situation in Hong Kong, they will

find that there is no future. How can we expect them to serve Hong Kong? It brings me then to this question: Is our entire political structure designed to attract quality talents to serve us or, as Mr Jasper TSANG said, to develop to such a stage that "Hong Kong is ruled by ignorant people"? Therefore, we should give more consideration to this issue and voice out in concert to urge the Administration to conduct a consultation as soon as possible.

Madam President, apart from the issues raised by me just now, this Council will hold a long debate again on a resolution to be moved by the Honourable LEUNG Yiu-chung next week as it is related to the Basic Law. While the Government has all along stressed the need for Hong Kong to be executive-led, the Basic Law has contained no provisions stipulating this. Their point is related to the spirit of the Basic Law. Actually, Article 64 of the Basic Law has clearly provided that the executive must be accountable to this Council. This is the Basic Law. But in what way will the Government manifest this point? Under these provisions of the Basic Law, what role is this Council playing at the moment? Is the executive really accountable to us? Madam President, I believe if we ask ourselves honestly, the answer should be in the negative as the Government has used various means to make Members succumb to its will.

Furthermore, there is the "straitjacket" imposed by Article 74 of the Basic Law, whereby Members are not allowed to introduce bills relating to public expenditure, political structure or the operation of the Government. If a Member wants to introduce a bill relating to government policy, the written consent of the Chief Executive must be sought. These barriers are even greater than what were imposed under the administration of the former colonial government. These barriers, coupled with part II(2) of Annex II to the Basic Law, provide that the passage of motions, bills or amendments to government bills introduced by Members of this Council shall require a simple majority of vote of each groups of members elected by different modes of election. These barriers, presented one after another, will only make Members and even members of the public think that there is nothing they can do except destruction. Members will be disallowed from actively doing such things as introducing private bills and even amendments. Madam President, you should be aware of this too, because Members have different interpretations of Article 74 of the Basic Law. Under such circumstances, the public is given an impression that Members only know how to "make noises" all day long in this Council. Like the motion moved by me today, perhaps it will meet with a "total defeat" when it is put to the vote later. This is what this Council was liked over the past few

weeks. What small feat Members can do is to cast a negative vote. However, they will not be able to do what they want to do proactively. This gives the public a very bad impression. Madam President, actually this Council has something which is quite good or perhaps even better than other parliamentary assemblies. For example, our committee system is highly transparent. I believe it is even better than many of our counterparts in the West. This has been the fruit jointly borne by Members. I think I should be proud of this. Nevertheless, what the public wishes to see is the Government's accountability, in addition to a very high degree of transparency. It is their wish that the Council can do something actively and take the initiative to introduce various businesses. I believe this is very important.

What role should the Legislative Council as provided for in the Basic Law play? Madam President, I hope the Secretary can enlighten us later on behalf of the executive. There is a problem here. Some people have suggested that the ministerial system could solve this problem. Not necessarily. Actually, the crux of the problem lies in how the executive can secure enough votes in the Council to support its proposals, whether they are related to a bill or funding provision. This is something any government must do in all democratic liberal parliamentary assemblies. For many years, the Hong Kong Government often tells others that it is very proud of itself for most of its proposals are passed even it has no representative to vote in the Council. Does this really mean that the Government is terrific?

I believe we have now reached a stage where some people want desperately not to support the Government. Later, Mr Jasper TSANG will say it again that the DAB is not obliged to support the Government. I think no one is obliged to support the Government. I wonder why he said something like that. We all know we do not carry such an obligation. Nevertheless, Madam President, how will such an obligation arise? If certain people formulated a policy in collaboration with the Government, then they would have to support the policy for they will be supporting themselves, not the Government. Therefore, a ruling party or coalition must be present in this Council for the purpose of formulating policies jointly with the executive. Of course, in the course of formulating policies, there must be discussions and reconciliations prior to the introduction of policies. People from the ruling party or coalition will then definitely give their support. In that case, government officials attending meetings here will not be confronted with Members who will all ask them questions or find fault with them. Instead, a group of people will be there to

explain as the policies are introduced by their party or by them, and they hope we will render them support too. This is what the situation should be like.

But why is the Government unwilling to do that? I believe it is partly because civil servants are not willing to give up their powers. Civil servants, especially senior officials, are at the core of power. I share with the Honourable James TIEN of the Liberal Party that the civil service group has controlled Hong Kong for a number of years and it still wishes to continue with this practice. Nevertheless, I believe even the civil servants realize that no one will come out winners should the existing system is allowed to develop like that, and it will do no good to all of us too. In particular, whenever there is any dispute, the Council will be thrown into complete chaos. The Government will then need to mobilize 60 or 70 people to secure votes or induce filibustering should its attempt to secure votes fails. Shame on them! Why should the Government do that? This is because the Government is not willing to seriously implement a system that facilitate it to secure enough votes in this Council.

Madam President, I hope Honourable colleagues can support my motion and discuss what steps we shall take to facilitate direct elections. It is the wish of the Frontier that this can be done as soon as possible. Of course, we hope this action can be taken in an open manner so that all the cards can be laid on the deck for public discussion. The Secretary once said that this is a very complicated and controversial issue and we need time on discussions. As such, it is all the more necessary to start the discussion as soon as possible. I hope we can secure enough support in this Council. If Members agree that this is an important issue, we should conduct discussions right away. I hope Honourable colleagues can support me in sending the message that this Council is urging the executive today to do this as soon as possible.

With these remarks, I beg to move.

**Miss Emily LAU moved the following motion: (Translation)**

"That this Council urges the executive authorities to conduct a public consultation as soon as possible on the relationship between the executive and the legislature, the ministerial system and the election of the Chief Executive and the Legislative Council by universal and equal suffrage."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss Emily LAU, as set out on the Agenda, be passed.

Mr James TIEN and Dr YEUNG Sum will move amendments to this motion. Their amendments have been printed on the Agenda. In accordance with the Rules of Procedure, the motion and the two amendments will now be debated together in a joint debate.

I will call upon Mr James TIEN to speak first, to be followed by Dr YEUNG Sum; but no amendments are to be moved at this stage.

**MR JAMES TIEN** (in Cantonese): Madam President, the relationship between the executive and the legislature and the ministerial system have far-reaching effects on operation our political system. According to Article 64 of the Basic Law, "the Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region". In reality, however, the relationship between the executive and the legislature is alienated and there is a lack of mutual trust. One of the reasons is that the executive authorities have not taken the relationship with this Council seriously, "they come to us after something has happened and ignore us when nothing happens". Government officials will answer the policy questions asked by Members at meetings of the Council but they often give irrelevant answers. When the Government is making preparations for material and controversial policies, it seldom takes the initiative to negotiate privately with political parties and Members. The only time when Members feel being important is when the Government fails to secure sufficient votes for a certain question. Members will suddenly receive calls from government officials, enthusiastically explaining matters.

With such a relationship between the executive and the legislature that lacks communication and co-operation, both parties are often antagonistic to one another. Being put in a passive role, Members can only vote against questions not to their satisfaction. To escort the official cause successfully, the executive authorities can only try their best to lobby Members and both parties will not feel good in the course of the confrontation. If things continue this way, not only will the Government's administration not be smooth, but the development of political parties will also be impeded. There will also be fewer talents in the community interested in participating in politics, and it will be extremely

difficult for political parties to canvass friends to join the parties and participate in the business of the Council. Therefore, the Liberal Party hopes that the Government will communicate more with this Council, in particular, it should negotiate with political parties and Members at an early date when it is making preparations for material policies, and listen to our views.

Secondly, the Liberal Party thinks that we should examine the ministerial system as soon as possible. In terms of the administration of Hong Kong, rights and responsibilities are seriously confused. The Chief Executive in Council is the highest policy-making body in the Government does not admit that the Executive Council is the cabinet of the Chief Executive, and Executive Council Members do not assume any political responsibilities. Moreover, principal government officials taking part in the formulation and implementation of policies also hold enormous power in their hands and play political roles, but they do not have to shoulder ultimate responsibilities for they do not have to take the blame and resign in the event of policy blunders.

The possession of powers but not responsibilities is an extremely abnormal and unhealthy phenomenon. The Liberal Party urges the Chief Executive to introduce a system of government ministers on contract terms. In the light of the actual needs of the community, the Government should recruit these ministers from the Legislative Council or business and professional sectors as well as among civil servants and academics who can make contribution to the community of the time. Ministers have clear policy purviews, and they can promote their beliefs and join the Executive Council to take part in the policy-making process.

At the same time, these ministers will also have specific powers to promote these policies, that is, if their subordinate civil servants do not obey their orders, they have the authority to penalize them. It is plain enough that they have the power to promote or dismiss civil servants.

However, as the relationship between the executive and the legislature and the ministerial system are very complicated political issues, it is not easy to explain them clearly to the public in a few words. If we conduct a public consultation on these complicated issues, we may not get very meaningful results. Therefore, we do not think it is essential to conduct a public consultation and this is our response to the first part of Miss Emily LAU's motion.

Secondly, I will touch upon the method for the election of the Chief Executive and the Legislative Council. In fact, the Basic Law has clearly specified the method for the formation of the Legislative Council before 2007, and we are now talking about the arrangement after 2007. The Liberal Party is of the view that we should conduct an extensive consultation at an appropriate time, but we do not think that this stage — the year 2000 or the end of this year after the Legislative Council Election — is the right time.

Why do we say this? In fact, the Government of the Special Administrative Region (SAR) was established in 1997, if any changes are to be made in 2007, there should be a 10-year schedule. Therefore, should we reconsider how changes should be made according to the objective circumstances when we are past half of the schedule, that is, five years later, when all the sectors of the SAR have stabilized and are developing further?

Madam President, a Legislative Council election will be held this year and another election will be held in 2004. If it is necessary to make changes relating to the election, we should only do so in 2008. If we calculate further on the basis of this schedule, we should actually start taking actions in 2008. Although the Basic Law has specified it at 2007, as the Provisional Legislative Council has taken up one year, we should start taking actions in 2008, and I believe colleagues will understand this. What should we do when we can start taking actions? I believe we should perform such specific tasks as voter registration and constituency boundary demarcation. I believe such tasks can be completed within two years in any case. We should start conducting the consultation in 2006, two years ahead of 2008, for a period of two to three years, and this is fairly sufficient. Therefore, I think that it will be more appropriate to conduct a comprehensive and extensive consultation in 2003 so that Members who intend to run for the seats of the Legislative Council in 2004 will have a clearer stance and know what they will support. They will know if they will support a full direct election in 2008 or if they have any views on a certain functional constituency.

We are discussing this issue today. However, the incumbent Members may not be elected Members in 2004. Many functional constituencies have reflected to me that it is really too early to ask them to consider this issue in 2000. The SAR Government has only been established for barely more than two years now and electors, especially the business and professional sectors have certain worries about the work of the Council such as the outcomes of motion debates.

I certainly hope that these cases will not happen several years later. But if we have to vote on such sectors today, we may make them feel scared and they may adopt a cynical attitude and decline to agree any reform.

Furthermore, I have also noticed that Miss Emily LAU has used the words "as soon as possible" in her motion. If we really launch a consultation today, does the consultation period have to last six to seven years? Should we conduct a consultation until 2006 and then ask the Secretary to take actions? If there is a consultation period of one to two years, how should we deal with the results of the consultation? Should we put in the refrigerator the results of the consultation we got in 2000 and 2001 and then take them out for implementation in 2008? If so, I believe many people will have various views during this period in the light of the pace of development in Hong Kong. As Hong Kong progresses, the business sector and the general public may have different views at that time. Should we conduct another round of consultation in 2005 and 2006 again? Therefore, the Liberal Party thinks that we should conduct an open and extensive consultation at an appropriate time, and a consultation period of two to three years is anyhow adequate. Therefore, we think that a satisfactory schedule is to start conducting a consultation in 2003 for a period of two to three years, and allow the Government to make actual and specific arrangements for the election. A two-year period is good enough and we need not start conducting a consultation so soon because we will not be able to achieve our objective this way. The Liberal Party opposes Miss Emily LAU's original motion and Dr YEUNG Sum's amendment.

With these remarks, Madam President, I shall move an amendment. Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, two years after the reunification, the operation of the political system in Hong Kong is fraught with problems and it is actually unwise for the system to continue to exist.

Take a closer look at the system and we will find that the existing political model is a weirdo. The Government holds the power but does not bear political responsibilities, even if it has made mistakes. It also lacks an official vote in the Legislative Council. Therefore, for a bill introduced by the Government to be passed, the Government has to exchange interests with and lobby Members, and it even combines threats with inducements and resorts to all sorts of means. But

even though Members are willing to play the role of royalists, they have to consider their own political future nearing the time of an election and they dare not defend the government cause through to the end. Therefore, the administration of the Government often encounters hidden worries and it is not easy to pursue reform measures in the Council. For instance, it is by no means easy for the Financial Secretary to advocate an expansion of the tax base.

Similarly, Members are caught in a serious plight. Although those Members who are directly returned by geographical constituency elections of universal suffrage have the people's mandate and represent the public in exercising checks and balances on the Government, they are not given opportunities to take part in the formulation of policies. As Members have monitoring powers but not the opportunities to formulate policies, some of them may make strong criticisms against the Government in order to build up their public image and influence because they do not have to consider the viability of their views.

The plight of having powers but not responsibilities becomes more serious as a result of the restrictions imposed by the Basic Law. For instance, the requirement that a motion shall be passed by a majority vote of Members elected by different methods and the provisions of Article 74 of the Basic Law have restricted the introduction of bills by Members and made it difficult for the motions of Members to be passed. On the contrary, it will be a bit easier for motions opposing the Government to be passed. Therefore, cases often happen in which there are more votes in favour of than against the motions moved by Members, but the motions are still voted down because of separate voting.

Madam President, with such an unwise political arrangement and Members returned by different methods, a majority party can hardly be formed in the Council, thus making it difficult for political parties to exercise effective checks and balances on the Government. Gradually, government officials, Members and the public have become dissatisfied with this political arrangement. Government officials are agitated by the pressures from the Council and they have to support one party and undermine another. Besides, they bear risks very often. Members shout themselves hoarse against the Government but so long as the Government succeeds in lobbying and gets sufficient votes, it can turn a deaf ear to Members' views. As the public has seen, few outspoken elected Members can succeed in amending government policies and they can only keep putting up a dissenting voice. As the public finds that Members "fail to deliver", they begin to doubt the purpose and significance of voting.

Evidently, the existing political arrangement fails to find favour with the three parties, but the public's pent-up grievances against the Government and disappointment with this Council will gradually increase. As a result, there will be seething public discontent and people will have diminishing confidence and interest in political affairs. Is this a blessing for Hong Kong?

What we can do now is to conduct a review of our political system as soon as possible and hold public consultations on the relationship between the executive and the legislature, the ministerial system as well as the election of the Chief Executive and the Legislative Council by universal suffrage. All these are pressing tasks.

Madam President, the ministerial system proposed by some political groups or parties is lopsided and unfeasible. Firstly, the ministerial system must be based upon a democratic system. In other words, only when the election of the Chief Executive and the Legislative Council is by universal suffrage will there be a suitable and matching basis for the ministerial system. Once the Chief Executive and the Legislative Council are elected by universal suffrage, the political party that has won the majority seats in the Legislative Council and the Chief Executive elected by universal suffrage will most probably belong to the same political party, and they can thus co-operate in forming a ruling party. The bills and budgets introduced by the executive will then be passed by adequate supporting votes in the Legislative Council. While ministers are politically appointed, civil servants are still politically neutral professionals. When ministers are caught in blunders, they should shoulder the political responsibilities and resign. As the ruling party is formed by members chosen by electors, its policy objectives are supported by the people and it will be more confident in implementing policies and reforms. Such an arrangement is completely different from the existing one.

If the SAR Government does not facilitate the election of the Chief Executive and the Legislative Council by universal suffrage first, and rashly implement the so-called ministerial system such as the formation of a ruling alliance as proposed by Mr Jasper TSANG, and make appointments to the ministerial posts, the Democratic Party will oppose it for this will indeed not work. With different political platforms, how can Members form a ruling alliance? If a Member or an Executive Council Member assumes the post of a

minister, there will be even more problems than with the current system of Policy Secretaries. For example, if Mr LEUNG Chun-ying assumes the post of the Secretary for Housing, he may achieve poorer results than Mr Dominic WONG, the incumbent Secretary. It is because Mr LEUNG has too many interests in the property sector. If Dr LEONG Che-hung takes up the post of the Secretary for Health and Welfare, he may not perform better than Secretary YEOH Eng-kiong because the public may think that Dr LEONG will only safeguard the interests of the medical sector.

Building a house on a huge rock is definitely more secure than building it on quick sand. If the Government is eager for quick success and instant benefit, and goes after short-term changes, it may bring more harm than good. Instead of blindly going after the ministerial system, we may as well try our best to conduct a review and public consultation on political reforms as soon as possible. I fail to understand why the Liberal Party has insisted on launching the consultation in 2003 when the Government has already said that it will conduct a consultation after the election in September. Why is it going to wait until 2003? This will only postpone the political review and public consultation. The early conduct a review and public consultation will be conducive to discussions in society and the early conclusion of a consensus. Circumstances permitting, we can amend the Basic Law earlier and fulfil the promised election of the Legislative Council and the Chief Executive by universal suffrage earlier.

The Democratic Party fully supports Miss Emily LAU's motion and I have only moved an amendment to make her motion complete and properly oriented.

Madam President, the Democratic Party does not support Mr James TIEN's amendment for two major reasons. Firstly, Mr TIEN's amendment will postpone a review of our political system because he has not specified when is the suitable time. Secondly, his amendment only asks the Government to review the relationship between the executive and the legislature and consider the ministerial system, but not the conduct of a public consultation on the above matters. I believe the public should have the right to express their views on various aspects of the political system, and the Government should collect and consider public opinion and carry out a reform to the political system.

It has been almost 10 years since the promulgation of the Basic Law in 1990. In these 10 years, there have been significant changes and Hong Kong has experienced enormous changes. It is now time the Government reviewed the political timetable specified in the Basic Law and considered if it is necessary to make corresponding amendments to meet the needs of social development.

With these remarks, I support the original motion and oppose Mr James TIEN's amendment. Thank you, Madam President.

**PRESIDENT** (in Cantonese): We will now proceed to the debate.

**MR GARY CHENG** (in Cantonese): Madam President, the recent discussions in the community about the political system of Hong Kong make me feel that we seem to have returned to the time when the Basic Law was under drafting, and the only difference is the people involved. In the past, there was a martial arts assembly held by Mr CHA but we have Mr TUNG Chee-hwa, the Chief Executive now. The Democratic Party and the Democratic Alliance for the Betterment of Hong Kong (DAB) were not yet formed then. In fact, as compared with the past, the biggest difference today is that the SAR has been established and operating for over two years. While both occasions are discussions about our political system, the conditions and background have evolved, therefore, our discussions should really open up new depths and visions.

Before the reunification, discussions about the political system in Hong Kong were often focused on when the legislature should be fully directly elected. I recall that there were the so-called "1990 proposal", "89 people proposal" and "38 people proposal". The major difference was the number of directly elected members and the pace of development. With the historical atmosphere at that time, it seemed that "this was the most important matter" and provided that there were more directly elected seats, Hong Kong would have everything after the reunification and the confidence issue could be solved.

At present, the SAR Government has been operating for two and a half years and the Basic Law has also been implemented for two and a half years. On the one hand, according to the provision of the Basic Law on gradual and orderly progress, the SAR Government will soon hold the second Legislative

Council Election. On the other hand, the relationship between the executive and the legislature is caught in an unprecedented quagmire. If we agree that the greater the number of elected seats, the more democratic it will be, the second Legislative Council Election will have more democratic elements. However, I believe nobody would still think that this will be able to solve all problems, including the quagmire in respect of the relationship between the executive and the legislature.

Colleagues and officials in this Chamber have said in unison that "the Council has votes but not power, and the Government has power but not votes". Members are not satisfied with the fact that their rights to introduce bills are subject to restrictions while officials are grumbling that whenever they propose motions, introduce bills and file applications for fiscal expenditure, they cannot guarantee that they will get the support of the Legislative Council. The Council and political parties can only play monitoring and opposing roles and the "executive-led" mode of the Government is not guaranteed. At least, the Government will definitely not be able to act on its own and has its own way as people generally imagined in the past.

An "executive-led" mode is not mentioned in the Basic Law but it has undoubtedly copied wholesale the "executive-led" mode of the British Hong Kong Administration before the reunification. We never dreamt that this mode worked in the past because of the support of appointed Members and *ex officio* Members. However, the present Government has to try its best to stonewall Members seeking to move amendments to government bills. I really do not know how long this will continue. Members may agree and reach a consensus that the most prominent feature of the existing political system is that changes must be made.

What is a "ministerial system"? Different people will have different views. Does the implementation of a ministerial system means that politicians or non-civil servants should assume the posts of Policy Secretaries in place of civil servants? Briefing out is trendy. Perhaps we may consider briefing out the posts of Policy Secretaries to replace them by "full-time salaried government policy designers-cum-salesmen on agreement terms". Actually, the only difference is that the incumbents are doing so "involuntarily", aggrieved and full of resentment. However, the latter are perfectly willing, highly tolerant and blaming nobody, no complaints.

From the perspective of responsibility, we should surely place the pace of democratization or the reform of political system and the degree of maturity and development of political parties on a par. Under the present situation of Hong Kong, the public naturally has an idea about the roles political parties can and should play. Changes in a system can be realized by means of a decision and a law. Yet, the changes in political culture on which the success of the system hinges cannot be achieved overnight.

We understand that we cannot get an instant answer to the question about our political structure. Even if we have a theoretical answer, we still have to solve the problems in relation to the conditions and environment in order to put it into practice. The DAB has been actively exploring and seriously studying these issues and we are willing to make exchanges and listen. A more important point is that we have spared no effort to take part in the implementation, both under the British Hong Kong Administration before the reunification and the SAR Government now, and we have participated fully in the elections of different tiers of representative assembly. In making such efforts, our objective is to keep upgrading the level of political participation and discussion, and fight for greater participation under a new political environment. In fact, we have an established stance and attitude towards the substance of today's motion, aware that we can represent the views of a considerable number of people.

In our exploration into the development of the political system, we have always adopted an active and open attitude. Summing up the actual practices before and after the reunification, we think that a review of the political system is a reform study that comprehensively considers the interactive relationship among various parts of the political system and it should not simply focus on the electoral system. The political environment of our society certainly includes the extent of development of political parties.

The implementation of the "one country, two systems" objective and the overall operation of "a high degree of autonomy" as well as the smooth implementation of the Basic Law have provided us with new historical conditions and environment. On this basis, we can launch extensive and in-depth public discussions and studies so that all parties can fully express their views. We will adopt a useful and constructive attitude and express our views on these issues.

Mr James TIEN's amendment urges the executive authorities to "conduct a public consultation at an appropriate time" but as far as we understand it, he does not oppose conducting a consultation earlier.

With these remarks, Madam President, on behalf of the DAB, I support the original motion and the two amendments.

**MR ERIC LI** (in Cantonese): Madam President, during the policy debate held on 22 October 1997, I concluded my speech with this remark: "Evading Political Reform, A Faded Blueprint". At that time, I commented on the first policy address of the SAR in this way, "A beautiful economic blueprint will be just like a colourless picture if the component of political development is ignored."

Following the reunification, because of, in particular because of, the drastic attempts of technocrats to introduce many new policies and reforms, it is inevitable that those outside the establishment who are affected by such policies will at least want to have a say inside the establishment, so as to ensure that their interests are suitably protected. The Legislative Council can provide precisely a powerful monitoring mechanism and venue to achieve their purpose. That is why, to a certain degree, it may not be entirely possible to avoid the checks and tension between the legislature and the executive. Having said that, I must add that if the Government simply gives tit for tat instead of trying to ease the chronic confrontation plaguing its relationship with the Legislative Council under the existing system, it will certainly find it hard to go about its work of governance smoothly.

The near abortive attempt to enact the legislation on dismantling the two Municipal Councils, the resignations of high-ranking government officials and Mr Jasper TSANG's open dissatisfaction with the current political situation are all "signs of an imminent storm". The desire of high-ranking government officials and politicians for changes have become all too obvious. I am sure that the people of Hong Kong will all expect the Government to face the realities with an open and objective attitude and then try to work out viable reforms through analyses and discussions. If it fails to do so, if it behaves like a "political ostrich", people will certainly feel that it simply wants to defend its defects and deceive itself as well as others.

It will take the Government a very long time to come up with a mainstream view and proposal on political development, and it also takes time to phase in the relevant measures. That is why I am of the view that this is the opportune time to hold the debate today.

The motion can be divided into three parts: a ministerial system, the relationship between the executive and the legislature and direct elections for the Legislative Council. These three issues are all the main ingredients of our politics which can be compared to water, soil and seeds. If an interactive and mutually beneficial relationship can be established among these three ingredients, and if they can work in the form of a cycle, they will be able to nurture and control the development of our political ecology. If they can work with good co-ordination, they will certainly produce fruits. If not, all our efforts will be in vain.

Let us start with the seeds. A Legislative Council fully returned by direct elections is the ultimate objective laid down in the Basic Law. An independent survey conducted for me by the Centre for Social Policy Studies of the Hong Kong Polytechnic University convinces me that as long as politicians and political parties do not "try to help shoots grow by pulling them up" — I mean, as long as they do not adopt any rash, radical and confrontational approach to achieve this aim, and adopt an incremental approach instead, they stand a good chance of achieving the aim of introducing universal suffrage.

The survey report reveals that those belonging to the accounting functional sector are both politically active and enlightened, with a high civic awareness. They tend to look at the combination of direct elections in geographical constituencies and functional sector elections with a moderate, receptive and unbiased attitude. On the whole, the accounting sector's attitude towards direct elections in geographical constituencies tends to be more positive than its attitude towards functional sector elections. As far as political reforms are concerned, the accounting sector is no doubt very cautious, but it is at the same time very open. So, although 55.7% of the respondents do not wish to override the electoral arrangements laid down in the Basic Law for the period from 2004 and 2007, over half of them do wish to see changes after 2007. But the accounting sector also wishes to adopt an "orderly and progressive" approach to achieve the aim of introducing universal suffrage.

As revealed by these expert findings, it is not always true that functional sector electors will put their own interests above everything else, and that they are always reluctant to give up their political privilege. Insofar as the long-term reforms for the Legislative Council are concerned, I am sure that the greatest resistance will not come from functional sector electors.

The accounting sector can actually foresee what will happen, and it is well prepared for that. We will not oppose a comprehensive review on this matter at any appropriate time, including now.

If the Legislative Council is compared to seeds, then the relationship between the executive and the legislature can be compared to the soil that nurtures politicians. If the soil is fertile, then the Legislative Council will be able to nurture Members who are good at policy analysis and capable of making positive contributions. That way, the development of political parties will also bear fruits. But if the soil is poor, then what may grow may well be prickly "thorns" and "wild flowers and weeds" that keep worrying and annoying government officials.

Politics should be the concern of all; it is absolutely not the sole property of the Chief Executive, or any particular civil servants and politicians. I do not wish to see the debate today degenerate into an excuse for the two sides to trample on each other's rights and room for survival. I also wish that Members today can refrain from giving people any impression that the Legislative Council is trying to stage a "power struggle" against the executive.

When Members discuss the inadequacies of the executive authorities, they must not "look for others' minor problems only but forget all about their own mistakes". When they ask what the Government can do for us, they must also ask themselves what they can do for the Government and the people of Hong Kong.

This is in fact a very old issue, and I am sure that if Members ever had any alternatives, they would never have chosen to exert influence on the Government by means of such a negative approach. To be fair, of course, the executive authorities must at the same time refrain from nepotism and fault-shielding. And instead of heeding and trusting only some particular groups, it must be fair in meting out rewards and punishment, punishing those at fault by taking away some of their authority. All those who are capable of making contribution, be

they government officials or Legislative Council Members, should be given due and open recognition (as when Members put forward policy or legislative amendments). And, the Government should also give Members more opportunities to participate in policy-making (by, for example, conducting consultation before making appointments to advisory committees). In the course of policy-making, the Government should also be frank in its attitude, giving all the relevant facts and listening to all views before finalizing its position; it must never try to hard-sell any "half-baked" policies or legislation from top down. If the Government fails to adhere to these principles, it cannot possibly blame Members for their occasional bluntness.

On the part of Members, they should distinguish between what is right and what is wrong and act with an impartial state of mind, commenting on practical issues instead of the people involved. All political parties, be they "royalist" or "populist", should behave with civic manners in the course of debate, giving government officials the due respect they deserve. Members in support of the Government may still exhort it, and those against the Government should also be prepared to share the political risks involved. Actually, along the path of political reforms, government officials and Members are really partners who are both subjected to the monitoring of the people and the media. That is why we should all help one another out and share the powers and obligations.

Under every political system, there are always some posts, such as those of the Chief Executive and ministers, which are open to competition among interested parties. So, I do call upon all those politicians who aspire to these political positions to work hard to achieve their objectives, instead of resigning as unconvinced onlookers.

While we are discussing our political reforms now, I must point out that the current development of our political parties was very much unforeseeable when the Basic Law was being drafted. And, I must also say that the drafters actually opted "latitude instead of rigidity" in this very respect. I believe that it is the right time to discuss and review "the executive-led government under the core leadership of the Chief Executive". I also believe that we can now start to discuss the development of a ministerial system under a framework mutually beneficial to political parties and the executive authorities. I will support the motion and all the amendments proposed today. Thank you, Madam President.

**DR LEONG CHE-HUNG:** Madam President, I rise to speak on the motion and amendments with mixed feelings of joy and disappointment, and the disappointment is not because Dr YEUNG Sum said that I was not suitable to be the Minister of Health. In short, there are good news and bad news.

Now, let me start with the good news. Madam President, the debate on the pace of democratization has dominated this Chamber before and after the transition. In all these debates, the main focus is on universal suffrage for this Council and the Chief Executive. In July 1998, during one of the similar focus debates, I made the following comments:

"Many will argue that the pace of democracy, which will ultimately lead to total universal suffrage for the legislature and Chief Executive, has been well outlined in the Basic Law. Yet let us do not overlook two important elements. The Basic Law was drafted in the mid '80s and promulgated in 1990, some seven years ago. Much has changed in the maturity and understanding of politics in Hong Kong. Much has also changed in the political development of the Central Chinese Government. Secondly, whilst the pace of democratization as outlined in the Basic Law may well be the mainstream preference of Hong Kong people then, it could be different today.

If the concept of Hong Kong people ruling Hong Kong is anything to go by, if the promise that Hong Kong people can be masters of their own destiny is to be realized, then it is up to the Special Administrative Region Government to sound out the populace on the way ahead and to seek changes of the Basic Law to put the people's wish into practice."

In the same debate, I said, and I quote:

"Yet, is a faster pace of democracy the be all and end all to make a better Hong Kong? Would a 60-member Legislative Council returned via direct election and the Chief Executive through the same process help avoid all the problems of Hong Kong?"

"In short, I put it to this Council and the public that there needs to be a bigger constitutional change than just introducing universal suffrage for this Council and the Chief Executive. I call for the establishment of a constitutional system whereby either the Policy Secretaries are politically

appointed, or better still, elected Members of this legislature be appointed to the Executive Council and given a portfolio, officially or otherwise. Such a move would mean that the Executive Council Members are politically accountable to the public."

Madam President, this was my stand in 1998. It is still my stand today. I am elated that the motion and the amendments today are to address all these. Even my Honourable colleague, Miss Emily LAU, has recomposed herself to request for a public consultation on constitutional reform before moving to total universal suffrage, and has recognized the need for a wider ambit of reform in the governance structure.

Madam President, although it has been mentioned *ad nauseam* in this Council relating to the relationship between the executive authorities and the legislature, I would still like to elaborate more on it. It could well be the kingpin of necessary constitutional reform.

As a legacy of the former colonial government under the general principle of an executive-led government, public policies of Hong Kong are determined by the executive authorities which consist of the Chief Executive, the Executive Council and the Civil Service. The decided policy will be promulgated and implemented by civil servants. Regrettably, these bodies are all appointed with no populace mandate. In short, they carry the power but no mandate.

The legislature is completely elected, yet its only function is to monitor government policies and implementation on a passive and reactive basis. In short, this elected body has a mandate but no actual power.

The ambit of the Basic Law, in particular Article 74, which restricts legislators, and together with a need for a bicameral voting system for Members' motions, has stifled the role of the people's elected representatives and the power of this Council.

The executive authorities fare no better. With no votes in this Council, and should a consensus be difficult to reach with enough Members of this Council, the Government may well have to face an unexpected "Waterloo". The Government now adopts the tactic of intensive personal lobbying at the eleventh hour. Much time, valuable time is spent on such unnecessary activities when a better structure could be instigated to improve the rapport of the executive authorities and this legislature for a better governance.

Madam President, I believe that the ministerial system will be the way forward to solve these matters. The benefits are threefold. Firstly, policy-makers will have not only the power but also the mandate. At the same time, legislators and political bodies will have to bear the responsibility of their proposals and demands. Finally, civil servants will be relieved of the responsibility of political pressure and concentrate on the neutrality of the Civil Service.

Madam President, I started off by saying that this motion also brings on disappointment. What then is the bad news? As a start, well before this debate, the Chief Executive has done a "Pearl Harbour". In a highly-publicized way, he has stated his reservation of the ministerial system and axed it because he still believes that a core of stable and efficient public officers offers the best way for Hong Kong. Let me remind the Chief Executive that a ministerial system does not upset the Civil Service. Instead, it should help the stability of the Civil Service by removing the political sensitivity out of the structure.

Madam President, the timing of this debate must be to a certain extent prompted by the recent report of not just one but more high-ranking public officers leaving the Civil Service. Whatever the reason behind the exodus, only they can tell. It has been said that it is the lure of even better benefits of the private or quasi-government organizations. So be it. It has also been incriminated that the move is because of the intolerance to the current political climate, where top officials have to face the sometimes lancinating political volleys from legislators. If this is the reason, it is an even stronger argument to appoint political ministers to face the necessary action of the elected people's representatives.

But I do see a possible silver lining. In fact, the Chief Executive is appointing three previously elected Council Members to the Executive Council and giving them some form of portfolio. The fact that the Secretary for Justice and the new Secretary for Health and Welfare are appointed not from the Civil Service ranks but on a contractual basis could well signify that he is subtly and subconsciously moving onto a quasi-ministerial system. Let us develop on that.

With these remarks, Madam President, I support the original motion and the amendment moved by Dr YEUNG Sum, but I would object to the amendment moved by Mr James TIEN.

**MISS CHRISTINE LOH:** Madam President, Hong Kong's political structure has serious flaws. My colleagues have already enumerated many of them and so I will not go through them, but I would like to add a few observations of my own.

The first problem, I am afraid, is ideological, and the ideology is that of the People's Republic of China. Beijing's main concern is control. It wants a pair of safe hands in the person of the Chief Executive. So Hong Kong ended up with a Chief Executive who is of ministerial rank in the national hierarchy but who would not be qualified to be the municipal head of, say, either Shanghai or Tianjin. The Chief Executive simply does not have the political or the administrative experience to head a significant city. However, the Chief Executive has a significant quality that few others have in Hong Kong. He is trusted by Beijing.

The same applies for the non-official Members of the Executive Council. Few of the current Members have any real cabinet-level experience. Moreover, they work part-time. I know of no other city of the sophistication like Hong Kong's where the cabinet is non-professional. I wonder what answer we would get if we were to ask, say, a Minister in Singapore whether he or she can do his or her job part-time. What is so special about Hong Kong that we can benefit from a cabinet which is non-professional and which only meets on Tuesday mornings and on a few other occasions when there are important issues?

Some people may remind me, Madam President, that the Executive Council is not really a cabinet. Well, exactly. If it is not a cabinet, what is it? And what system do we really have in Hong Kong? Some might even argue that the real cabinet is the Chief Executive's policy committees. Some may say that what Hong Kong has is not a really executive-led government, but a civil service-led system. And what do we think of such a system at the time of the millennium?

We do have a very good Civil Service, but it is not as good as it might like to think that it is. It does suffer from a number of problems. There have been significant retirements over the years. We have young civil servants who are struggling very hard in deputy and assistant secretary levels. Very often, their policy-making skills are lacking. Thus, we have a Chief Executive and the Executive Council which is not very experienced, and we also have many gaps in the Civil Service.

I do not want to leave ourselves in the Legislative Council out of this. Legislative Council Members by and large are also non-professional. There are many people who do this part-time. Besides, taking politics as a career and as a profession is a very new thing to some of us, including myself. I have only been here for eight or nine years and am a very young politician.

Furthermore, we are cramped. Our style is cramped by actually having very little resources. When I explain to my constituents sometimes that I am not always able to attend to certain businesses immediately, and I explain to them how much money that I have to run my office, and with that sum of money how many people that I can hire, people always say, "Oh, we did not realize that you have so little support". That is a problem also for the legislature.

And we are often being accused of having too much bickering, too much talking but not much action. However, it is very hard to be able to take effective action when we have no real power, when we are not engaged in policy setting, policy debates, and when we may have some influence but not much power.

So, if we are to change all these to ensure that we design a political system that makes sense, it should be the one where each part of the political system relates to each other, that is accountable, that has checks and balances, and where the people of Hong Kong feel that it is a decision-making structure that leads Hong Kong forward, rather than what we have right now which is a system that is out-dated and is holding Hong Kong back.

How do we build this new system? Madam President, you must excuse me again. This must be the tenth time I have said this in the last two years. I think that Hong Kong needs a constitutional convention. When the Honourable Miss Emily LAU talks about discussion, public consultation, how are we actually going to do it? How do we consult? How do we discuss really quite complex issues at a deep level, not just on a superficial level? We cannot rely on the good Secretary and his team to think of every possible thing. That would be asking too much. But we know that the good Secretary together with this Council can organize a significant convention where many different parties, including international parties, parties from the Mainland, can actually come and share their experience with us so that we can design and agree to a political architecture that is going to work for Hong Kong.

This is going to take some time, and if we did look at the experiences of other countries which have gone through constitutional conventions, this is the kind of job that takes a few years. And then of course, we have to go through what is in the Basic Law to actually get it passed, which is why I am urging the Government to do it sooner rather than later. Some people might say that a constitutional convention could be a big talking-shop. Well, we are going to have to have a big talking-shop before we can arrive at some consensus, before we can take serious votes about the way for the future.

Since these issues are so complex and there is going to be a lot of controversy, a lot of debate, why not start now? And I do think that when we have a new Legislative Council in October, that is a good time to start designing this constitutional structure, making sure that in the next four years of life of that Legislative Council, we can make significant inroads into looking for some solutions.

Therefore, I fully agree with the motion and with Dr YEUNG Sum's amendment, but I find it very difficult to support delayed action that is being proposed by the Liberal Party.

**MR NG LEUNG-SING** (in Cantonese): Madam President, the issue of political system has recently become a topical subject in society, but those involved in the debate are evidently restricted to people in political circles and scholars. If we view the issue from another realistic perspective, we will see that despite the onset of economic recovery currently, Hong Kong is still under the influence of some unstable external factors with the local unemployment rate standing at a higher level. In the face of the restructuring of industries, coupled with the imminent accession of China to the World Trade Organization, the future economic development of Hong Kong may be full of opportunities and challenges. Hence, whether from the standpoint of the general public or different walks of life, the issues concerning economics and the livelihood of the people remain the focus of attention. To reflect the wishes of the public, a politician should insist on giving priority to the problems of economics and the livelihood of the people.

So in my opinion, it is true that at this stage all trades and professions can proceed to discuss the development model of our political system and the Government can also encourage various sectors of the community to conduct

discussions in this connection, but they must regard economics and the livelihood of the people as the basis and core of the future development of the political system. Thus only on these premises should they aim at safeguarding a stable and harmonious "commercial community" environment, consider various ways of safeguarding the interests of investors, the middle class and the grass-roots, collect opinions and suggestions from various sectors, and explore and examine various issues related to the political system.

So far, while there are quite many commentators offering views on issues related to the political system, but it appears that we lack a systematic and practical reform proposal, proving that various sectors of the community are still at the early stages of thinking and exploring. For example, regarding the so-called ministerial system, everybody has his own interpretation and they are unable to decide which is right. In addition, it requires careful consideration and study to determine which approach meets the Basic Law requirements. Under these circumstances, I think that at this stage, it is necessary to have an in-depth analysis to be carried out by different sectors of the community, especially the political commentary groups and political parties, and various trades and professionals together with functional groups. We can even appoint consultants to conduct studies and to come up with a systematic and practical proposal for discussion by all members of the community, before we arrive at a fully-developed proposal for consideration.

The current discussions about the ministerial system and the relationship between the executive and the legislature in the community aptly remind us that the issue of political system is not simply a matter of "one person, one vote". It involves the reasonable operation and sensible structure of the entire political system. Specifically, this is an issue of political rationale. We must take into account the positive interaction between the executive and the legislature, the need to strike a balance between the interests of different sectors of the community including the general public, the middle class, the various industrial and commercial sectors and both domestic and overseas investors, the maintenance of stability of the whole community, and the requirements of political rationale, scientific policy-making processes and efficient administration. In addition, political rationale involves the consistency with the Basic Law provisions and the compatibility with the concept of "one country, two systems", as well as the maintenance of a good relationship between the Central Government and the SAR. If we put aside the issue of political rationale and push our way with direct elections as the only solution, then the friction and

disagreement within the political system will not necessarily lessen. For worse, the inherent advantages of Hong Kong will be weakened, undermining the existing impetus of functions exercised by various social strata for social and economic development.

As regards the current relationship between the executive and the legislature, I do not think there is a need to consult the public about the subject matter. In fact, the present situation is not particularly unusual. As we can see, the executive does not have definitely sufficient votes of support in the legislature, which is not unique to Hong Kong. The scenario of a Democrat acting as President and Republicans controlling the Congress even exists in the United States where government policies are often controlled by the Congress. There are often intense contradictions between both parties. The contradictions between the executive and the legislature are therefore an inevitable outcome of the functioning of the monitoring mechanism. In my opinion, as long as both the executive and the legislature enhance their communication and understanding, the executive takes the initiative to explain its policies, legislators hold on to the spirit of discussing questions *per se* and convincing people by reasoning to avoid politicization of almost everything, it is believed that the current relationship between both parties will not result in undermining the administration of sensible policies relating to social and economic life. I also have reason to believe that the public will eventually revile any party maliciously impeding the administration of policies that are in the interests of society and the people.

Madam President, I so submit.

**MR ANDREW WONG** (in Cantonese): Madam President, I thought that there would be many Honourable Members speaking, so I did not prepare to speak. But since few Members have spoken, I may as well speak a few words.

First I would like to talk about how the number of 2007 found in two provisions in Annexes I and II to the Basic Law should be construed. I hope that I could make use of that to convince Mr James TIEN and the Liberal Party on when should be the most appropriate time to conduct a review and hold public consultation. It should also clarify the issue of whether it would only be appropriate if these are done only after much delay.

Article 7 of Annex I reads like this: "If there is a need to amend the method for selecting the Chief Executive for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval." This is an approved procedure, but the provision states that it is subsequent to the year 2007, I will not count the year 2007. For example, if in 2008 the Chief Executive is going to be elected, then if the method for selection has been endorsed by a two-third majority of all the Members of the Legislative Council, consented by the Chief Executive and reported to the NPCSC, then it can be put into practice in 2008. The work for amending the provisions can be completed before 2007. It will take a long time for the fermentation of the amendment, especially if we still do not have a consensus on this yet. Work must be done as soon as possible. The motion moved by Miss Emily LAU now is in fact the least controversial motion, for when it is compared with the other motions moved by Miss LAU before, this is only a very plain and down-to-earth motion.

Well, it may take an even longer time to ask the NPCSC to give its approval. However, there is another option which can save more time. That is to gain the endorsement from a two-third majority of all the Members of the Legislative Council and the consent of the Chief Executive, then report to the NPCSC for record. This can cover issues like voting procedures, the number of seats returned by direct elections, and whether or not functional constituencies should remain. All these are mentioned in Article III of Annex II to the Basic Law, the heading of which is: "Method for the formation of the Legislative Council and its voting procedures subsequent to the year 2007". The Article reads like this: "With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for record." It follows that the entire process of conducting a review, holding public consultation, legislation and amendment should all be completed well before 2007. The main objective of Mr James TIEN's amendment, leaving aside the part on consultation, seems to defer the whole thing just for the sake of making a review, an examination and consulting the public at an appropriate time. But then when is the appropriate time? I am

very surprised to hear the Honourable Gary CHENG say that he could take "at an appropriate time" to mean "as soon as possible". But the amendment changes the words of "as soon as possible" in the original motion to "at an appropriate time". Obviously, it does not mean "as soon as possible". As for myself, I would of course think that this should be done as soon as possible. That is my first point, and I think it is very important.

As for the content of the motion. I do not wish to say too much on the issues of the relationship between the executive and the legislature, the ministerial system and the election of the Chief Executive and the Legislative Council by universal and equal suffrage. It is because these will be the things that we will certainly consider in the consultation and review. However, I would like to talk about some history. In 1985 when I was elected a Member of the Legislative Council, I became the deputy convener of the Standing Panel on Constitutional Affairs. At that time it was not called a "事務委員會" in Chinese but a "小組". Then in 1986 I became the convener. In that period, the Standing Panel on Constitutional Affairs published three reports on constitutional reforms. One was published in 1987 on direct elections and constitutional reform. The other one was published in 1988 on the views put forward by that Panel on the Draft Basic Law for Solicitation of Opinions. The third one was published in 1989 on the Comments on the Basic Law (Draft). We may discern some clues from these comments. Before I was elected into the then Legislative Council, I was teaching at the university. At the beginning of the 1980s, Miss Maria TAM invited me to speak on these issues as an expert. In 1983 I made a speech on these issues in Swire Building and we had some discussions as well. With regard to these so-called reforms, the issue of the relationship between the executive and the legislature and the issue of the ministerial system is the same thing. As for the number of seats to be returned by direct election and how fast it should be done, it is another matter. In other words, they should be discussed as two separate matters. If we are to consider the relative importance of the two, I think the former issue is of greater importance than the latter. An accountable government should first appoint key official on political appointments, then considerations should be given on whether there is a need for seats to be returned by elections. Once ministers are politically appointed and devoid of the status of being in the permanent establishment, then they will need to be accountable to other Honourable Members and so indirectly to the people of Hong Kong. That is a very important point. Please allow me to cite a very simple example from that time. At that time, we might ask Miss Maria TAM to be the Secretary for Transport,

or the Deputy Secretary for Transport should people think that she was not eligible for the former post. Once she had that status, she might attend the sittings of the Council and defend the policies of the Government. However, she was not a civil servant but she was a government official since the minister and the deputy minister were all government officials. Hence it was possible that Honourable Members could be gradually appointed to the posts of Policy Secretaries or deputy secretaries and they might take part in the debates in the Council sittings. Of course, Article 79(4) of the Basic Law states that once a Council Member accepts a government appointment and becomes a public officer, he or she is no longer qualified for the office of a Member of the Council. But these are not great problems. The Council may adopt the French model as a solution. I have explained all these on previous occasions.

In 1987, our Panel published a report on how many seats should be returned by direct elections and when these seats should be returned and so on. However, there were divergent views on these and such divergences existed in 1988, but only to a lesser extent. Then in 1989, such divergences on the number of directly elected seats were all ironed out. At that time, a timetable was produced and a four-phase plan was devised. One may just look for that report to see the details. However, I wish to come back to the original question, and that is on the ministerial system. The 1988 report also mentions the legislative power whereby bills are introduced by the Government under the executive-led system. Basically, that is not the American system but a parliamentary system. On the basis of provisions of the Basic Law, the most conservative interpretation would be, I think, the ministerial system may be put into practice immediately. It is a French-style ministerial system, that is to say, public officers can become ministers and members of the legislature can also become ministers. However, should a member of the legislature accepts such an appointment, he or she has to withdraw from the office of a member of the legislature and so a by-election will be held to fill the vacancy. There are also some senior members in major political parties who are not members of the Council and they can also be appointed as ministers. I think what we should do now is not to make a review of the feasibility of reform options, but to implement the ministerial system. Please do not be misled by the words "ministerial system", they are in fact political appointments and it is also where the future of our constitutional reform lies.

**PRESIDENT** (in Cantonese): Mr WONG, your time is up.

**MR ANDREW WONG** (in Cantonese): Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, the future political development of Hong Kong has once again become the talk of the town recently. Actually, the issue has been a focus of attention since the reunification of Hong Kong with the Mainland in 1997. Over the past year or two, as the local economy remained sluggish, people's attention has been focused more on the economic aspects. Recently, however, discussion on the issue has become heated again. As regards the relationship between the executive and the legislature, it has all along been an issue of particular concern amongst Members of this Council.

In fact, I started discussing the political development of the Hong Kong Special Administrative Region in 1986. In that summer, I also published my views regarding the respective methods for the selection of the Chief Executive and the formation of the Legislative Council. My views were published in the newspapers for three days and became one of the discussion papers for the meeting of the Basic Law Drafting Committee held in Xiamen then. Certainly, the atmosphere and focus of attention of the discussion then were quite different from this motion debate today.

At present, during discussions on the issue, we could often hear a variety of suggestions, such as the introduction of a ministerial system and the election of the Chief Executive and the Legislative Council by universal and equal suffrage. However, different people may have different interpretation of the aforementioned ideas. An example is the election of the Legislative Council. Article 68 of the Basic Law has set out clearly that: "The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and 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." Although our target is very clear, there are still different views and opinions in the community regarding the timetable according to which this target should be achieved.

The development of the political system of any given place must tie in with the place's social development. With regard to this Council at the present stage, Members returned through different election methods should all give full play to their respective roles. As regards Honourable Members returned by functional constituencies, they could even offer useful advice to this Council on matters relating to their respective professions. Hence, there is indeed no need for us to insist on amending the Basic Law or on making any changes hastily. On the contrary, we should follow the instructions set out under the Basic Law to achieve the aim of having all Members of the Legislative Council elected by universal suffrage in the light of the actual situation and in accordance with the principle of gradual and orderly progress.

By the same token, we should not be so hasty as to elect the Chief Executive by universal suffrage in 2002. This is because so doing would serve to complicate the existing problems between the executive and the legislature, thereby creating an unstable political situation and hampering the development of Hong Kong.

Even though we do not need to make any major political changes at the moment, we should still carry out a comprehensive review and in-depth discussions on the political system of Hong Kong in the future. In particular, we should give thorough consideration to the question of whether the political environment of Hong Kong would be suitable for electing the Chief Executive and the Legislative Council by universal suffrage after 2007. At the same time, we should also make an effort to review the relationship between the executive and the legislature and to put forward improvement proposals, including the feasibility of introducing a ministerial system. Given the various proposals put forward in our community, we should take them into careful and prudent consideration and assess their respective pros and cons before arriving at any conclusions, rather than dismissing the need for discussion on account that the present time is not right for the introduction of a ministerial system. What is more, if the Government should brusquely deny the feasibility of any of the proposals at the present stage, the public would naturally be doubtful about the sincerity of the Government in introducing any political reforms. Such doubts are by no means beneficial to Hong Kong.

Madam President, I so submit.

**MR BERNARD CHAN:** Madam President, the discussion on whether we should speed up our pace of democratization has been fuelled recently, in the wake of incessant disputes over the deteriorating working relationship between the legislature and the Government. The crux of the matter certainly lies in the changes to our political structure in the past decade.

Until 1985, legislators were all appointed by Governors and the Government was running under a strong executive-led system. But reforms in Hong Kong's political system in the final years of the colonial rule changed the face of our political landscape. The legislature elected on broad franchises saw its power elevated overnight.

With greater demand from citizens, governments around the world become more transparent and accountable to the public. The Government of the SAR is of no exception. But in the eyes of some members of the public, it is still far from efficient. The SAR Government sometimes committed blunders, yet we should not forget the fact that it has succeeded in leading our community through a smooth transition against all odds.

In a civilized and democratic society, no one can object universal suffrage. I do not oppose universal suffrage. However, timing should be an important factor that we should take into account. Is it a suitable time to adopt universal suffrage? Is the society mature enough to implement universal suffrage?

The system that we have today has been designed to ensure a balanced representation of all interests in the community. This should always be the case if democracy were to succeed. The business and professional sectors, represented by the 30 functional constituencies, though returned on narrower franchises, are contributing immensely to Hong Kong's economic and social developments. Functional representation is instituted in recognition of these sectors being the cornerstone of Hong Kong's tremendous economic success.

Madam President, under the "one country, two systems" blueprint, Hong Kong's way of life should remain unchanged for at least 50 years. But I can see that many things have been done unwittingly to remove the solid rocks underpinning our long success.

In less than a decade, Hong Kong has been set on the unfortunate path leading to a "welfare state". Yet "welfarism" (there is no such word in dictionary) and extremist unionism are never something that have brought about the "Hong Kong miracle". What I am worried is that businesses would start pulling out of Hong Kong if universal suffrage were adopted today and "welfarism" became the mainstream of society.

In the past, the relation between employers and employees was not hostile, albeit not amicable, and their interests, though different, were not so polarized. In this sense, the employer-employee relationship could be said to be harmonious, and most people believed that they would move up the ladder of success, if they worked hard.

What is needed for Hong Kong's continuing success and even survival is not confrontation but co-operation between employees and employers, and between the executive and the legislature. Functional and geographical constituencies should be allowed to co-exist in today's political atmosphere in order to maintain an appropriate balance of interests.

We can raise the discussion of universal suffrage, but I am afraid that Hong Kong's overall political climate is not ready to arrive at a consensus from all sides — the legislature, the executive, and above all, our very own residents from both the business and grass-roots communities.

Madam President, I believe in a gradual evolutionary process that would ensure a balanced representation of interests. But I do not support jumping ahead of the schedule of democratic developments stipulated in the Basic Law. The election of the Chief Executive and the formation of legislature will be reviewed in the year 2007.

The ministerial system, such as the one in the United Kingdom, has developed from a long tradition, evolving in pace with the maturity of political parties as well as the people's political awareness. A ministerial system — whatever its form — will involve radical changes in Hong Kong. We should seriously ponder the consequences before we come up with such a decision. We should not be rushed into such a system without due considerations. Thank you.

**MISS CYD HO** (in Cantonese): Madam President, today's discussion seems to have focused on consultation. Most colleagues, with the exception of Dr YEUNG Sum, did not seem to have mentioned much about election by universal and equal suffrage. So, I should like to provide some additional ideas in this regard.

Not everyone in Hong Kong can have a thorough understanding of the various political systems and make, on this basis, an informed comparison on their own. If we should ask a man in the street what does he know about the presidential system in force in the United States, he may tell you who the American President is or what scandals he has been implicated of. However, the general public in Hong Kong may not be able to tell how the American President is elected; how federal judges or other major government officials are appointed; how the powers of the legislature, the executive and the Judiciary are separated, checked and balanced. Nevertheless, I believe the general public in Hong Kong does know that under the presidential system, a president may be impeached and asked to resign, but he or she may then campaign for presidency again. Actually, this is the basis for all elections by universal and equal suffrage.

Indeed, earlier Mr NG Leung-sing also cited an example in the United States in which the President and Congress had several disputes over matters such as the budget and ran into an impasse, so much so that the Federal Government could only intermittently pay out salaries to its employees. There was also an occasion when an inquiry into the possibility of a perjury committed by the President led to partisan struggle between the Democrats and the Republicans. But these troubles could end. Why? This is because both parties had to take account of public opinion, and both could ill afford the public perception that they were indulging in political games or going to extremes for their party interests. Both the President and Congress have to accommodate themselves to their respective periodic elections, and that explains why the interaction between the executive and the legislature can be maintained. However, in the absence of any election by universal and equal suffrage, each party may just acts as it wishes; and in addition to that, as is the case in Hong Kong, if one of the parties, say the Legislative Council, should be constitutionally restrained in power, an imbalance in power would be resulted and the relationship between the executive and the legislature would very easily become strained as in the present case of Hong Kong. Even if the Chief Executive should agree at the Question and Answer Session tomorrow to appoint

certain representatives of the political parties in this Council as ministers, so that he could have sufficient votes in the Legislative Council or that he could find someone to help him promote certain policies, this would only be a transient, artificial and well-meaning arrangement. This is by no means any permanent mechanism and would never last long. Therefore, regardless of whether our hope is to see rapport between the executive and the legislature, or our political system develops into either a ministerial system or a presidential system, election by universal and equal suffrage is still the cornerstone on which things could develop.

So, these are some of my personal opinions. Of course, it would not be possible for me to voice all my opinions about political systems in just three minutes, but I still cherish this opportunity to raise my views. I understand that not every Member would agree with me. What is most important, however, is that consultation could be started to enable all kinds of views in the community to be heard. The Frontier is of course in favour of having the Chief Executive and all seats of the Legislative Council to be elected by universal and equal suffrage. However, if indeed there should be other opinions in favour of other systems that are considered to be better, we should let them be heard. There must be channels for consultation. Mr James TIEN said a short while ago that consultation on political development would take only two to three years and that would suffice. However, I want to point out that that is not enough. Just think about health care financing. While discussion on the issue started in last summer, the Government has to wait until March next year to publish its second position paper, which requires discussion for another half year. Given that the issue of health care financing takes a year and a half for discussion, how much longer would the important issue of political system take? I just hope Honourable colleagues would not think a consultation exercise on the political system could proceed like the one carried out by the Government in the past two or three weeks. By that I mean the Government is conducting shorter consultation exercises on more important issues. I very much hope that there will be sufficient time for us to discuss this very important issue.

Madam President, in the past I referred to the Swedish experience to point out that we should hold many forums with active public participation before conducting consultation exercises on issues of enormous import. That way, parties holding different views would be given an opportunity to introduce their respective views to the people, who could then receive views in addition to those contained in the consultation paper presented by the Government. The first and

foremost step is that everyone could have a thorough understanding of the issue. As the Secretary for Constitutional Affairs has once said, if we could find out what political systems were in place in other countries, we could then choose one that deemed to be the best for Hong Kong. The understanding process should be followed by discussions and mutual interactions; then eventually a consensus could be reached. This entire process can take quite some time and so we hold that actions should be taken promptly. Let us look at the experience of the Australian parliament. Australia held a conference in the past on the country's constitutional development and the discussion period was not just two or three years. Madam President, as the issue of political system is a complex one and the general public may not quite understand it, we have to start working as soon as possible. I hope we all understand that a politician should not just say what most people understand. A responsible politician should raise some forward-looking issues and tell the public about them. If we could only get a small number of people to understand and support our views, we would then have an even greater responsibility to explain our views to the people, with a view to enabling our views to be accepted eventually by the majority of the public.

Madam President, political systems should be adopted for the public interest and for the good of the people. In regard to the establishment of a political system, I particularly believe that we must offer a channel through which members of the community could participate actively in expressing their own views. It is through our participation in the understanding, discussion and interaction process that we could reach any consensus. As this process is a time-consuming one, we must therefore start working as soon as possible, rather than deferring until 2003 or even 2007. Thank you, Madam President.

**DR LUI MING-WAH** (in Cantonese): Madam President, every country or region in the world has its own political system and governance framework and the executive, the legislature and the Judiciary are indispensable parts of this framework. As the terms suggest, the executive authority implements governance according to established laws, the legislature is responsible for making laws and monitoring government operation, while the Judiciary is responsible for the administration of justice.. If these bodies act according to rules and regulations, and properly co-ordinate and co-operate with one another, the government will operate smoothly and social stability can be maintained.

The governance framework of Hong Kong was developed and established in the colonial era. At the beginning, administration was the major task of the Government and the Government led by the British-appointed Governor governed the Chinese-dominant community. The officials of the legislature were appointed by the Governor and they were responsible for the collation and enactment of laws and regulations, playing an insignificant monitoring role. At that time, the Hong Kong Government was purely government-led and the Legislative Council was just an advisory body while the Judiciary just played a matching role. Under such a situation, the Government should be operating most efficiently.

However, the system under which all Legislative Council Members were appointed by the Governor terminated in 1985 when the first ever election of the Legislative Council was held. The result of the election was that around 40% of Members were elected from functional constituencies, the two Municipal Councils and the district boards; around 40% were appointed by the Governor and around 20% were *ex officio* Members. Owing to the origin and background of Members, the Legislative Council still played an advisory role, and the laws and regulations of the Government were passed without obstruction and the Government operated highly efficiently. The Legislative Council comprising some indirectly elected Members existed until 1991. In 1991, there were 60 Legislative Council Members, 21 of them were returned by functional constituencies, 18 were appointed Members, 18 were directly elected Members and three were *ex officio* Members. In 1995, the last Legislative Council Election under British rule was held and all of the 60 Members were elected, with 30 Members being returned by functional constituencies, 20 (directly elected) by geographical constituencies and 10 by the Election Committee while the President of the Legislative Council was elected among Members. In 1998, the first Legislative Council of the Hong Kong Special Administrative Region was established. Its composition and method of election are the same as those of the Legislative Council in 1995. But since there are elected Members, the operation of the Legislative Council and the relationship between the Legislative Council and the Government have obviously changed. In 2000, the composition of the second term Legislative Council will be as follows: 30 Members returned by functional constituencies, six by the Election Committee and 24 directly elected by geographical constituencies. By 2004, the third term Legislative Council will be composed of 30 Members returned by functional constituencies and 30 Members directly elected by geographical constituencies. The Legislative Council will then take on a new look. The existing relationship between the Legislative Council and the Government has aroused extensive concern.

Articles 66 to 69 of the Basic Law specify the powers and functions of the Legislative Council, including to enact laws, to examine and approve budgets, to approve taxation and public expenditure, to raise questions on the work of the government, to endorse the appointment and removal of judges of the Court of Final Appeal and the Chief Judge of the High Court, and to impeach the Chief Executive. As a result of an increase in the powers of the Legislative Council and the actual exercise of such, that is, the powers to reject the bills introduced by the Government and applications for government expenditure, the relationship between the Legislative Council and the Government has become extremely tensed. In order to get its bills passed, the Government often tries its best to lobby Members, and the Administrative Officers can hardly adapt to this. As some Members are also rude and impolite when they ask government officials questions, officials can hardly put up with this. Many senior government officials find the political and cultural changes of Hong Kong hardly acceptable and they have a lot of complaints in private. Now that some Policy Secretaries have resigned, moving to other jobs, some people even put the blame on the poor rapport between the Legislative Council and the Government.

In this analysis, we can see that the existing political system is a wrong match, with innate deficiencies and an unsound structure. Firstly, the Government does not have its own political party and Legislative Council Members can support or oppose the Government's laws and bills on the basis of their own standards and principles. It is also a duty of the Legislative Council to monitor the work of the Government and examine its expenditure. Such a wrong structural match is incompatible with the executive-led and highly efficient Government expected by Hong Kong people.

To reduce the conflicts between the Legislative Council and the executive authorities and enhance the Government's efficiency, some have made various suggestions. Among these, the ministerial system has aroused heated discussions and people think that this is a panacea for the present problems. Upon deeper analysis, we can see that the ministerial system will only work with party politics and when the ruling party enjoys an absolute superiority in the Legislative Council. As there will not be party politics in Hong Kong and the seats of the Legislative Council will not be dominated by a single political party in the visible future, the ministerial system cannot improve the quagmire arising from the existing political system. The formation of an alliance of political

parties within the Legislative Council is also idle talk. As political parties have totally different nature, political ideas and interests, an alliance will only create more contradictions and it will not last long. Actually, the contradictions between the Legislative Council and the executive authorities originate from the executive structure. While the governance framework cannot be changed, a ministerial system is therefore impracticable. We should trace the inherent causes of the contradictions and then reduce them. Firstly, government officials should understand the political culture and environment prevalent in Hong Kong because they are the ones who make, advocate and implement policies. Although government officials are not called ministers, they have to shoulder the responsibilities, technical and political, of ministers. If they do not have the capability, they are not competent enough for the jobs. Secondly, the bureaucratic system in Hong Kong should be improved and changed with the times. In this age of technology, the Government needs far-sighted and competent technocrats, and "omnipotent" management bureaucrats will only perform thankless tasks under this new environment.

Madam President, I support policy improvements but the ministerial system will definitely not work. I so submit. Thank you.

**MR DAVID CHU** (in Cantonese): Madam President, it is only natural that the political system of Hong Kong needs to be reformed because all political systems must change with the times. However, I do not think it is necessary to amend the Basic Law or implement the ministerial system. What we have to do now is to find out how to hold Members of the Legislative Council responsible for what they say and to hold government officials accountable for what they do. Nevertheless, there must be a prerequisite for Members and officials to assume responsibilities and, that is, they need to have expertise. How can someone hold himself responsible for his opinions and acts when he knows nothing about what he does and what he says?

The 21st century sees the integration of the world, which is dominated by high technology. Problems arising in the 21st century need to be resolved with much expertise. Thus, the professionalism of Members and officials is a reality that we must face. As far as the Legislative Council is concerned, Members need to have more expertise to deal with problems pertaining to environmental

protection, high technology, communication, education, economic restructuring as well as other issues of public concern. Hence, in my opinion, Members returned by functional constituencies to the Legislative Council can play a positive role in this respect substantially.

It is essential for the Government to carry out civil service reform, including a revamp of the system of Administrative Officers. First, we must make more use of specialists instead of relying solely on the generalist-dominated administrative officer corps for the purpose of formulating major government policies. Second, for the appointment of top government officials, the current practice which relies mainly on internal promotion should be replaced by a system combining promotion within the Civil Service and recruitment of elite professionals from the outside. Third, we must have a system for supervising responsibilities whereby all government officials must be politically accountable for what they do. If we can meet the abovesaid requirements, I believe the relationship between the executive and the legislature as well as the operation of the whole political system will improve.

I so submit. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, today, we are here to discuss political reforms again. This is my fourth year in the Council, and every year there must be a motion debate on the same issue somehow. It has become very much a routine. Actually, why is this routine every year? To Members with a popular mandate like us, we will carry on debating the issue as long as the political system has not met our aspirations. It is the same rationale of the request for vindicating the June 4 issue — we will work in perseverance to fight for it as long as it is not vindicated. Therefore, no matter what the outcome will be and as long as we have the chance, we will table the motion next year, the year after next had the political reform proposal not met our aspirations. In the worse case, we will use different wording for our motion. In fact, just as the Honourable Andrew WONG mentioned earlier, the motion tabled by Miss Emily LAU this time around is very different from the past motions in terms of wording. This time around, she is only asking for a public consultation, not immediate launch or implementation of political reform any more. Perhaps this is resulted from the restriction laid down in the

regulations. Anyway, with her motion, we are given another opportunity to discuss the political reforms. Surprisingly, a lot of people have been talking about the ministerial system recently. However, I honestly believe that her motion does not trigger off the discussions on the ministerial system. In fact, it was the making of Mr Jasper TSANG in triggering off the argument on the ministerial system. It is very odd for us to discuss the ministerial system for no reason at all. In its amendment today, the Liberal Party even urged the Government to review the ministerial system as soon as possible, not when appropriate. Why? Should the ministerial system be introduced, it will entail changes of some sort to the existing system. There are numerous dissimilarities between the long tradition of the colonial government and the SAR Government with just two years of operation.

Personally, I have enormous doubts on the purpose of introducing the ministerial system. Even the royalists are talking about the issue, what are they really up to? What do they want? I have tried to reckon if the royalists are really fed up with the recent poor performance of numerous Policy Secretaries and key public officers. Therefore, even the royalists have to express the desire for some kind of reform to the system. Yet, is it really the case? Looking back at two years or so ago, they also criticized public officers in this Council, but the wordings they used were fairly mild. For instance, the Honourable Miss Margaret NG once moved a motion of "no confidence" on Miss Elsie LEUNG, the Secretary for Justice, but no royalist supported her motion. Two other examples were the chaos of the new airport which enraged the public, and the China Light and Power issue which generated massive deficits. The royalists expressed nothing but mere criticism in those cases. They did not even request the relevant public officers to resign. Therefore, we can see that they are really not that unhappy. Therefore, I do not understand why we have to discuss the ministerial system if we treat the matter with good intention. However, I am a mean person. If we look deeper into the ministerial system proposition of Mr Jasper TSANG, although he also felt the system was largely impracticable, I believe it must have something to do with their own interests in view of the proposed model. When I found the Liberal Party was talking about the ministerial system today, I could rule out the fact that I am judging the good guys from my meanest point of view, too, for I think the ministerial system will protect their own interests.

Why am I saying this? It is because they did not mention other issues when they were talking about the ministerial system. And most important of all, what sort of changes will take place in this Council? For example, when they talked about the ministerial system, they did not discuss the political accountability aspect. In fact, I think Mr TUNG Chee-hwa, the Chief Executive, also have a good sense in ministerial system. Why? It was because Mr TUNG had made the point that he had already practised the system more or less like the proposed model. The Secretary for Justice, Miss Elsie LEUNG, and Dr E K YEOH are good examples. They are not civil servants at all. Can we say that they are not part of the ministerial system? Nevertheless, the most important thing is that the Secretary for Justice, Miss Elsie LEUNG, neither has to be accountable to the people, nor to Mr TUNG even if she did something unacceptable to us. They do not have to do anything but defending themselves. Therefore, if we do not discuss about how the legislature and the Chief Executive should be elected when we examine the ministerial system, and if we let the small circle select the Chief Executive again, and if we let the Chief Executive selected by the small circle appoint his legislature, I think it is pointless to discuss a ministerial system which has no political accountability at all. Everybody can see that, with the electoral system of the legislature prescribed in the Basic Law, it is very likely that royalists will account for the great majority in the future legislature. In that eventuality, most of the ministers elected according to the proposition of Mr Jasper TSANG from the legislature will probably be their own people. In this way, they can be assured of their political interests. So, what else should they worry about the political reform? It will only end up with a few more royalists in the legislature. To the general public, their interests will almost be the same as they have now. I feel strange when I raise my argument today because someone is challenging the existing system.

Madam President, I so submit.

**PRO NG CHING-FAI** (in Cantonese): Madam President, the political system of the SAR drawn up by the Basic Law resembles the presidential system of the United States. It is an executive-led system with the executive and legislature exercising checks and balances on each other.

To many Western countries, the relatively smooth relationship between the executive and the legislature is a result of long-term interaction and tempering. In addition to the constitutional framework, the political evolution and political

reality also cast direct influence on the relationship between the legislature and the executive. For example, the long-standing bipartisan arrangement and the tendency of voters have regulated the relationship between the President of the United States and the Congress to a certain extent. Yet, the SAR has been established for only two years or so, problems will inevitably arise between the legislature and the executive owing to insufficient experience. Furthermore, the relatively embryonic stage of party politics in Hong Kong makes the problems more complicated.

The SAR Government does not have any seat in the legislature, therefore, political parties or groups in the legislature have no obligation to escort the policies and bills proposed by the Government. Every time a controversial policy or bill is proposed to the legislature, the Government has to spend tremendous efforts in lobbying Members and political parties for support. Under the current political environment where the executive holds the powers but not the responsibilities, as some Members have called it, a lot of officials in charge of Policy Bureaux were depressed by the mediation work and political wheeling and dealing. They felt they were unable to concentrate their energy in the general orientation of policies and politics.

Moreover, under the existing mechanism, the room for Legislative Council Members to table bills, policies as well as amendments on government policies is dreadfully small. They feel they lack the necessary power to monitor and check the Government. An even greater dissatisfaction in particular is the feeling that the Government only attaches importance to their inclination at vote, not their opinions. In order to be accountable to their voters and raise their political bargain power, Members and political parties will from time to time employ stalling, hindering, or vetoing tactics on new policies, relevant bills and appropriation proposals put forward by the Government. Some Members even created difficulties for the Government by making use of out of line language, so as to draw the Government's attention and to woo for voter's applause. A number of Members concentrate their efforts on asking questions for the sake of questioning and motion debates without binding effect.

We should indeed find remedies to improve this unsatisfactory relationship between the executive and the legislature. There should be some proposals for consideration. For example, the Government should attach importance to discussions with Members at the initial stage of formulating relevant policies or drafting bills. Certainly, it is not necessary for us to introduce the American committee system. But the establishment of a clear mechanism should be

helpful to improving the existing situation. Furthermore, the question of whether or not to consult and value these consultations depends entirely on the attitude of the Government. Moreover, the Chief Executive may also consider opening up the space for Members to introduce private bills by stipulating the criteria with which the Chief Executive will approve the submission of private bills, and drawing up directives in the light of Article 74 of the Basic Law. I believe this would be helpful to improving the relationship between the executive and the legislature. In this connection, I support the Government to review this relationship as soon as possible.

As to the question of whether adopting the ministerial system may improve the relationship between the executive and the legislature, I do not think it is indisputable because it really depends on which model is adopted. Whatever it would be, I will keep an open mind to examine the so-called ministerial system as one of the considerations for future political reform.

Madam President, the public has been debating on the selection of the Chief Executive and the formation of the legislature as well as the pace of democracy in Hong Kong since the drafting of the Basic Law. Since Annexes I and II to the Basic Law stipulated that the method for the selection of the Chief Executive and the formation of the Legislative Council of the SAR and its voting procedures can be decided by the SAR after 2007, reported to the Standing Committee of the National People's Congress respectively for approval and record, I think we should study it carefully and come up with a definite decision before 2007. Owing to the fact that these two methods constitute a vital part of the political reform of the SAR, the SAR should allow copious time for substantial consultation, with a view to arriving at a consensus on the major premise of looking after both the pace of democracy and a balanced participation into consideration, our society should strive for a common understanding.

As the SAR has just been set up for only two years or so, and the politics of Hong Kong has just crossed the threshold of a new course, the political ecology will surely evolve incessantly. The next two terms of the Legislative Council should see some changes in its composition and I think it will be more appropriate to leave it to the third term to decide the method for the selection of the Chief Executive and the formation of the fourth term. In order to conduct a substantial and thorough consultation, I think the public consultation should commence on or before 2004.

Madam President, I so submit.

**MR MA FUNG-KWOK** (in Cantonese): Madam President, the relationship between the executive and the legislature has been very tense since the first Legislative Council was in operation. I am afraid the situation will be more intricate with the election year drawing near. In order to improve the situation, some people have suggested the Administration to consider the introduction of the ministerial system.

Whether or not the ministerial system is an efficacious prescription for curing the sour relationship really depends on what sort of ministerial system we are going to implement and the maturity of the political conditions of Hong Kong.

Currently, the rights to initiate policies lie in the hands of public officers. This kind of arrangement is helpful in assuring the impartiality and stability of policies. Though public officers should be politically neutral, it is increasingly difficult for them to maintain the neutrality in view of the introduction of direct election and party politics. Conversely, they are not politically accountable for the policy blunders as they are not politically mandated, so it is hard to avoid the situation of having power but no responsibility. Furthermore, the scope for seeking policy-making talents is often limited to the civil servant system, thus a number of top-notch elites from the public are overlooked. In order to establish a core of strong and powerful administration, I suggest the Chief Executive to look into the possibility of separating top public officers from the civil service establishment and designating more top-notch people of similar political ideal and aspiration from the general public to be heads of Policy Bureaux.

Another form of ministerial system, I suggest, is the appointment of members of major political parties holding a certain proportion of seats in the legislature to be ministers. The purpose of the arrangement is to ensure government policies will secure effective support from the legislature.

From a long-term point of view, perhaps this is one of the directions for the political development of Hong Kong, and yet we are surely not in possession of such condition. The development of party politics in Hong Kong is just sprouting, and though political parties have strong leaders at the top, they do not have competent people at the base. Moreover, the public recognition and acceptance to political parties are yet to be developed in Hong Kong as these parties are not only lacking the talented people as district leaders, but also capable candidates as administration overseers. Should the ministerial system

be introduced at the current stage, it can only be limited to political bargains between the Chief Executive and the relevant parties for more effective governance.

However, I beg to differ with an overall denigration of the ministerial system at the current stage. Nor would I regard it a violation of the Basic Law or the principle of "one country, two systems". In fact, the Basic Law provides room for the SAR to decide the matter on its own. I suggest we should keep an open mind on this issue. Our aspiration should be bringing about the political reform to improve the relationship between the executive and the legislature as well as injecting new momentum into the administration of the Government.

Madam President, according to the provisions of the Basic Law, the development of political system shall adhere to the principle of gradual and orderly progress, and the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures, and the election of all the Members of the Legislative Council by universal suffrage. After 2007, the selection of the Chief Executive and the formation of the Legislative Council of the SAR can be decided by the SAR and they shall be reported respectively to the Standing Committee of the National People's Congress for approval and record. Regarding the appropriate time for deciding and reviewing the method of selecting the Chief Executive and the forming of the legislature, as well as conducting public consultation, I think careful study should be carried out. Those who advocate for an early decision think that the quicker the future blueprint for political structure is formulated, the better for reducing political fantasy. They also think it will provide adequate time for social groups and organizations representing different walks of life to make plans and deployment in advance. Furthermore, that will be conducive to more open and fairer competition and balanced participation. Meanwhile, the SAR Government and public officers from Policy Bureaux may have sufficient time to make corresponding arrangements, and international investors may be able to foresee a more assured political reform which will be helpful to them in planning investment strategies.

All of these views carry a grain of truth. However, as the SAR has been established for only two years, all sorts of political forces are still under constant transformation, development and amalgamation. Party politics are yet to be developed and the value and inclination of the public are shifting. Investors

surely love to see a stable political development as variables are common things in politics. Nevertheless, I do not think it is the appropriate time to decide the post-2007 political system. However, it is perfectly fine to express one's view and discuss the issue at this stage.

Madam President, we still have one more Chief Executive election and two more terms of Legislative Council elections. The composition of the two terms of the legislature will be different from now as the number of seats for geographical constituency will be increased. It will be more appropriate to leave it to the third term to decide the method for the post-2007 selection of the Chief Executive and the formation of the Legislative Council. In order to launch a substantial, serious and thorough consultation, I think it is worthy to consider launching it upon the completion of the election of the second term of the Chief Executive and Legislative Council.

Madam President, I so submit.

**ME LEE CHEUK-YAN** (in Cantonese): Madam President, I rise to speak in support of the motion moved by Miss Emily LAU. Actually, I very much agree with Dr LUI Ming-wah that the political system of Hong Kong is plagued with inherent defects, and that the relationship between the executive and the legislature is also marked by structural, inherent conflicts. I very much agree with him, because the executive and legislature of Hong Kong are formed by two completely different methods. The executive authorities are made up of top government officials on the one hand, and Chief Executive TUNG Chee-hwa returned by the Election Committee on the other. The Chief Executive's mandate comes from the 400 members of the Election Committee. Such is the method by which the Chief Executive is returned. In contrast, there are many more methods of formation for the legislature, ranging from Election Committee elections, functional constituency elections and direct elections in geographical constituencies. The mandates of the two are completely different: the mandate of the executive authorities comes from 400 people only, but they can formulate all the policies for Hong Kong. In contrast, under the Basic Law, Legislative Council Members virtually do not have any power and authority to put forward any bills. From this, we can see that the executive authorities actually possess complete control over law-making and policy formulation. Interestingly, however, the legislature possesses the votes with regard to bills and policies. We often say that the executive authorities have the powers but not the votes,

while the legislature has the votes but not the powers. These are precisely the two inherent conflicts which cannot possibly be reconciled. Unless these structural, inherent conflicts can be reconciled, I simply do not think that it is at all possible to achieve any rapport. A moment ago, Dr LUI Ming-wah commented that a ministerial system simply would not work, and he insisted that even with a coalition of political parties, such a system would still fail to work, because all political parties had different interests and backgrounds, and they were returned to the Legislative Council through different methods. I very much agree with him, and I think that if we are to introduce any changes, we must start with the executive authorities. It is possible to resolve these conflicts only when there is a different type of executive, one in which the Chief Executive is returned by universal suffrage, and when the Legislative Council too is returned by universal suffrage. If not, these structural conflicts will remain forever — even if we discuss this matter for a hundred times, even if we propose more than 10 thousand ideas, we cannot possibly resolve these structural conflicts at the end of the day.

Frankly speaking, from the perspective of the Government, do all these structural problems really matter so much? I do not think that the Government may necessarily think that there is any big deal anyway. The reason is that despite its acrid complaints, despite its saying that it has to "beg for votes from Members", if we care to find out what usually happens at the end, we will see that it has always been successful in getting what it wants. They may have to "worry" political parties, "beg" them for votes, but every time, it always manages to get it done. That being the case, why should it bother to change the situation at all? Frankly, there is no need for the Government to do so, because it manages to get it done every time. Oh, the Secretary for Constitutional Affairs is shaking his head. Perhaps, he may wish to tell us why he does not think so. But if the Government always manages to get it done, why should it bother to give any further thoughts to the matter? Unless the Government now tells me that it can no longer "worry" any political parties, because Mr Jasper TSANG, Chairman of the Democratic Alliance for the Betterment of the Hong Kong (DAB) has recently complained bitterly that the Government should not take the support of the DAB for granted ..... Well, perhaps — I really do not know, an election was drawing near, and so the DAB was just pretending to be undergoing a regular period, "grumbling a little bit". Perhaps, after the regular period, things will be all right again. So, the Government really does not have to worry so much. I think it is not very fair for the DAB Chairman to say that the Government wants the DAB to support all its policies, but I do not know

whether the DAB really means what it says, that is, whether the DAB really thinks that the Government is demanding too much from it. And, I do not know whether it is really just the symptom of regular period, after which things will become normal. If this is the case, as long as the Government can succeed in getting what it wants by "worrying" political parties ..... As pointed out by Dr YEUNG Sum, if the Government can succeed in "rallying one group to counter another group" or "worrying one group so as to counter another group" (actually, it "worries" more often than "rallies") ..... If this really works, why should it have any sense of crisis at all? The fact is that the Government really does not have any sense of crisis. However, if ever the Secretary for Constitutional Affairs feels that things are not all right, he must seek to resolve the structural problems instead of thinking about anything else. In other words, he must not try anymore to explore whether there is any middle-of-the-road approach and whether co-ordination is still possible. My point is that if structural problems must be solved after all, it is better to take decisive actions to deal with them now. That is why I hope that the Secretary can give immediate consideration to the views put forward by us today. Instead of burying its head in the sand, the Government should now take the decisive step of reviewing our political structure in its entirety, so as to resolve the structural problems.

The thing we want most is of course full democracy for Hong Kong. Recently, however, I have heard an argument, and this argument really worries me a great deal. This is a sophistry about democracy, put forward by WU Wei-yong, a member of the Basic Law Committee. He said that if the democratic camp was in the majority, there would be no hope for democracy in Hong Kong. If people support political parties which oppose TUNG Chee-hwa and the Communist Party, what would be the response of the Central Government? In other words, following his argument, if the democratic camp is in the majority, things will not be all right, for Hong Kong should never become a base of anti-Communist activities. However, if the DAB is in the majority, there will be some hope for democracy in Hong Kong, because the DAB will presumably support the Central Government while supporting democracy. I believe that WU was just being frank and outspoken, and his remarks thus revealed the very essence of "one country, two systems": If Hong Kong can establish a system of "loyal apologists ruling Hong Kong", that is, if the representatives elected by the people of Hong Kong will all obey the orders from the Central Government, then Hong Kong will have democracy. If that is really the case, the situation will be very unsatisfactory. The reason is that under the principles of democracy, one should never say that democracy is

possible only when the apologists of the Central Government are in the majority. The essence of democracy should be that all electors should have the final authority to choose who should run Hong Kong for them. And, their choice should not ..... Madam president, I do not want to go on, because Members can all understand what I mean. *(Laughter)*

**MR ALBERT HO** (in Cantonese): Madam President, I did not at first have any strong desire to speak on Miss Emily LAU's motion today, because it is rather plain in tone, very much unlike those motions moved by her in the past. But then, after listening to the remarks delivered by Members in the past hour or so, I find myself compelled once again to rise to speak.

Whenever we discuss any policy issues, we will invariably hear many worn-out arguments. And, in fact, most of the arguments, philosophies and ideas that we hear today were already advanced as far back as the 1980s. So, in a way, we now seem to have regressed to the lower level of the past, which is why I am really "upset". I cannot help asking, "Just for how many more years does Hong Kong have to continue its arguments over this very issue?"

A moment ago, I heard some Members say that they also supported universal suffrage, and that they would not object to universal suffrage. But then, they also said that they did not want to introduce such a reform at this stage. Rather, they said, they would prefer a gradual evolution. But how long should such an evolution take? One hundred years, as in the case of some foreign countries? I of course respect those Members who are returned by functional constituency elections and Election Committee elections. I respect them, because they all have their own opinions, and sometimes, they may even put forward some really good insights. But I must say that whenever they speak on our political system, they will invariably be blinded by their inherent weakness. They will never turn against the very system which has brought them to where they are now. So, they will always argue that functional sectors can play a balancing role. I really cannot understand why some people today should still think that such an argument is valid. The Honourable Bernard CHAN, for example, should have, I believe, seen much more about the world than I have ever seen, for he once studied overseas, and he has been to many advanced countries. I therefore wish to ask him this question: In other legislatures with no functional constituencies, is there really a complete bias towards any particular groups in society? Must the countries concerned always have to rely

on "handouts", without which the governments there cannot possibly maintain their operation? No, this is simply not the case in reality. In those countries, all political parties have to hold themselves accountable to society as a whole, which is why when they formulate their political platforms, they must strike a balance among the interests of all sectors. We must not allow ourselves to be blinded by our inherent weakness. But I of course do understand that Members returned by functional constituency elections will try to defend such a system instinctively. I am sure that if the membership of this Council today were divided equally between functional sector Members and appointed members, and if it was proposed in a discussion on political reforms that all Members of this Council should be returned by functional constituency elections, the other half of the Members would certainly query such a proposal, saying that this would create chaos in Hong Kong. And, they would certainly ask, "How can we possibly well do if we do not reserve half of the membership for appointed members, who can play such a vital, stabilizing role?" The situation would be very much like what we see today. That is why I hope that all of us can look farther beyond, just to see what is going on elsewhere in the world, instead of burying our heads in the sand.

It is often said that the political parties in Hong Kong are not mature enough in their development, that they are not well-prepared and well-equipped, that Hong Kong just does not have the right kind of political culture and so on. I have been hearing people advancing such arguments for many years, but I must say that the advocates of these arguments are in fact stating the consequences as the causes. As long as we do not move forward, as long as we do not open ourselves up, and as long as we do not embark on the journey on democratization, we will forever be labelled as immature and ill-prepared. Actually, geographical constituency elections were first introduced into Hong Kong as far back as 1982, and when the Sin-British Joint Declaration was announced, people already started to expect a democratic political system for Hong Kong after the reunification. That is why many people referred at that time to the concept of "Hong Kong people ruling Hong Kong under democratic principles". Such a concept has in fact been advanced since a very long time ago. In the earliest days, the Central Government did not oppose this concept. But then, perhaps because of the opposition it received from the commercial sector or conservatives, it started to become increasingly worried, especially, I must say, after the 1989 pro-democracy movement. However, the problem is not so much about the immature development of our political culture, nor is it about any lack of political talents in Hong Kong. Rather, it is about the fact that our very

political system has suppressed the growth of local political talents and the mature development of the local political culture. I am absolutely sure that if ever there are large numbers of opportunities, many people with ability will certainly come forward very willingly to contribute towards the well-being of Hong Kong. Unfortunately, however, our political system today cannot offer any prospects, and it only leads people to a dead-end. That being the case, even if some people may have political aspirations, how can they possibly convince themselves that a career in politics can enable them to realize their ambitions. That is why we simply should not think that political reforms, the maturity of political culture and the cultivation of political talents are separate issues. In this connection, our open debates and determination to reform will make people realize more clearly that there must be democracy for our society before it can ever have any prospects.

Very often, it is also argued that people simply do not know what is happening to our politics. So, if they are allowed to exercise their choices, it is often asked, will they be able to realize or know what they are doing? Having listened to the remarks of some Members today, well, I really think that we should instead ask these Members the same kind of questions: Do they know what they are talking about? Do they understand what democracy is all about? Do they know how democracy operates? To sum up, they should stop saying that the people of Hong Kong are not politically mature, are ignorant, and do not know how to exercise their choices.

Many colleagues said just now that the existing political system had exerted very heavy pressure on government officials. They said that although the existing political system gave government officials a lot of powers, it also subjected them to many hindrances, such as the obstacles put up by many impolite and fault-finding Members. As a result, these Members said, government officials had found it very difficult to proceed with their work. But if we look at what happened in the past few years, we will see that the matter actually involves much more than simply the attitude and behaviour of Members. Government officials themselves should also conduct some kind of self-appraisal to find out what really went wrong every time when there was a public outcry and severe criticisms from Members. Very often, we can notice that the cause was a serious administrative blunder of some kind. Why have our government officials failed to see this more serious underlying problem — that is, the problem of how we should reduce the incidence of administrative blunders? What is of more importance than anything else should be how we can make the

Government more open, more transparent and less prone to blunders. We should not instead criticize Members for putting up too many obstacles before government officials, for being fault-finding, and for being impolite to them. Have Members who think this way actually confounded right with wrong and mixed up the relative importance of the problems involved?

Mr David CHU said that we needed experts to run our Government. In other words, he thought that all the problems could be resolved with the experts. But I am of the view that very often, many problems are not so much the result of any lack of experts. These problems may involve the setting of priorities, the balancing of different interests and the concepts and philosophies of public management. And, when it comes to these problems, experts alone cannot possibly solve them all on their own. Rather, we must first identify our overall interests through a democratic system marked by open debates and accountability before we can work out the solutions required.

For all the reasons I have mentioned, I will support the motion and Dr YEUNG Sum's amendment. Thank you.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Miss Emily LAU, you may now speak on the two amendments. You have five minutes to speak.

**MISS EMILY LAU** (in Cantonese): Madam President, the Frontier supports the amendment moved by Dr YEUNG Sum a moment ago. Dr YEUNG said that his amendment would give my motion a clearer objective, and so we will of course support it. I think that the motion of the Frontier is already very clear in objective, but since the Democratic Party wants us to make it still clearer, we will definitely agree.

The bottomline of the Frontier is this: There must be universal suffrage for our elections. But as I said just now, I also wish to discuss this topic as much and as fully as possible. We are sure that the executive has the resources

required. We thus hope that it can spend some resources on conducting an open and systematic consultation exercise, so that people from all walks of life, be they as conservative as Mr Bernard CHAN or as liberal-minded as some of his counterparts in this Council, can all speak whatever they like on this topic in the hope of reaching a consensus. That is why I will support the amendment of Dr YEUNG Sum.

Madam President, I am sure that no one in the Frontier, or the Democratic Party, or even the democratic camp as a whole, has ever gone so far as to say that "one person, one vote" is the panacea for all problems. So, when I heard some Members say that we had made such a remark, I was really taken by surprise, and I also thought that it was very unfair to us. We do stand firmly by "one person, one vote", convinced that this should be our bottomline, the very basis of our political system. But we have never said that with "one person, one vote", all political, economic and livelihood problems can be solved. I think that the words of those Members I have referred to are really "absurd".

Many colleagues describe this motion as being mild in tone, not quite like a motion moved by me. Madam President, actually, I have many sides to my character. (*Laughter*) But I can assure my colleagues that I have not had a volte-face. Well, I could have put forward a different motion, demanding full-scale direct elections, as what some other Members did before. But what will be the results if I have done so? Well, there may just be another "bitter war" which gives us nothing in the end except bloodshed and huge casualties. Madam President, I hope that this motion can receive the support of Members today, so that we can impart a message to the community and the executive that this is an extremely important matter which requires public consultation. This motion is no doubt very mild in tone, but I hope that my colleagues in the Democratic Party will not feel disappointed, thinking that Emily LAU has had a volte-face. The truth is that we still wish to move forward. As rightly pointed out by the Honourable Albert HO, the discussions on this topic has spanned many, many years, from the 1980s to the 1990s, and continuing into the present day, the 21st century. So, there is really a need for us to act pragmatically, to discuss the matter and do something about it together. Having said that, I must also admit that I am as pessimistic as Mr Albert HO. I once expressed the worry that I might not live long enough to see democracy in Hong Kong and China, and I still have such a worry now. Well, a few days later, I will be 48. But anyway, I will still continue to promote the cause of democracy.

Madam President, I am not going to support the amendment of Mr James TIEN, because his amendment virtually splits my motion into two parts and seeks to put off any discussions on electoral arrangements until the year 2003. Many Members who spoke just now, even including those who are Deputies to the National People's Congress, also think that the relevant discussions can start right now without any further delay. One especially valid point is that if we really wish to introduce political reforms in 2007, then it simply does not stand to reason to put off the relevant discussions until such a long, long time later. In the first half of his speech, Mr James TIEN said that there was no need to consult the public on the relationship between the executive and the legislature. I am really puzzled by such a remark from the Liberal Party. Not too long ago, the Liberal Party was still saying that it wanted to be something more than purely a political party representing the industrial and commercial sectors, and that it wanted to represent more walks of life in the community. But now, on this core constitutional issue — the relationship between the executive and the legislature, they are saying that only discussions behind closed doors will do, and that there is no need to consult the Hong Kong people. What has gone wrong with this political party? I really cannot help asking them one question: Why do they think there is no need for any public consultation even though this is such an important matter? As pointed out just now, this matter actually involves many possible schemes and issues, such as the ultimate division of powers, overall structure and checks and balances and so on. But then, they said that all these issues required no public discussions and could be tackled by a handful of so-called elites behind closed doors. I really could not believe my ears at that time.

The DAB says that it will support my motion. This surprises me, but I am still very grateful to it. At the same time, however, the DAB also says that it will support the amendment of Mr James TIEN. It says that it supports the idea of holding discussions on electoral arrangements at the earliest possible time. But when someone says that discussions should be held in 2003, it readily accepts 2003 as "the earliest possible time". Mr Andrew WONG also mentioned this point. I also do not understand what the DAB is thinking about. Having said that, I still hope that the DAB will not reverse its position and will still support my motion.

Madam President, I hope that Members can exercise their sensible judgment and vote against the amendment of Mr James TIEN. For me, I will support the amendment of the Democratic Party. I so submit.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the development of the political system has once again become an issue of concern in the community recently. A number of Members have given many invaluable views earlier and I have listened to them very carefully. I wish to take this opportunity to explain to Members the Government's views and position with regard to all these issues.

In last year's policy address, the Chief Executive pointed out that the Basic Law had laid down a 10-year timetable to enable us to consider the next step forward in the light of our political experience during that time. We hope that by 2007, a mature view will have emerged in the community on the development of the political structure which will help us to decide on the strategy and steps for its further development. We will make full use of the time accorded Hong Kong by the Basic Law and take forward the development of Hong Kong's political structure in accordance with the Basic Law.

First, I would like to talk about the Legislative Council Election. In July last year, the Legislative Council passed the 1999 Legislative Council (Amendment) Bill to provide a legal basis for the second Legislative Council Election. We are now actively making preparations for this election, including the enactment of subsidiary legislation and putting in place various concrete arrangements. As for the method for the formation of the Legislative Council after 2007 and the relevant review, we will carefully consider the specific procedures and steps as well as how to cause a "mature view" to emerge in the community on the various aspects of the political system. We will first explore the political systems adopted by other countries and analyse thoroughly the pros and cons of the different systems to see if there is anything that Hong Kong should borrow. This internal study of the Government will help us to form a "mature view". According to the timetable laid down in the Basic Law, we are confident that we have ample time to accomplish this task. We also hope that our decision reached through a consensus can be implemented in accordance with the provisions of by the Basic Law. We are confident that we can do a good job.

As for amending the method for the selection of the Chief Executive after 2007, we do not think this is the right time to discuss changing the method. Article 45 of the Basic Law stipulates clearly that the Chief Executive shall be selected by election or through consultations and be appointed by the Central People's Government. Annex I to the Basic Law also stipulates that if there is a

need to amend the method for selecting the Chief Executive after 2007, such amendments must have the approval of the Standing Committee of the National People's Congress. It is in our view premature to discuss these questions now. Actually, in this respect, our main objective in future is to submit a bill to make specific arrangements for the election of the second term of office of the Chief Executive.

The question of whether a ministerial system should be implemented has again induced discussions in the community recently and the Government has responded to this on different occasions. Last Saturday, the Chief Executive clearly stated in a radio programme that the Government would not change the executive framework based on civil servants and reiterated that we had no plans to implement a ministerial system.

In his amendment, Dr YEUNG Sum urges the executive authorities to fulfil the promises in the Sino-British Joint Declaration and the Basic Law. I have to state clearly that the SAR Government has always acted in accordance with the provisions of the Sino-British Joint Declaration and the Basic Law since its establishment. We have to ensure that the principles of "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" are fully implemented and enforced. We understand clearly and will strictly discharge the Government's constitutional responsibility in this respect and will never act in violation of the Sino-British Joint Declaration or the Basic Law.

Dr YEUNG Sum's amendment also refers to a political system which is democratic and open and in which the executive authorities are accountable to the legislature. Insofar as this is concerned, the Government's goal coincides with Dr YEUNG Sum's. We will develop a democratic political system in accordance with the Basic Law in the light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly progress. It is also one of our key tasks in the future to establish an open and accountable executive.

The Government also has an unshirkable responsibility to embody the provision that the executive authorities must be accountable to the legislature. Article 64 of the Basic Law clearly sets out the relevant provision. We will do our best to discharge our responsibility in this respect. As for the relationship between the executive and the legislature, I wish to make a further elaboration.

According to the Basic Law, the executive authorities and the legislature serve different functions and there is clear division of labour between them. They exercise checks and balances on each other and complement each other. The Basic Law gives the executive authorities the power to formulate policies and introduce bills to implement government policies, while the Legislative Council holds the power to examine and approve bills introduced by the Government. We hope that the executive authorities and the legislature will continue to discharge their respective functions in accordance with the Basic Law and continue to co-operate closely in the overall interest of the community.

I thank Members again for expressing so many different views in the debate. We will consider Members' views carefully when we study the relevant issues in future. Meanwhile, we will continue to develop democracy in accordance with the blueprint laid down in the Basic Law. We will also encourage the public to actively participate in elections over the next few years, so that the whole community will accumulate experience through actual participation in politics. This will form a sound basis for future discussions on the development of the political system.

Thank you, Madam President.

**MR MARTIN LEE** (in Cantonese): Madam President, I want to explain why the Democratic Party will only let me present my speech until now. Actually, Dr YEUNG Sum has passed a brief note to the Secretary for Constitutional Affairs, Mr Michael SUEN, at the beginning of this debate, inviting him or his delegate to expound the Government's position on the issue, so as to make available the major points for our discussion. Unfortunately, the Government said it was not going to do so. That is why I have to speak after Mr SUEN has finished his speech.

Madam President, Mr SUEN has really made himself a master of giving runaround these days. He was able to respond to the comments of Honourable Members in some seven minutes only. He also claimed that he had listened very carefully and had tried his best. In short, his speech was full of fair words. He talked of everything, but he did nothing and he did not want to do anything. He once told us personally, and that was reported in the newspapers, that a

review would be conducted after September upon the completion of the Legislative Council Election of this year as many issues would have to be reviewed and in-depth reviews would be necessary. Now, he is eating all his words. Madam President, I have reasons to believe that public officers are not willing to retrogress. Who wants retrogression? Obviously, it was the gentleman who recently spoke on the radio, the Chief Executive. In fact, the Government has to back-paddle in full steam when this man says "no." Today, almost everyone in this Council feels there is something wrong in the operation of the Government. Why does he have to go his own way? Now I really do not know if the Chief Executive is ignoring our existence. Actually, he has been ignoring the existence of this Council from the beginning. The only thing he cares is how long can we tolerate that, right? He is just waiting to see how long can all of the 60 Members in this Council tolerate his attitude and he keeps on ignoring our existence as long as the Government is able to secure adequate votes. I know it is really demanding to be public officers, but what else can they do? His Honour simply does not like it.

Moreover, Mr SUEN mentioned one point in his speech. He said by 2007, everything should be fine and mature views should emerge by then. He also mentioned about things like "if a consensus can be achieved." It reminds me of the same old trick used by the British Hong Kong Government. In 1985, this Council debated about the schedule for the introduction of direct elections. At that time, everybody thought that it would take place by 1988, since everyone thought that what could not be achieved in 1985 could be achieved by 1988. The Government of that time conducted a poll. I remember the name of the consultancy was something like "AGB McNair". The poll jointly conducted by nine newspapers showed that direct elections should be implemented by 1988, but two of the polls conducted by "AGB McNair" indicated that just over half of the people did not want it to be launched in such a hurry. As a result, the Government announced that there was no consensus and direct elections had to be postponed. Actually, instead of making the question as simple as "should direct elections be introduced by 1988?", I still remember the English poll question was drawn up in about 250 words and the Chinese one in about 350 words. Therefore, over 40% of the respondents found the poll too hard to comprehend and the resultant poll opinion was obtained. It is obvious that the SAR Government is going to copy the same approach now. So, how can a consensus be reached? Reluctant to discuss the issue with the public, the

Government has always been holding back the issue until some kind of a consensus is found. How can a consensus be reached in such manner? In reality, this Council has consensus on a number of issues. Perhaps there are still some disagreements on the timetable. Apart from that, the poor relationship between the executive and the legislature should also be considered a consensus. I think Mr SUEN agrees to that down deep in his heart. But he can do nothing about it simply because the Chief Executive does not agree to that.

The Chief Executive says he wants an executive-led administration. Madam President, it is not an executive-led administration; it is a communist-led administration. Why do I say that? I have my own reasons. During the end of 1987 to the beginning of 1988, I remember the former chief of Xinhua News Agency, Mr XU Jiatusun, invited the Honourable SZETO Wah and I to meet him in his office, separately. Mr XU told me that the political climate was getting mature and it was time to form parties. At that time, instead of using the word "party", he used the term "political group". I thought to myself, how shocking it was! The Chief of Xinhua was soliciting me to form a political group! He told me my background was completely different from Mr SZETO Wah because I belonged to the upper middle class. He said, "you should form a political group with Mr Allen LEE and Mr Stephen CHEONG. While Mr SZETO Wah should form another political group with the grass roots and trade unionists." I was speechless at that time. Of course, I could not accept his proposal, but I told him I shared the same view with him since it was time for Hong Kong to have political groups and it was time to form political groups. After that, I met Mr SZETO Wah and exchanged notes. What interested me was that the communist, that is, the Xinhua, would pay us out in return. That is to say, the nature of the party to be formed was irrelevant, they would still pay us out. It was obvious that despite different political parties would be in operation, there will only be one man making the payouts. Form whatsoever political party one likes, but it will genuinely be an executive-led administration so nothing will get out of hand. There would not be inadequate votes when votes are needed or there would not be any trouble about the "six-four" votes. Nothing would really matter since everybody would show up in due course, right? Therefore, it is pretty obvious that the Chief Executive wants this sort of executive-led administration. But the question is: What good will it do to our community? The way for democracy should be forward, not backward. On the contrary, democracy in Hong Kong is going backward. I told the press earlier that

democracy in the whole world was moving forward, but only Hong Kong was moving backwards. However, Hong Kong is no longer the only place on earth moving backwards, since Pakistan has joined the backward league. Should we be proud of that? Should we feel honoured that Hong Kong is not the only place on earth developing this way considering the fact that the Pakistani Government is following our footsteps?

Madam President, I find the progress of democracy in Hong Kong resembles progress inside a birdcage. In addition, it is the "toothpaste squeezing" mode of development. Indeed, I want to tell the brothers and sisters of the Liberal Party that such development is simply fruitless for your participation in the direct elections. Members of the Liberal Party frequently employ dilatory tactics, they think they should take it easy and postpone the "Evil Day" because the day has to be postponed. Nevertheless, do they realize that once the direct election for the 60 seats is launched, their celebrated star Members will undoubtedly enter the legislature without any problem? However, the more they delay and the slower they squeeze it, the slimmer the chance for the party's success, as more and more contestants will fight for a handful of seats with every squeeze. Anyway, Madam President, I am extremely dissatisfied with the attitude of the Government in making this justification. I believe none of the populace except the Chief Executive will accept that. Yet, is it really favourable to the overall development of Hong Kong? Is it really favourable to the development of our country? I believe history will give the best testimony. Thank you.

**MR LEE WING-TAT** (in Cantonese): Madam President, I wish to talk about one thing only. On a certain occasion, Mr TUNG expressed the hope that the community can come up with a set of well-developed ideas in 2007, so that the political development of Hong Kong could take a step forward. We can actually do some kind of calculations about this. If we really come up with a set of well-developed ideas as late as 2007, then when can our political system take one step forward? The Policy Secretaries present here are of course very familiar with the whole legislative process. If a new electoral system is to be put in place in 2008 (whether with respect to direct elections for the Legislative Council or the Chief Executive), then the relevant subsidiary legislation must be ready about one year beforehand. This can be illustrated more clearly by saying that if we now draw up a piece of subsidiary legislation, it will be promulgated within this year. And, for the relevant principal ordinances,

generally speaking, they have to be put before the Legislative Council for First Reading about a year and a half or two years before the relevant subsidiary legislation are enacted. The steps mentioned just now will take about two years in total. Furthermore, under the Basic Law, we will also have to negotiate three hurdles. It is not at all easy to negotiate them, and I reckon that if things go smoothly, this will take about two years; if not, four years, or even five to six years. For the time being, let me suppose that this is going to take two years only. Even so, however, we must not forget that we still have to reach a consensus in the community. For this reason, we will need to spend one to two years on public consultation.

Let me try to sum up the whole process once again: We will need to conduct a consultation exercise to reach a consensus in the community. Following this, we will need to negotiate the three hurdles stated in the Basic Law. Then, the SAR Government will have to draw up a bill on the basis of the consensus and items endorsed by the National People's Congress. The bill will then have to be submitted to the Legislative Council for First and subsequent Readings, to be followed by the enactment of the relevant subsidiary legislation. Upon further calculations, I reckon that the whole process will take at least six to seven years. In other words, if we fail to come up with any well-developed ideas within the next two years, we will have very slim hope of introducing full-scale direct elections before 2007 or of introducing any political changes in 2008. Actually, the Government and Mr TUNG should know all this only too well. I simply do not believe that once Hong Kong comes up with some well-developed ideas on 1 January 2007, it can then quickly introduce changes to its electoral system in 2008. This is simply impossible, and Members should know that very well. In other words, it is not actually too early even if we start the consultation now. And, even if we start the consultation at the end of this year, I do not believe that we can finish the whole thing within several months. This is a very complicated process which may take half a year, or even one to two years. I am of the view that even if we manage to complete each step very quickly, the time available for us to make preparations for political changes in 2008 will still be just barely sufficient. That is why Mr James TIEN does not need to worry so much, because it is not actually too early to start the consultation now. And, if we defer the consultation until 2003 or 2004, it may well be a bit too late, for it is only by getting started in 2001 or 2002 can we have any chance of introducing changes to our political system in 2007 or 2008.

I think that Mr SUEN and Mr TUNG should be frank to the public, telling them that a process like this will at least take seven to eight years from the start of consultation to the implementation of the new system. This is what we already know very well. In this particular respect, Mr WU Wei-yong can be described as the wisest man. He once said that it would take as long as two generations to address this issue. Well, if we take 20 years as one generation, then two generations will be 40 years. In other words, we will need 40 years to complete this task. The view of Mr WU may well be the view of the Central Government in Beijing and Mr TUNG. So, they think that orderly and gradual progress actually entails the efforts of two generations of people.

I hope that Members can consider the matter once again. If they also agree that 2007 should be the latest possible time to change our political system, then they should really support the motion of Miss Emily LAU; they should agree that consultation and discussions should start right now, because even if we follow her proposal, we cannot expect to achieve our aim very quickly.

Thank you, Madam President.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Secretary for Constitutional Affairs, as the President, I can grant you permission to speak again. You may now speak.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, just now, the two Members gave a number of views. To a large extent, I would not disagree with what they said. In particular, I could not disagree with Mr LEE Wing-tat's analysis of the timing. However, there is no direct conflict between his analysis and what I said earlier. As I said, we know how long the process will take. If a consensus could be reached, we will make sure that there is enough time to finish all the tasks. As Mr LEE said, we still have a few years' time. We will monitor closely how long each task will take and will endeavour to finish it in time. In this respect, I do not think there is any serious conflict between what we said.

Of course, we do not know yet what the outcome of the development will be. Mr LEE's suggestion was made on the assumption that a consensus could be reached and people shared the same views under favourable circumstances. Theoretically, according to the Basic Law, it is certainly workable. I wish to make this point clear.

I also wish to respond to Mr Martin LEE's speech. He said that I had told him that we would conduct a review, but now I no longer mentioned a review and so on. Actually, I did mention it. I will read it out once more: "We (the Government) will first explore the political systems adopted by other countries and analyse thoroughly the pros and cons of the different systems to see if there is anything that Hong Kong should borrow." The Government will carry out an internal study on this. This is what we will do, the beginning of the process. Just now, Members expressed different views about the timing, that is, what should be done at what time. I also made it clear that I had heard Members' views clearly. We will adopt the relevant suggestions if necessary.

**DR YEUNG SUM** (in Cantonese): Madam President, can I ask the Government to elucidate one point?

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, please sit down first. Secretary for Constitutional Affairs, Dr YEUNG would like you to elucidate. If you are willing to give way, I will let him ask his question. If not, please continue with your speech.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I wish to continue with my speech. Thank you.

I believe that what I said was clear enough. I have read out a passage from my earlier speech one more time. If Members still find it unclear, I will read it out a third time later. *(Laughter)*

As for the views expressed by other Members, I do not think I have to respond to them one by one. I have already clearly stated the Government's view and position with regard to each main issue. However, as I said, I had heard Members' views very clearly. If we need to adopt Members' suggestions or consult Members again when we carry out the different steps, we will conduct a relevant consultation.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Mr James TIEN to move his amendment to the motion.

**MR JAMES TIEN** (in Cantonese): Madam President, I move that Miss Emily LAU's motion be amended, as set out on the Agenda.

**Mr James TIEN moved the following amendment: (Translation)**

"To delete "executive authorities" and substitute with "Government"; to delete "conduct a public consultation" and substitute with "review"; to delete "on" after "as soon as possible"; to delete "the" before "ministerial system" and substitute with "examine the feasibility of a"; to add "consult the public at an appropriate time on the respective methods for," after "ministerial system and"; to delete "election" before "of the Chief Executive" and substitute with "selection"; to add "the formation of," before "the Legislative Council"; and to delete "by universal and equal suffrage" and substitute with "after 2007"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TIEN to Miss Emily LAU's motion, be passed.

I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Miss Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Miss Emily LAU has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK and Mr FUNG Chi-kin voted for the amendment.

Mr Michael HO, Dr Raymond HO, Miss Margaret NG, Mr CHEUNG Man-kwong, Dr LEONG Che-hung, Mr SIN Chung-kai and Mr LAW Chi-kwong voted against the amendment.

Geographical Constituencies and Election Committee:

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted for the amendment.

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG and Mr SZETO Wah voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 18 were in favour of the amendment and seven against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 13 were in favour of the amendment and 15 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Now that we have dealt with Mr James TIEN's amendment, Dr YEUNG Sum, you may move your amendment.

**DR YEUNG SUM** (in Cantonese): Madam President, I move that Miss Emily LAU's motion be amended, as set out on the Agenda.

**Dr YEUNG Sum moved the following amendment: (Translation)**

"To add ", with a view to establishing a political system which is democratic and open and in which the executive authorities are accountable to the legislature, thus fulfilling the promises in the Sino-British Joint Declaration and the Basic Law" after "equal suffrage". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr YEUNG Sum to Miss Emily LAU's motion, be passed.

I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TIEN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TIEN has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Michael HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK and Mr FUNG Chi-kin voted against the amendment.

Mr Bernard CHAN abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr YEUNG Yiu-chung voted for the amendment.

Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr Ambrose LAU and Miss CHOY So-yuk voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 12 were in favour of the amendment, 12 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 20 were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

(Members present talked among themselves)

**PRESIDENT** (in Cantonese): Quiet please.

**PRESIDENT** (in Cantonese): Miss Emily LAU, you may now reply and you still have three minutes.

**MISS EMILY LAU** (in Cantonese): Madam President, I would to thank a number of Honourable colleagues for their speeches. I believe the vast majority of Honourable colleagues support that a consultation should be conducted as soon as possible so that we can adopt an open attitude to really listen to the views of the people of Hong Kong. Like Members from the Democratic Party, I am deeply resentful at and disappointed with the "absolutely vain" answer provided by Secretary Michael SUEN. In particular, the Secretary indicated that he shared the analysis made by Mr LEE Wing-tat with respect to timing, that is, consultation work should be commenced almost immediately. And yet he told us that consultation could be commenced later, unless the Government wanted to have another consultation similar to the one on the "scrapping of the two Municipal Councils", that is a pre-decided consultation, for the Government can, in that case, speed up consultation and complete it within one and a half year. We do not want to see the Secretary make the same mistake again. I hope Mr SUEN can take the consensus reached by Members today seriously. Madam President, I really hope we can reach a consensus later. If the result is really "absolutely vain", the Secretary will clap his hands for he will not need to do anything after going home. I hope Members will not allow this to happen.

Madam President, it was reported recently that the Financial Secretary intended to levy a sales tax. Many people told him not to do so, particularly as this year is an election year. The fact that the Financial Secretary has chosen not to make this proposal at this moment might have something to do with the election. However, this has nothing to do with the Legislative Council Election. Rather, this has some bearing on the coming election for the Chief Executive, that is the election to be held in 2002. Perhaps the Chief Executive needs to be more careful with some matters. There is also a need for him to read the "facial expressions" of those 800 people. Nevertheless, I hope I am wrong in thinking in that way. Actually, we will know the answer very soon. Mr TUNG will be coming to this Council to attend the Question and Answer Session tomorrow. I believe we will ask him relevant questions then. When the Council has reached a consensus on some very important matters, why do we not conduct discussion and put them into practice expeditiously? Some people fear that there is simply no chance for our political system to undergo any changes before 2007. Of course, the Frontier hopes that we can endeavour to put things into implementation earlier. If the situation is really so complicated and it will take so long for legislation to be drafted, why does the Government still refrain from giving this Council and this community a clear message that we should commence work as soon as possible?

According to the Secretary, the relevant study is now being carried out. Mr Andrew WONG and other members of the Panel on Constitutional Affairs will also hold meetings expeditiously. Relevant people will be invited to join in the discussion too. We hope a consultation can be conducted as soon as possible for this issue affects the entire community, the credibility of this Council as well as the credibility of the executive. I hope Honourable colleagues can support my motion, so that we can send a clear message to the executive. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Miss Emily LAU, as set out on the Agenda, be passed.

Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Miss Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Miss Emily LAU has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Michael HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK and Mr FUNG Chi-kin voted against the motion.

Geographical Constituencies and Election Committee:

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

Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

Prof NG Ching-fai and Mr MA Fung-kwok abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 13 were in favour of the motion and 12 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 30 were present, 21 were in favour of the motion, six against it and two abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

**PRESIDENT** (in Cantonese): Second motion: Demand for compensation from Japan.

### **DEMAND FOR COMPENSATION FROM JAPAN**

**MR ALBERT HO** (in Cantonese): Madam President, I move the motion which has been printed on the Agenda. Madam President, today is the first time in history that the Hong Kong Legislative Council moves a motion to require the Japanese Government to make a formal apology and reasonable compensation for the atrocities committed by Japan during the Second World War. The purpose of my moving this motion is not to advocate any narrow-minded nationalism or antipathy against Japan, nor do I wish to recall the painful past to provoke conflict and clashes between nationalities. It is for the sake of the justice in history, the dignity of the war crimes victims, as well as the peace of the Asian-Pacific Region that I have sincerely put forward this motion. I hereby earnestly urge the Japanese Government and its people to bravely and honestly face up to the country's past and shoulder the responsibility that this piece of history has left behind for them to fulfill, so that they could overcome the mistakes made in the past and lay down their historical burden like the Germans did. That way, they would be able to lift their heads and stride forward into the new millennium together with the international community.

Madam President, the war ended more than half a century ago, but the "irresponsible" and "anti-justice" attitudes adopted by the Japanese Government in relation to the war-related issues are most frustrating. During the period between 1945 when the war ended and 1952 when the San Francisco Peace Treaty was signed, abrupt changes in the international arena had given rise to a Cold War between the two blocs headed respectively by the United States and the Soviet Union. Under the new Far East policies of the United States, Japan was given lenient treatment by the allied countries and thereby managed to avoid making huge payments of compensation for the war crimes it had committed. As a result, Japan was able to rebuild its economy and improve the livelihood of its people. On the other hand, unlike their counterparts in Germany, many wartime military and political figures in Japan have never been investigated or prosecuted for the war crimes committed by them. What is more, they could even resume their senior positions in the government. In the end, another historical mistake was made: Japan has never faced up to its responsibilities after the war, and has therefore never drawn any historical lessons from its serious wrongdoing of invading other countries in Asia.

Today, as the political situation in Japan has stabilized and the country's economy has revived, the Japanese Government is making every effort to forget the painful defeat brought about by its militarism and the reasons why Japan has to suffer such a defeat. Starting from the '80s, as an attempt to cover up and tone down its responsibilities for the invasion of other Asian countries, the Monbusho of the Japanese Government has been trying to tamper with history textbooks from time to time. In addition, the cabinet members of the Japanese Government have also resumed paying homage to the Yasukuni Shrine since the mid-1980s. To the outside world, although the Japanese Government dares not to deny completely the crimes Japan committed during the invasions, it has all along adopted an inactive, evasive or undertoned attitude to deal with the questions raised by other countries in relation to its innumerable war crimes, including the Nanjing Massacre, the Unit 731 Scheme, the use of chemical and bacteriological weapons in China and other Asian countries, forcing women to be army sex slaves (comfort women), subjecting the civilians or captives of other countries to forced labour and so on. Needless to say, Japan simply lacks the honesty and courage to investigate into the crux of the matters and accept the truth as it is, to say nothing of shouldering its responsibilities and making up for the damages done.

Towards the end of the '80s, as the world witnessed the end of the Cold War and the third wave of democratic development, the international climate also changed. The open-minded and progressive Japanese people began to realize that the people of other Asian countries would never forget the Japanese invasions and the war crimes committed by Japan during the invasions, and that these people would never forgive or accept Japan if the Japanese Government should continue to refuse to take any remedial actions on its own initiative. Driven by their own conscience and wisdom, some Japanese people have formed a number of post-war compensation support groups to help the victims in many Asian countries to organize themselves to claim compensation from Japan. As a first step, court proceedings were initiated to arouse the attention of both the Japanese community and the international community. At the same time, lobbying efforts were also made to urge the Japanese Government to introduce legislation on provision of compensation for war crimes victims. By now, over 50 lawsuits instituted to demand for compensation are in progress in Japan. These lawsuits have in turned served to give rise to an international campaign to demand for compensation from Japan led by non-governmental organizations worldwide which started in the '90s and is pushing ahead more vigorously.

Madam President, a report on the comfort women during Japanese invasions was published in 1996 by Mr COOMARASWAMY, the Special Rapporteur of the Commission of Human Rights of the United Nations on Violence Against Women. In this report, which is another authoritative report since the study report on comfort women was published by the International Commission of Jurists in 1994, it is pointed out clearly that Japan must be held responsible for the comfort women issue. Moreover, *The Rape's Diary* and the Reverend MAGEE's Videotape released later on are proofs positive that the Nanjing Massacre was by no means any case of fabrication or exaggeration as alleged by the Japanese right-wingers. As referred to by Ms ZHANG Chunru, the renowned author of *The Rape of Nanking*, Japan would be committing a second rape on the Nanking people if it should refuse to recognize the fact of the Nanjing Massacre. Over the past two years, certain members of the former Unit 731 and even some members of the former Imperial Army like Shiro HIGASHI who had witnessed the Nanjing Massacre have come out one after another to testify. As they said, they would spend the rest of their lives disclosing the truth to the world, so as to atone for Japan's crimes. All these events have served to press the Japanese Government to face the reality and act promptly to make remedies.

In 1996, the Japanese Government admitted that the comfort women were in fact army sex slaves rather than voluntary prostitutes as it had claimed before, and indicated its willingness to apologize. Regrettably, however, when it comes to compensation, the Japanese Government has only urged the Japanese community to set up a Peace Fund for Women in Asia with donations from enterprises to pay each comfort women US\$18,500 as compensation. It is not surprising that organizations representing the comfort women have all sternly refused to accept the compensation. They have also pointed out that the amount of compensation would be of little importance to the victims. The importance of the compensation payment lies not in its nominal value, but most importantly, in the willingness of the Japanese Government to pay the compensation to prove the "sincerity of the apology made by Japan or the Japanese Government". Many of these aged victims are of very poor health, it is indeed very respectable of them to hold fast to their unequivocal principle with such unswerving determination to defend their dignity. Congressman Takeshi TANABE of the Socialist Party of Japan has once made this remark: "While it is immoral to offer compensation without making any apology, it would be hypocritical to make an apology without offering any compensation." I fully agree with his view.

In the United States, through the efforts of Mike HONDA, a California State Assemblyman of Japanese descent, Bill AJR No. 27 was passed (by the California State Assembly of course) in August last year to denounce Japan for its invasions and other war crimes it committed, and to demand the Japanese Government to immediately offer apology and compensation to all victims concerned. As far as I know, not only Assemblymen and Assemblywomen in other states like New York and New Jersey are making preparations to put forward similar bills in their respective State Assemblies, Congressperson LIPINSKY is also prepared to move a similar act in the House of Representatives. Besides, according to my understanding, in addition to putting forward similar motions, the parliamentary assemblies of the Philippines and South Korea have all along been giving full support to the campaigns conducted by their people to demand for compensation from Japan.

In this coming February, Democrat Senator Shoji MOTOOKA will be moving a motion in the Japanese Senate to urge the Japanese Government to offer formal apology and compensation to all victims concerned for the various crimes Japan has done in relation to the comfort women. Madam President, the motion to be passed by this Council today is to support the voice of justice raised by the international community and even from within Japan to do justice to the victims for the wrongs done to them.

As pointed out by the former Chancellor of Germany, Mr WELSCHER, if we should turn a blind eye to our past, we would not be able to see the present world. I just hope that the Japanese Government and its people will not turn a blind eye to the past; otherwise, they will only be making the same mistakes again.

Last but not least, I hope that the Central Authorities and the Government of the Special Administrative Region (SAR) could take up further moral responsibility by offering more humanitarian support to war crimes victims, such as establishing a registration system for them, helping them to collect supporting evidence and assisting them in instituting legal proceedings to demand for compensation. This is because I do not want them to rely solely on the voluntary services provided by the lawyers, academia and volunteers in Japan. Actually, there is a lot the Government could do in terms of evidence collection and the provision of moral and financial support for war crimes victims who have difficulty supporting their daily lives. In this connection, the war crimes victims in South Korea are given various kinds of support services from their

government. I strongly urge the SAR Government to build a museum in Hong Kong in memory of the defence against the Japanese invasion, with a view to enabling our younger generations to draw lessons from history and to better understand the evils of war, thereby instilling in them a stern determination to safeguard world peace and to hold fast to the anti-war notion.

Apart from that, the Central Authorities should also make use of diplomatic channels to urge the Japanese Government to immediately return to us the Diaoyutai Islands and cease all incursions into these territories of ours, as well as to disclose all its war crimes-related confidential files, in particular those on the Unit 731 Scheme, with a view to alerting the younger generations to the impacts of war. Moreover, the Central Authorities should also insist on requiring the Japanese Parliament to pass an apology resolution and to enact laws providing for the compensation to be made to victims. These are in fact the historical and moral responsibilities that the Central Authorities must take up despite the fact that it has renounced the nation's right to demand compensation from Japan in 1972. Further still, the more than two million gas bombs and other chemical weapons left behind by Japan over the past decades since the end of the Second World War are still claiming many lives of our people, we must demand Japan to remove these bombs and weapons immediately.

With these remarks, Madam President, I beg to move.

**Mr Albert HO moved the following motion: (Translation)**

"That, as the Japanese Government has, since the Second World War ended over 50 years ago, never made any formal apology and reasonable compensation for its invasion of China (including Hong Kong) and the war crimes it committed during that time, but has instead tried to distort the historical facts of its invasion of China by embellishing the invasive war and concealing the war crimes, as well as honouring the war criminals, unlawfully occupying the Diaoyutai Islands, expanding its military forces, and is exhibiting an inclination towards reviving militarism, this Council expresses strong regrets about Japan's policies and behaviours mentioned above and solemnly urges the Japanese Government to take the following actions immediately:

- (1) to offer an official written apology to the Chinese people for waging the war against China (including Hong Kong) and the war crimes it committed during that time, as an indication of its admission of the responsibilities for the invasion and the war crimes;
- (2) to make apologies and compensation to individual victims or their families for the various war crimes it committed, which include the "Nanjing Massacre", "Unit 731 Scheme", "use of chemical weapons", "army sex slaves (comfort women)", "forced labour" and "forced exchange of war currency";
- (3) to return the sovereignty of the Diaoyutai Islands to China;
- (4) to disclose all the existing secret official records of Japan's invasion of China and the war crimes it committed during that time; and
- (5) to educate the younger generations of Japan on the historical facts of Japan's invasion of China and to disseminate the message of safeguarding peace and human rights in order to stop the revival of the militarism trend;

this Council also urges the Central People's Government and the Hong Kong Special Administrative Region Government to step up education on the history of our ethnicity, build a museum in Hong Kong in memory of the defence against the Japanese invasion, and give appropriate support to the war crimes victims in their demand for compensation from the Japanese Government."

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

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Albert HO, as set out on the Agenda, be passed.

Mr YEUNG Yiu-chung will move an amendment to this motion, as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated together in a joint debate.

I now call upon Mr YEUNG Yiu-chung to speak and move his amendment.

**MR YEUNG YIU-CHUNG** (in Cantonese): Mr Deputy, I move that Mr Albert HO's motion be amended, as set out on the Agenda.

Mr Deputy, I agree with most of what Mr HO said in his motion. However, there are some inexact or even incorrect references in the motion, perhaps due to the lengthy wording of the motion itself. I move the amendment on behalf of the Democratic Alliance for the Betterment of Hong Kong (DAB) to perfect the original motion. I hope colleagues can support my amendment.

As everyone knows, the Diaoyu Islands have been part of the territory of China since ancient times. China has indisputable grounds for that in both historical and legal terms. Since the early Ming Dynasty, the Diaoyu Islands have belonged to China. A book "順風相送" was published about the Diaoyu Islands during the Yong Le period (1403AD-1424AD), 400-odd years before the Japanese claimed a Ryukyuan, named KOGA, discovered the Diaoyu Islands in 1884. Furthermore, maps published in Japan in 1783 and 1785, showing the Ryukyuan Kingdom on them, indicated that the Diaoyu Islands belonged to China. Up to the eve of the outbreak of the Sino-Japanese War in 1895, Japan had never disputed the sovereignty of the Diaoyu Islands. After the Sino-Japanese war, Japan forced the Manchu Government to sign the Treaty of Shimonoseki, a treaty of national betrayal and humiliation, ceding the entire Taiwan and its islands and the Pescadores Islands to Japan. It was after that occasion did Japan have the term Senkaku Shoto (that is, the Diaoyu Islands). After its defeat in World War II, Japan returned Taiwan to China, but it unilaterally handed Taiwan's other islands and the Diaoyu Islands to the United States for custody. And in 1971, in signing the Agreement for the Retrocession of Okinawa Island, both Japan and the United States included islands such as the Diaoyu Islands as part of the territory for the retrocession without consulting China. However, China's position has been that it would not recognize any of the unequal treaties imposed on it by other countries. A Japanese figure in literature, INOUE, after some historical research, proved that the Diaoyu Islands

are part of Chinese territory. He pointed out to the effect that: "Japanese militarism is making a comeback. It results in peremptorily insisting that Japan has sovereignty over the Senkaku Shoto; thus pushing the Japanese people into the big whirlpool of militarism."

It is not appropriate for Mr HO to say in his original motion that Japan should return the sovereignty of the Diaoyu Islands to China because that sovereignty has all along belonged to China. The sovereignty is ours. Why did Mr HO say "return"? Even if the Diaoyu Islands were occupied by Japan, their sovereignty belongs to China. This is similar to the case of the eight-year invasion and occupation of some parts of China by Japan. During that period, China still had sovereignty over its land. Another example is the reunification of Hong Kong and Macau with China. We do not say China recovers its sovereignty over both places. We say China resumes the exercise of sovereignty over Hong Kong and Macau. The sovereignty over Hong Kong and Macau has been with us all the time, but we could not exercise it during the period when the British and Portugal Governments were administering them. But China never admitted Britain or Portugal had sovereignty over the two places. As Mr HO has been active in the "movement to protect the Diaoyu Islands" over the years, I do not know why he has made a mistake over this issue of principle. The DAB hopes that when the conditions are ripe China can resume the exercise of sovereignty over the Diaoyu Islands. For this we ask that Japan acknowledge China's sovereignty over the Diaoyu Islands and cease all incursions into the Diaoyu Islands, which are our territory.

Mr Deputy, as a matter of practice, we use the phrase "we detest the restoration of Japanese militarism". I think "restoration" is a more appropriate and more emphatic word than "revival"; hence, my amendments to certain phrases in the original motion. Regarding the term "Diaoyutai", I would point out that the official name used by China is "Diaoyu Islands", which is also the term used in Ci Hai ("辭海"), a Chinese dictionary with some authority. As the term "Diaoyutai", though popularly used, cannot be found among official Chinese names and the dictionary, I standardize it as "Diaoyu Islands".

Mr Deputy, modern Japanese militarism has prompted war waged against China on numerous occasions. Among other superpowers, Japan has done most harm to China. On the issue of Taiwan, Japan is acting against the Chinese people. However, in his meeting with President JIANG Zemin, the Japanese Prime Minister, Keiso OBUCHI only agreed to issue a verbal apology,

not a written one, for the Japanese invasion and war atrocities inflicted on China. This shows that even now Japan is reluctant to face history squarely, wanting to shirk its responsibilities for its wrongdoing. From this we can see that Japan has not fully understood its mistake in the past; nor has it the sincerity to repent. Distorting facts in history books, denying the "Nanjing Massacre", paying respect to the Yasukuni Shrine by the Japanese Cabinet, unlawfully occupying the Diaoyu Islands, expanding its military might and so on are a manifestation of Japan's intention to cover up its sins in the invasion of other countries in history and to restore militarism. In stark contrast, the chancellor of the Federal Republic of Germany, Willy BRANDT, knelt before a Jewish monument in Poland to signify repentance.

As the President of the Republic of Korea, KIM Dae-jung, said: "Before we enter the 21st century, we must clear the outstanding issues in the 20th century." Therefore today's motion debate is a meaningful one. As we enter the 21st century, the Chinese people would give this warning to rightist camps in Japan: "We detest Japanese militarism." The call for justice must win support from the Asian people. The DAB asks that the Japanese Government issue an official written apology to the Chinese people for its invasion and war crimes against China. The DAB supports all non-government actions to demand compensation from the Japanese Government. We hope Japan can shed its load of the 20th century and adopt a new image in the next century. While Japanese militarism brought war and pain to people in Asia in the 20th century, Japan should bring peace and development in the 21st century.

Past experience, if not forgotten, is a guide for the future. Japan must understand history from a correct perspective and treat history in a correct manner. It should educate the next generation to reject militarism if it wants to gain the goodwill of Chinese people.

With these remarks, I move my amendment to the original motion. Thank you, Mr Deputy.

**MR YEUNG Yiu-chung moved the following amendment: (Translation)**

"To delete "Diaoyutai" after "unlawfully occupying the" and substitute with "Diaoyu"; to delete "reviving" and substitute with "restoring"; to delete "return the" before "sovereignty" and substitute with "acknowledge China's"; to delete "of" after "sovereignty" and substitute with "over"; to

delete "Diaoyutai" in "Diaoyutai Islands to China" and substitute with "Diaoyu"; to delete "to China" and substitute with "and to cease all incursions into the Diaoyu Islands, which are our territory"; and to delete "revival" and substitute with "restoration". "

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr YEUNG Yiu-chung to Mr Albert HO's motion, be passed.

We now proceed to the debate.

**MR HO SAI-CHU** (in Cantonese): Mr Deputy, more than 60 years ago, Japan launched an all-out attack on China, killing over 35 million Chinese soldiers and civilians and forcing Chinese women to serve as comfort women. It treated innocent civilians as live targets of killing games and turned our beautiful country into ruins. These are all indisputable historical facts that will not change through all eternities.

However, during the more than 50 years after the end of the war against China, the Japanese Government has never offered an open and written apology to the Chinese people or admitted the historical facts of its invasion of China. Instead, during the last few decades, Japanese officials often distorted the historical facts by embellishing the invasion. Some incumbent Japanese Prime Ministers even publicly paid homage to the Yasukuni Shrine consecrated to the war criminals. Chinese people feel frustrated by this and worry that Japanese militarism will resurge and threaten the safety of Asia and even the world once more.

China is a land of propriety and righteousness, and Chinese people are forgiving. I do not think it is the intention of Members present, Members who are going to speak and our compatriots in the whole country to stir up Sino-Japanese hostilities or perpetuate the past national feud onto the next generation by bringing up the history of the Japanese invasion of China again. However, "the past not forgotten is a guide for the future" and "drawing lessons from the past, one will know the laws of rise and fall". We must learn from history to

prevent the recurrence of the tragedy of a war of aggression. If the aggressor Japan does not even have the courage to offer China a public apology in the international arena to show its good faith, how can Chinese people believe that Japan will really honour the promises it made when it established diplomatic relations with China in 1972, and show repentance for its crimes of bringing calamity to the Chinese? How can friendly relations develop between the people of China and Japan in the new century?

Actually, by facing history and making a formal apology and compensation, Japan will not only fulfil a responsibility to the Chinese people but also liberate itself. It can cast off its historical burden once and for all, bid its shameful history farewell and regain the trust of the Chinese, the world and its own people. I know that among Japan's new generation, there are many like Higashi Shiru who abhors the invasion. They wish to become new Japanese and work for international peace. The Japanese Government should return to the path of virtue for the sake of the happiness of its next generation.

Mr Deputy, I speak on behalf of the Liberal Party for a reason. Maybe because I am older, it was my fortune or misfortune to have experienced the war. Anyone who has experienced wars will surely abhor them. Everyone who has gone through a war knows that it is a terror. It was a time of scarcity. When we fled from Hong Kong to the Mainland, we suffered, took risks and often hovered between life and death. This makes it hard for us to forget the sufferings of the war. We do not want another war and we do not want people who have made mistakes to completely forget about their errors and refuse to correct their mistakes.

Therefore, I speak on behalf of the Liberal Party to support the amendment. As Mr YEUNG pointed out, some of the terms need to be amended. For instance, we usually use the term "復甦"(revive) to describe the economy. It is not quite appropriate to speak of the revival of militarism or the monarchy. In these contexts, the term "復辟"(restore) should be used. The term "Diaoyutai Islands" should be changed to "Diaoyu Islands". All these terms should be appropriately amended. Thus, while we support the spirit of the original motion, we also support the amendment. Thank you, Mr Deputy.

**MR LAU CHIN-SHEK** (in Cantonese): Mr Deputy, I think every one of us here would agree that it is a crime which can in no way be denied that Japan invaded the countries in Asia half a century ago and that it inflicted huge physical and mental pains to the people of the countries it invaded as well as causing colossal damages to their lives, homes and properties. During the Japanese invasions, billions of people were swept into the torrents of the war and a lot of them died, suffered injuries, lost their homes, and left their wives and children, denied of the hopes of family reunion. There were yet others who had to endure the hardship of forced labour and the degradation of being a comfort woman. For those who have suffered from the war, no amount of compensation is great enough to heal their wounds. I am always of the opinion that this matter of compensation for their suffering should best be put as a concrete expression of apology and remorse on the part of the Japanese Government and its people for the war crimes they committed, rather than as a remedy for the losses inflicted.

The demand for apology and compensation from the Japanese Government has a deeper meaning than to seek justice for the victims of war. That is, only when the Japanese Government and its people engage in a sincere and thorough reflection on their past mistakes and crimes, will the revival of Japanese militarism be forestalled and long-lasting peace for Asia and the world be assured.

I wish to add a few observations which I have noted during my visits to Japan in these past few years.

Starting from about 1993 and 1994, I went with Mr Albert HO to Japan to attend the meetings of the victims of the Pacific War to demand compensations from Japan. The meetings were held in about August every year. When the meetings were over, we would usually go on 15 August, that is the day commemorating the surrender of Japan (called by the Japanese as End of War Day) to the Yasukuni Shrine in Tokyo to make a protest. When every time I went to the shrine, I was shocked by the strong reverence expressed by the Japanese for the militarists. It strikes me so much that should the spectre of Japanese militarism still linger, there will be no long-lasting peace for the whole of Asia.

Inside Japan there is a strong call for an expansion of its armed forces and clamours for Diaoyutai Islands as Japanese territory. Those people who make such demands are the right-wingers and they are also those who try the best they can to erase Japan's invasive past. Why are they doing this? It is because the psychological drive of the militarists is racial superiority. They have been advocating for the superiority of the Japanese race and they claim that they invade only to liberate the people of Asia. They are afraid to face the truths of history — the inglorious past of naked and wholesale invasion of other countries made by their former generation. Deep in the souls of these militarist diehards, history is a perfect mirror. And what they can do is to make repeated attempts to escape and refuse to make apologies and compensations.

Having said that, I do not believe that most of the Japanese are admirers and adherents of militarism. Speaking from my own first-hand experience, I am aware of the existence of a progressive force in Japan. There is quite a considerable number of people who are willing to come to terms with their invasive past. They research into the heinous crimes committed by their country in the Second World War and try to expose them to educate the new generation. They work hard to refute and repudiate the arguments put forward by the militarists and strive for long-lasting peace in Asia. For example, there is this friend of mine who is a Japanese scholar. He published a travellers' guide to Hong Kong. He also guided tours to Hong Kong frequently and introduced to his people the various spots in Hong Kong where crimes were committed by the Japanese occupation forces. He hopes to teach the young not to forget the brutalities of the Japanese army.

Mr Deputy, our government is duty-bound to provide assistance to war victims to demand compensation from Japan and to educate our people in the history of Japanese invasion. When it comes especially to encouraging the war victims to come forward and demand for compensation, it is vital that there should be government involvement and support. Take the comfort women of South Korea as an example. They are bold enough to come out and make their plight known to the public. It is all because of the great support and encouragement given by the South Korean Government. What is disappointing is that the colonial government of Hong Kong did not take any responsibility in this question of war compensation at all. There has been no proactive action from the SAR Government either. Therefore, I hope that when the Secretary makes his reply later, he can tell us what the Government has done in this respect.

On the assistance given to Hong Kong people in demanding compensation from Japan, some Honourable Members of the Legislative Council before 1997 did raise some questions. But the colonial government at that time placed the responsibility on the British Government and the British Government has always been standing aloof in this matter. The British colonial government is a foreign government and the Japanese invasion did not have any impact on Britain at all. Therefore, the British Government did not care about this. Though we were unhappy about it, there was nothing we can do. After the reunification, the Chinese Government and the SAR Government can no longer shirk their responsibilities in this matter. The SAR Government must undertake to do the following:

First, to launch a registration system and call upon the war victims or their descendants to register with the Government. The Government should coordinate efforts in demanding compensation from Japan;

Second, to make the demand of the Hong Kong people known to the Chinese Government and to ask it to act on our behalf and demand from Japan an apology and compensation;

Third, to make public all files concerning the brutalities done by Japan during its invasion of Hong Kong. There should also be an in-depth investigation with the aim of making the whole world aware of the details of the brutalities; and

Fourth, to enhance education on the historical facts of the Japanese invasion in the Second World War and the revival of Japanese militarism in recent years, in order to make the people of Hong Kong know clearly the truths of history.

Mr Deputy, I so submit to give my full support to Mr Albert HO's motion.

**DR RAYMOND HO** (in Cantonese): Mr Deputy, as we all know, war is the cruellest phenomenon in the history of mankind. The victims of war will suffer from the trauma of war for the rest of their lives. No compensation can make up for the pain and grief of the victims. Even more painful for the victims is when the aggressor not only refuses to admit or repent its crimes, but also ignores historical facts and frequently denies the crimes committed, deceiving

itself and others. Such denial makes it even harder for victims to forget their painful experience. As long as justice is not done, they will continue to live in painful memory. Who is the cause of this?

Needless to say, it is the Japanese Government which dares not face the historical facts and bear responsibility. The opposite applies to Germany, which was guilty of aggression and had committed war crimes during the Second World War. It admitted the relevant crimes and bore the relevant responsibility long ago. The war ended almost 60 years ago. However, many of our compatriots still have to bear the heavy burden of the past. The attitude of the present Japanese Government towards the past invasion of China makes us extremely worried that Japanese militarism has been restored and that it is trying to deny its past aggression. While vigorously concealing its inglorious history, it refuses to make compensation to the war victims who are now advanced in years.

After the war, the Japanese Government has always used the San Francisco Treaty of Peace as an excuse to claim that the issue of reparations after the war had been resolved and that it needs not compensate individual war victims. However, at a meeting in Geneva, Switzerland on 26 August last year, the Sub-Commission on the Promotion and Protection of Human Rights under the United Nations Commission on Human Rights resolved that the right of war crimes victims to claim compensation overrides the clauses exempting the injuring country from making compensation in national conventions and treaties signed between nations. Therefore, Japan must compensate the nationals of countries to which it had done harm. The Japanese Government should compensate and apologize to our countrymen and their families whom it had victimized during the war. I hope that the Central People's Government and the SAR Government will give appropriate support to the relevant efforts to seek compensation.

At the same time, the Japanese Government should bear responsibility for its war crimes and offer the Chinese people an official written apology as soon as possible. We must insist on this in order to see justice done to our many victimized compatriots. If we fail to achieve this in our lifetime, our next generation should continue to work on it. We must enhance the next generation's knowledge of history and strengthen their national consciousness, so that they will strive to protect our national interest and uphold our national dignity.

Mr Deputy, I so submit.

**MR WONG YUNG-KAN** (in Cantonese): Mr Deputy, as we are in the new millennium, many people are making a hackneyed millennium wish of peace on earth and less war and strife in mankind. Wishes like these, however, are not commonplace at all. For those who have had the tormenting experience of being in a war, peace is really their heartfelt wish.

Over the past century, it seems that we Chinese people have suffered more from war than others — and we owe this to the Japanese militarists. For each and every one of us Chinese, the Nanjing massacre is something permanently embossed on their mind. Even the new generation which has never experienced any war, the memory is passed onto them like genes in their bodies. There may well be some people who say that we should look forward and we should not make demands on Japan every now and then for war compensation. But I must point out that we are making these demands for the simple reason that we hope to liberate both the invaders and the victims of war from the spectre of war. It is only when Japan makes an official apology to the Chinese people, takes the responsibility for waging war on China and for the crimes it committed in the course of that war of invasion, apologizes to the victims and their families, and makes the compensation that is long past due, can the souls of the victims then be put into rest along with the material consolation. And for the Japanese, they will not have to bear the hated name of invaders and be forever tormented in their conscience.

We find the attitude of the Japanese Government very disappointing. Not only does it show no remorse, but it displays a tolerant attitude to the resurgent militarists. Last April, Shintaro ISHIHARA, the governor of Tokyo, made disparaging remarks in public as soon as he assumed office about China with a blatant show of contempt for Chinese history. He has repeatedly claimed that the Nanjing Massacre is a mere fabrication. He said that Japan has sovereignty over the "Diaoyutai Islands". All these are nothing but naked attempts to advocate militarism. It is disgusting to see such a diehard militarist to make an official visit to Taiwan at the end of last year. The Chinese Government has repeatedly expressed its resentment against these perverse remarks by Shintaro ISHIHARA. The DAB has made a petition to the Japanese Consulate in Hong Kong to demand the Japanese Government to face this issue squarely. But the Japanese Government just turns a deaf ear to the demand. It has not paid any attention to the friendship and co-operative relationship between China and Japan. Things remain unchanged and the spectre of militarism is allowed to haunt as much as ever.

As we trace things back, in the middle of 1998 and at the pretext of providing logistic support, Japan signed a Security Pact with the United States and intended to launch an outward expansion of its military power. The two countries widened the scope of their co-operation and this is in effect allowing the Japanese army to enter the territory of countries in Southeast Asia. This is in contravention of the postwar "Peace Constitution" and it poses a threat to all countries in Southeast Asia. As for sovereignty over the Diaoyu Islands, Japan has long seen it as an object of desire. It remains a fact of history that the Diaoyu Islands have always been Chinese territory and the sovereignty is not to be disputed. The unilateral move on the part of Japan to include the Islands in its economic waters and permitting rightists to erect facilities and signs on the Islands in violation of Chinese sovereignty are all blatant disregard of the strong resentment among the people of China, Hong Kong and Taiwan.

Madam President, past lessons are guides to future, as the saying goes. The Marco Polo Bridge Incident of 7 July 1937 sparked off a wave of Japanese invasion on Chinese soil, beginning a sea of suffering for our people. This year marks the 63rd anniversary of the Marco Polo Bridge Incident. It strikes me that the saying "we had better look forward into the future rather than reminiscing about the past" does have a grain of truth. History moves forever forward. Japan must wake up, admit its faults, detach itself from the role of the devil of militarism, then learn the lessons of history, disclose all confidential files on its invasion of China, enhance educating the young in the history of its invasion of China, and promote and defend peace and human rights. Only by doing so can Japan sever its ties to militarism and check its revival.

On the other hand, there is a need to educate our young people about the history of the Chinese race to prevent history from repeating itself. We hope that both the Central Government and the SAR Government will adopt proactive measures in this matter, including the building of a war museum in Hong Kong on the resistance efforts against Japan in the Second World War and to give support to those victims of war to demand compensation from Japan.

Mr Deputy, I so submit.

**MR SZETO WAH** (in Cantonese): Mr Deputy, it has been 55 years, which is more than half a century, since the end of the Second World War, but the wound brought about by the war has not yet healed. There are still some people who have been unable to learn a lesson impressive enough from it. The most obvious example is that the Japanese Government has still failed to adopt a correct attitude and take proper action with respect to this calamity.

The Japanese Government has never openly offered a formal apology to invaded nations and their peoples. It also denies the crimes it committed during the war like the Nanjing Massacre, and refuses to offer compensation to the victims. The fact that its Cabinet officials paid homage to dead war criminals at the Yasukuni Shrine has demonstrated that the ideology of militarism is not only lingering on but also becoming increasingly rampant. With constant rises in military expenses, Japan has become one of the countries with the highest military expenses in the world. Furthermore, the Diaoyutai Islands, the territory of our country, are still under its occupation. This is a serious problem that those who safeguard world peace and justice must not ignore.

Germany, which was one of the Axis powers that waged the war, adopts a completely different position and attitude when compared to Japan. After the war, Germany appropriated a huge sum of money as reparations to the victimized nations and their nationals and developed international welfare undertakings, with the local Caritas Group being one of such examples. As for the war criminals, the country has been investigating the root cause of the tragedy with perseverance with a view to bringing them into justice. In the meantime, it vigorously roots out surviving Nazi evildoers at home. It is especially touching that 10 years ago, Germany spared no expense in bearing a heavy political and economic burden in order to bring about the reunification of Germany.

The sharp contrast between Japan and Germany reminds me of China and Israel. Although I do not agree with the national policies of Israel in many aspects, I greatly admire it for the way it made vigorous attempts to find out the responsibilities of causing the war and the war criminals. Although it has been more than half a century since the war ended, Israelis have still not abandoned this historic mission. Even though some war criminals have fled the country and hidden in corners of the earth, they will still be pursued, arrested and brought to court. This is not a matter of revenge. It is only that punishing action must be taken against criminals of history and the elements causing the recurrence of similar incidents be thoroughly eliminated.

China, our mother country, is really too lenient towards the Japanese militarists. While it often squares accounts with its people afterwards, it refers to the Japanese militarists who have slaughtered its own people as "good friends" and shows tolerance and compromises on every matter. Is this the way that a "Great Power" should behave? I think China should learn from Israel in this respect.

To forget implies betrayal. A race that forgets its history is a race without a future. After all, have we betrayed tens of millions of our compatriots killed in the War of Resistance against Japan? Is the Chinese race really a race without a future? When our colleagues in the Legislative Council vote on this motion, their positions will represent their answers to these two questions.

I think we should welcome the amendment made by Mr YEUNG Yiu-chung for it has only amended the wording, without changing the contents of the original motion. Incidentally, he has proposed to substitute "reviving" with "restoring". But I think the use of the word "restoring" is not very accurate for it originally meant the return of emperor to his throne, an allusion coming from a story about Emperor Taijia in the Shang Dynasty. Taijia ruled without adhering to any principles and so the capable chancellor Yiyin put him in Tong Palace. Three years later, Taijia repented and Yiyin returned the ruling power to Taijia. This was known as "restoration (復政厥辟)". The return to throne of a dethroned monarch was later referred to as "restoration". For this reason, YUAN Shih-kai's proclamation of king was not considered to be "restoration", whereas Puyi's proclamation of king with the support of ZHANG Xun was treated as "restoration". The word "restoration" is not applicable to militarists for they cannot come to the throne. Just now Mr YEUNG Yiu-chung mentioned "Ci Hai (辭海)", would he please look it up again?

Mr Deputy, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr Deputy, for so many years, whenever Christmas or New Year draws near, we can see that the one and only one wish of so many people around the world is be there peace on earth. We can also see many children sending letters to Santa Claus, expressing their hope for peace on earth. What does this universal longing for world peace show? It shows mankind's disgust, hatred and fear for war. The cruelties of war are common experience to all and so there is a fervent hope that it will never happen again.

The motion on "Demand for Compensation from Japan" moved by Mr Albert HO today has put forward some details of the demand. For me, the meaning of this goes beyond demanding for compensation. Our aim should be to make those militarist governments know that this kind of demand for compensation is meant to make them aware of the cruelties which they inflicted on others when they started a war. They should refrain from doing this again. Their people should purge their minds clear of this kind of inclination to invade. I think the motion today is of great significance and value in these respects. We do not simply want the Japanese Government to be aware of the inhumanities of war, we want every one to be aware of this as well.

We are very disappointed to see how little progress that the demands for compensation are making. As a matter of fact, these demands are simply ignored. This act of the Japanese Government is a violation of the international law on human rights, for it is stated that countries committing the crime of war have legal responsibility to make compensation to the victims. It is a basic human right for war victims to be compensated. Unfortunately, Japan has been using the excuse that it has signed the San Francisco Peace Treaty and also other peace treaties with China and claimed that the issue has been resolved and so no compensation would be made. In a recent ruling in a district court in Japan, the court reverted what we deem to be a basic human right to say that there is no such thing as a demand between individuals and a country, and that the demand from victims to the country which has caused damage to them is incongruent to the justice of that particular country. The court also states that should war victims make demand for compensation at peacetime after a war, it will disrupt peace and thus may lead to war again. Such arguments are used to refuse compensation.

Honourable Members speaking in this motion debate mentioned that it showed our yearning for peace and the end of this drive to wage war. The perverse logic which we have seen from Japan is unacceptable. But why is this allowed to exist for so long? It is because the Japanese Government is blind to all of these. It fails to sense the demand on them for compensation. Why can they not see these with their eyes? It is because it is hard for people to rely on their own efforts when they make a demand on another country. The United States makes compensation for the NATO bombing of the Chinese Embassy. Though it was not made at once, at last it was made. Why is that so? What does it tell us in the final analysis? It is because the Chinese Government has made a strong demand. If only our Government can stand forth and make a similar demand. Things may very much be different.

It is sad to note, however, that in the course of history the Chinese Government has on numerous occasions sacrificed the interests of its people for political considerations. The CHIANG Kai-shek administration which had retreated to Taiwan declared in 1952 that it was going to repay vengeance with forgiveness to solve the problem of reparations between the two countries. Was that really made in consideration of the interest of the people? In 1972, in the declaration made after the normalization of diplomatic relationship with Japan, the right to demand compensation was renounced. From these we can see that the two administrations both sacrificed the interest and rights of their people because of political considerations.

As we are fighting to demand for compensation, I urge the SAR Government to not only undertake the task mentioned by Honourable colleagues just now, but the most important thing is to ask the Central Government to support our position, and only by so doing will there be any chance of success. If we rely only on the SAR Government to press for compensation, I do not see it will get us anywhere. Therefore, I hope that the motion debate we have will not only get the full support from our compatriots, we can also put forward our demand for compensation and make our strong opposition to the revival of Japanese militarism known. As for the SAR Government, it should convey our views on the issue to the Central Government and urge it to support our endeavours and put forward our demands to the Japanese Government.

Mr Deputy, I so submit.

**MR CHAN WING-CHAN** (in Cantonese): Mr Deputy, although we have made a bold step into the 21st century, we cannot easily forget the history of the previous century, particularly the harm done as a result of the invasion by Japanese militarists during the Second World War. For those who have experienced the "eight-year war of resistance" and the "three years and eight months" in particular, the traumas caused by the history of that period are still vivid in their mind. The crimes committed by Japan as a result of its invasion of China and damage done to the whole world are not to be denied and distorted. An iron-clad fact is not going to be forgotten even with the passage of time.

Although forgiveness is a virtue that the Chinese race should be proud of, it does not mean that we shall give up our principles. Nor does it mean that we shall adopt a forgiving and tolerant attitude towards injustice and war crimes. We bring up this old issue again in this Council today not because we want to provoke racial hatred between China and Japan when the millennium has just started. We only want to remind Members of the historical lessons learned through bloodshed and see to it that justice is done to war victims. More importantly, we want to warn people to guard against Japan's restoration of militarism and uphold regional and global peace.

Drawing lessons from history has been the main factor contributing to the continuous progress of mankind. But looking back at Japanese rightists, we will find that they are apparently still refusing to realize their error for they are still indulging in illusive dreams about militarism. Last year, members from Japan's rightist political parties, Prime Minister and senior officials flooded the Yasukuni Shrine to pay homage to war criminals. Thus it is all too evident that rightists in Japan are ready to make an attempt to restore militarism. Up till now, they have not yet ceased their provocative acts in respect of the Diaoyu Islands, part of Chinese territory.

Mr Deputy, during the Japanese army's invasion of China, women from China and Korea were forced to become comfort women. There were also indiscriminate rapes, burning and killings, conduct of biological and chemical experiments in secret and production of biological and chemical weapons, as well as slaughtering of innocent civilians. It was extremely brutal that up to 300 000 Chinese compatriots were killed during the Nanjing Massacre when Nanjing was captured. Such acts of inhumanity really make one bristle with anger. The traumas and accusation left behind by these acts of brutality are not going to fade away with the death of the victims. On the contrary, they will never be forgotten.

China has all along held sovereignty over the Diaoyu Islands since the beginning of history. It is crystal clear that the territory of the Diaoyu Islands is not to be infringed.

The whole world was extremely shocked by the attempt made by the Japanese Government to conceal and distance itself from the bloody acts of violence committed during the Second World War by distorting its history textbooks. Education is a tool for nurturing our next generation to be cultured

and educated. Good education can upgrade the quality and the literacy of nationals. Textbooks true to the history can give people a correct understanding of their past in history so that they can draw a conclusion on the past and face the future. History is not to be distorted. However, the Japanese Government chose to do things in a perverse manner for it harboured the intention of distorting the historical facts of its invasion of China and toned down the acts of violence committed by militarism deliberately. A man of insight can definitely not tolerate what Japan has done in exposing itself unwitting while trying to cover up its tricks and its act of poisoning the next generation. What is more, there are ulterior political motives to this.

Actually, the only way left for the Japanese Government to make remedy is to frankly admit mistakes with an open mind and to give reasonable compensation to war victims or their descendants, such as giving compensation to war currency.

Mr Deputy, the moving of the amendment by Mr YEUNG Yiu-chung at the beginning of the millennium is a timely act for it serves to remind us that we should look back to the past while looking forward to the future. At the same time, we should educate our next generation to acquaint themselves with history so as to avoid making the same mistakes of their ancestors. More importantly, we have to take precaution against the resurgence of the ghost of Japanese militarism threatening world peace.

Mr Deputy, I so submit. Thank you.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, the year 1937 is the most agonizing time for Chinese. For in that year the Japanese invaded Nanjing and engaged in the most brutal massacre there. It is a time no Chinese will ever forget, or possibly forget. We grieve and mourn for those innocent Chinese killed in the massacre, and we are moved to deeper sorrow as we see that after a century of the massacre and when Sino-Japanese relations have normalized for more than two decades, there is still no official and written apology from Japan for the heinous crimes it committed in the war. It fills our hearts with indignation to see that some Japanese are not only showing no remorse but are trying to cover up the incident, distort history and replace that which is right with wrong. We are all the more flared up to see that some Japanese are trying to restore militarism, honour the war criminals, expand their military might, and

making repeated encroachments on our sovereignty over the Diaoyu Islands. As Chinese we are filled with indignation and we cannot help but making history by expressing our resentment and sanction in the Legislative Council for the first time today.

Today we are seeking justice for yet another time from Japan. We are not doing this because of any political bargains or deals which we wish to strike, nor any interest in economic terms, nor retaliation in any ways and means. We are here for the dignity of the Chinese nation, and for the principle that the facts of history must be upheld and defended! The people of Japan must bear in mind that the Chinese are a peace-loving race, we are not seeking revenge. But we will never forget the thousands of our compatriots who were slaughtered by the militarists, killed by shellings and gunfire, and who laid in the bloodbath of Japanese attack. Those Japanese with a conscience should know that only when their government can make a formal apology to the Chinese people and compensate the victims of war that the Japanese race can be called a race with sufficient boldness to admit faults, and their country can be called a nation with a sense of responsibility. Such a move can then be called an expression to treasure the peaceful co-existence of the two countries and only by doing so that a true and sincere friendship between the two countries can be founded on solid ground.

Mr Deputy, history is forever fair and just. If the Japanese are unwilling to admit the facts of history and if they seek to revise them and turn away from them, they are not only deceiving themselves, making themselves look like cowards, but they are also embarking on an extremely dangerous course of action. Those short-sighted people who wish to restore militarism should be aware that the painful lessons which their country learned some 40 years ago were caused by militarism. They should also know that indulging themselves in militarist fantasies will only lead their country onto the path of destruction again. They should know all the more that the new generation in Japan is a peace-loving generation. With the advent of the new millennium, the world is progressing towards globalization, the clamour for peace all over the world is greater and mightier than any cry for war and strife. Militarism is out of keeping with the times. No one will ever welcome wars any more. I trust that the new generation in Japan, like the rest of the world, loves peace, detests militarism and opposes aggressive wars. More so I trust that all peace-loving Japanese will dissociate themselves from the militarists. They will hate the same enemies to peace and strive for a peaceful co-existence of all nations. All attempts to

revive militarism, be they thoughts or actions, shall be doomed to failure. They shall be swept away by the tides of history into everlasting destruction.

It has been 62 years since the Nanjing Massacre. The world has entered into the new millennium. Cries are heard, not only from the international community, but also from inside Japan, for Japan to make compensations for the crimes it committed in the war. I believe now is the best time for Japan to search its soul over the crimes it committed, act in a sincere manner, offer an apology to the victims of war and compensate for their suffering.

Of much greater importance is that the Chinese people ought to strive to make China a strong country. History tells us that Japan invaded our country because we were so weak and so powerless in the face of foreign encroachment. If we learn from the lessons of history, we should be able to know that the best way to fight against the resurgence of militarism is not to make condemnations, nor to beg for mercy. The best way is for all Chinese to self-strengthen, to unite as one, to love their country and people. We should also work together to make our economy strong and develop our technology. If we can make China a strong nation and make the life of the people rich and comfortable, then we can say we have not let down the hundreds of thousands of compatriots killed in the war. As Chinese, the people of Hong Kong should shoulder this responsibility as well. The Government should enhance education on China, so that our future generations can have a better understanding of their people and country. It will also foster a greater emotional attachment to China. On the other hand, all Hong Kong people should do their best and make more contribution for Hong Kong and their country.

Mr Deputy, we hereby express our profound condolences for the compatriots who lost their lives in the Japanese invasion.

Mr Deputy, I so submit.

**MR MARTIN LEE** (in Cantonese): Mr Deputy, at the time when the Japanese invaded China in the Second World War, I was still very young. However, it can be said that I had first-hand experience of it. I had the experience of seeking refuge from place to place in Guangdong to flee from the Japanese invaders. At the time my father was an officer in the Chinese army, a lieutenant general.

I did not have the actual experience of being beaten or insulted by the Japanese. I still remember when the war was over, we were victorious. My father was representing the Chinese army to accept the surrender of the Japanese army in Qujiang. Though I was young, I can still recall now seeing how the Chinese army prepared themselves for the occasion. They cleaned their guns, oiled and polished them to prevent them from rusting. After the Japanese had surrendered, my father said the Japanese were really formidable and that country would be a formidable country in the future. I said to my father that the Japanese were losers. My father said that they were all the more formidable because they were losers. For when they surrendered, all the arms of the Japanese army, be they rifles, pistols or bayonets, were all impeccably cleaned and shined before they were handed over in the surrender. Such a strict discipline in even a defeated army strikes one as very formidable indeed.

Although the Japanese were defeated at that time, I did not have any hatred for them, nor even now. However, since the Second World War was over for such a long time, I fail to understand why the Japanese Government still refuses to admit its faults. We know during the Second World War, there were many Japanese living in the United States, and there were also some in Canada. They were all locked up in concentration camps by the Governments of the United States and Canada, fearing that they might become spies. But the issue was settled after the war. In 1988, President BUSH signed a letter of apology and the United States Attorney-General at that time, Dick THORNBURGH went down to his knees and handed the letter to a 100-year-old Japanese. The old man was a representative of the Japanese American victims of war. All the other Japanese American victims of war also received a letter of apology signed by the President himself and US\$20,000 in compensation. The Prime Minister of Canada also signed and sent letters of apology to the Japanese victims of war.

Why does Japan still decline to do something that it should do? If it is really a great nation, then it must be bold enough to admit its faults and bear the responsibility of history. Even to date, there are people in Southeast Asia, for example some older Chinese in Singapore, who refuse to buy Japanese goods.

Now that the war has been over for such a long time, even in Japan, there are some lawyers and members of the public who support this movement to demand compensation from Japan. That was mentioned by Mr Albert HO just now. On the contrary, the Japanese Government has put forward sophistry in an attempt to rid itself of the responsibility. It has invoked authorities and tried

to confuse and deceive the public. In 1994, the International Commission of Jurists compiled a report on the issue. Then one year later, the Human Rights Commission of the United Nations compiled the Report of the Special Rapporteur of the Commission of Human Rights of the United Nations on Violence Against Women 1994-95, in which the arguments put forward by the Japanese Government were repudiated. So, from the perspective of international law, all of these arguments advanced by the Japanese Government are unfounded.

Mr Deputy, I think a lot of people must have seen the movie "Schindler's List". I would like to thank Mr Albert HO here for providing information on the following for me. As a matter of fact, there was a Chinese Schindler at that time. He was Dr HO Fengshan. In 1938, when Austria and Germany were amalgamated, all foreign embassies in Austria were closed. Dr HO was appointed as China's ambassador to Vienna in May 1938. In less than one month after the union of Austria and Germany, many Austrians of Jewish descent were sent to the concentration camps. The German army said that these people could be released if they could emigrate to other countries immediately. Therefore, all the foreign embassies in Austria were flocked with Jewish Austrians. However, countries like the United States, Britain, France, Switzerland and so on declined to give these people any visas. Only Dr HO issued a visa to everyone who asked for it. In the end, a total of 18 000 visas were issued to these Jewish Austrians. Apart from signing to grant approval to the formal applications, Dr HO also stamped the seal of the embassy and signed on other documents. When asked why he was doing that, his answer was he was doing this out of compassion and his wish to lend a helping hand to the Jews. It was a most natural thing to do and it was done on humanitarian grounds. This Dr HO is really the Schindler of China and I would like to pay him my tribute here.

**DR YEUNG SUM** (in Cantonese): Mr Deputy, I rise to speak in support of Mr Albert HO's motion, which demands the Japanese Government to make apologies and compensation for its war crimes.

During their invasion of China, the Japanese committed the hideous crime of slaughtering countless numbers of our compatriots, but so far, it has never made any formal apology and compensation. This is totally unacceptable. And, we have become even more indignant owing to the signs of a revival of Japanese militarism in recent years.

Any race who refuses to face the true facts of history and draw lessons from them may well repeat old errors again, thus leading to a resurgence of what they did in their inglorious past.

Following the catastrophe experienced by mankind during the Second World War, those responsible were generally willing to admit their war crimes and pay compensation, one notable example being Germany. The Chinese Government and the SAR Government, however, seem to have behaved very indifferently to the war crimes of Japan. At one time, the Chinese Government even tried to suppress its people's demands for compensation. It seems that the Chinese Government is only concerned about the establishment of economic ties with Japan, forgetting all about the need to take positive actions to hold Japan responsible for its war crimes and to urge the Japanese Government to make formal apologies and compensation. How can the Chinese Government face history?

The Chief Executive of the SAR, Mr TUNG Chee-hwa, often talks about patriotism, but he does not wish to talk too much about the war crimes of the Japanese Government, probably because he is afraid that this may adversely affect the relationship between Hong Kong and Japan. Such an "ostrich policy" must be criticized. Besides, I find it most regrettable that the Chinese Government has so far done nothing to counter the Japanese Government's claim of sovereignty over the Diaoyutai Islands.

Right now, all over the world, people are campaigning against the war crimes of Japan and demanding it to make apologies and compensation. So, it can be seen that "justice is in the hearts of people". By "people", I do not mean only the Chinese, the Japanese, the Germans or the Jews. Rather, I have in mind all those who have a conscience and a sense of righteousness.

Mr Deputy, there is certainly a positive significance behind the support for Mr Albert HO's motion. I am not trying to champion extreme nationalism. Rather, I am just trying to ask all people in the world to take war crimes seriously and to avoid them. Besides, since human rights know no national boundaries, people in other places who were also battered by the Japanese Imperial Army should also be entitled to formal apologies and compensation from the Japanese Government.

The history of mankind is marked by both progress and bitter sufferings. At the beginning of the new century, I wish that in the future, mankind can free themselves from the sufferings of war and the killing of innocent victims. I also wish that everyone on earth can thus enjoy peace and equal opportunities, leading a life with dignity.

With these remarks, I support the motion.

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

(No Member responded)

**DEPUTY PRESIDENT** (in Cantonese): Mr Albert HO, you may now speak on Mr YEUNG Yiu-chung's amendment. You have up to five minutes.

**MR ALBERT HO** (in Cantonese): Mr Deputy, I am very grateful to Mr YEUNG Yiu-chung for moving his amendment. I know very well that his intention of moving the amendment is to enable my motion to be expressed in a more accurate and comprehensive manner. Therefore, I would like to thank him for this.

In any case, this motion will be ours if it is passed today after being amended by the Democratic Alliance for the Betterment of Hong Kong. If this motion can gain support from all Members, it will mean that it is passed with a consensus reached by the whole Council, thereby clearly conveying a strong voice from Members in this Council. I hope this message can be conveyed to the Diet in Japan as the basis for consideration in its debate to be held next month.

Nevertheless, I must state briefly that although I will support Mr YEUNG Yiu-chung's amendment a moment later for I believe his amendment can avoid some misunderstandings, I think he might also have some misunderstandings in interpreting my motion.

I have definitely made no mistake. As a matter of fact, in international law, the word "sovereignty" carries two meanings: "*de jure* sovereignty" and

"*de facto* sovereignty". We have pointed out clearly that China's Diaoyutai Islands have been occupied by Japan since 1895 and have come under Japanese control for more than a hundred years. China has actually been deprived of its *de jure* sovereignty over the Diaoyutai Islands for they are under Japan's occupation. Truly, it is extremely difficult to separate sovereignty from administration. It is from this starting point that I have drafted the contents of this part of the motion. I have absolutely made no mistake.

Of course, I share Mr YEUNG Yiu-chung's point that his amendment can at least clarify some unnecessary misunderstandings which may otherwise make people think that China has lost the relevant sovereignty completely. This is actually not what we mean. We have never recognized that Japan has *de jure* sovereignty over the Diaoyutai Islands. As such, I support Mr YEUNG in moving his amendment with respect to this part to avoid unnecessary disputes. Amendments to other wordings are also minor problems only. I think it is most important for Members to reach a unanimous view on the overall spirit and principle.

I want to talk briefly about the campaign for protecting the Diaoyutai Islands. The campaign has all along been misunderstood by people or the international community as a nationalist campaign. Each time when I came into contact with other people in overseas countries, particularly upon the reference to the compensation campaign, the Diaoyutai Islands issue would be mentioned as well. I would explain that this issue was not purely related to territorial disputes. To us, this issue symbolizes Japan's never-ending ambition of invasion after the war for the Japanese have never shown any sincerity to return every inch of China's territory to our country. When Japan took over the Diaoyutai Islands from the United States in 1972, it knew very well that sovereignty over the Islands was absolutely disputable. The Chinese Government clearly told the Japanese that the Diaoyutai Islands had always been Chinese territory. Furthermore, Japan still showed its ambition by continuing with its occupation of the Islands. As such, it is definitely not the intention of this campaign to simply regain the territory. Rather, we want to demonstrate our strong protest against Japanese militarism. Furthermore, we hope Japan can resolve the problem pertaining to its responsibility after the war satisfactorily and fairly.

Each time when a demonstration was staged in Hong Kong in connection with the campaign for protecting the Diaoyutai Islands, many elderly people

would take part, some even with the help of crutches or wheelchairs. They took part in the demonstrations not simply because of sovereignty of several islands. Their participation indicated to us that they could not forget this tragic piece of history. The fact that Japan continues to occupy the Diaoyutai Islands today has further touched their historical wounds and gave them a strong feeling of sadness and frustration.

Therefore, I want to convey a clear message that we have no intention to promote insular nationalism. Instead, we feel obliged to see that justice is done and uphold our national dignity. What is more, we have to, in the long run, give Japanese militarists a message that we will definitely not permit the revival of militarism.

THE PRESIDENT resumed the Chair.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, in modern times, the Japanese militarists waged several wars of invasion against China, bringing immense sufferings to both the Chinese people and the Japanese people; Japanese militarism also impaired the historical friendship between China and Japan. The Central Government has always maintained the position that while the Japanese militarists should be held responsible for the invasion of China, the Chinese people should at the same time maintain a harmonious relationship with the Japanese people and develop a perpetual friendship with them. Mindful of the need to uphold the true facts of history and to develop political rapport with Japan, the Central Government has made immense efforts to handle all those historical problems regarding Japan, and its position has always been clear and consistent.

The SAR Government is fully aware of the destructive consequences of war, and it attaches very great importance to history education. The period of Japanese occupation is a very important part in the history of Hong Kong. In order to enable the people of Hong Kong, especially those who did not experience the war, to learn about this part of Hong Kong's history, special exhibitions will be held at the Hong Kong Museum of Coastal Defence which will be opened shortly and the Hong Kong Museum of History which will be opened early next year.

Two exhibition halls of the Hong Kong Museum of Coastal Defence will be reserved for presenting a brief account of the rise of Japanese militarism, the outbreak of the war of resistance against Japanese, the defence of Hong Kong, the life of war prisoners and civilians during Japanese occupation, the Hong Kong Independent Battalion of Dongjiang Column (Dongjiang Column) and the liberation of Hong Kong. There will also be many other exhibits, such as the uniforms and weapons of Japanese and British troops, war currencies and receipts issued under Japanese rule.

In the Hong Kong Museum of History, there will be a special gallery on the history of Hong Kong under Japanese occupation. There, a concise account of the history of Hong Kong between the year 1941 and 1945 will be given. The exhibition will be divided into seven parts. In the first part, pictures and historical relics will be used to give an account of how Hong Kong fell after a defence of 18 days; in the second part, there will be an audio-visual room, where people can listen to the recorded oral accounts of those who actually experienced the bitterness of the three years and eight months of Japanese occupation; in the third part, an overview of the economic conditions at that time will be given; in the fourth part, there will be an account of the life of prisoners of war in concentration camps; in the fifth part, the resistance activities of the Dongjiang Column will be described; in the sixth part, there will be a cinema show about wartime Japanese news footage which gives people an idea of the tidbits of life in Hong Kong from its fall to the period of Japanese occupation; and, the last part will be on the liberation of Hong Kong, covering the Japanese surrender at the former Government House on 16 September 1945.

I believe that the above-mentioned exhibits and information will give the people of Hong Kong a deeper understanding of the history about the war of resistance against Japan.

Moreover, through the Education Department (ED), the SAR Government is also trying to promote the education on nationalism and our history in local schools. Under the existing curriculums, this kind of education is promoted in different academic subjects, including General Studies in primary schools, and subjects like Civic Education, Chinese History, History, Social Studies, Chinese Language, Chinese Literature, Chinese Language and Culture, and General Studies in secondary schools. Moreover, comprehensive suggestions have also been made in the "Guidelines On Civic Education in Schools" on how our schools could promote nationalistic education in different subjects.

The Administration has also organized different seminars and workshops, to advise teachers on how to promote nationalistic education. For example, last year, the ED organized six seminars for secondary school teachers in conjunction with the Public Records Office, and teachers were encouraged to make more use of the historical records in the Public Records Office, such as those on the Japanese invasion, to promote nationalistic education.

Furthermore, the ED has also produced a set of multi-media teaching materials on teaching history, such as teaching kits, videotapes, information kits and educational television programmes. There is also a documentary and CD-Rom on the "War of resistance against Japan and Hong Kong under Japanese occupation" ("抗日戰爭與日治香港").

In the ongoing education reform and comprehensive curriculum review, it is also clearly pointed out that students are expected to be committed towards the motherland. Therefore, the promotion of nationalistic education will form an important part of our curriculum reform.

Schools aside, the Committee on the Promotion of Civic Education is also taking active measures to promote nationalistic education amongst members of the public. Through various activities, teaching materials, and through subsidy programmes, we will encourage community organizations to help members of the public better understand the history, cultural background and development of China. Moreover, we would also try to instill a positive value in Hong Kong people and enhance their sense of belonging.

As regards the issue of seeking compensation from the Japanese Government for victims of the Second World War, we fully understand the sentiments of those who have suffered and incurred great losses during the Japanese occupation of Hong Kong. The demand for compensation from the Japanese Government is a foreign affair, and under the Basic Law, all foreign affairs relating to the SAR Government shall be handled by the Central People's Government. The position of the Central Government has always been very clear and consistent in this respect. If Members find it necessary, we will be more than willing to convey their views to the office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong.

Like Members, we are also very concerned about people's awareness of the history and culture of our country, and I have briefly introduced the work which has been done by the Administration in this respect in recent years. In the future, we will continue to do the best we can to promote nationalistic education. We hope that members of the public, in particular the younger generations, would learn from the past through the study of history, and we also hope that they can make positive and active efforts to build up the Hong Kong community — a home which we all share.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr YEUNG Yiu-chung to Mr Albert HO's motion, be passed.

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr Albert HO, you may now reply and you have up to one minute 25 seconds out of your original 15 minutes.

**MR ALBERT HO** (in Cantonese): Madam President, if the views expressed by the Secretary for Home Affairs represent the SAR Government, then the entire SAR Government will need to be re-educated because it is totally ignorant of the basic knowledge of international law.

Actually, a set of humanity laws has been put in place after the war to clearly develop a set of principles which provide that compensation due to an individual victimized in a war is an independent personal right. It has absolutely nothing to do with agreements signed between nations for the purpose of resolving war reparations. In other words, every person can ask for compensation.

I am very grateful to Dr Raymond HO who mentioned that the United Nations Commission on Human Rights delivered its views again in August 1999 in support of international law principle. Therefore, all victims should demand compensation from Japan on an individual basis, whereas our country is obliged to urge invading countries to enact legislation expeditiously for the purpose of making compensation. This is because all the other Asian countries are now lending their support to victims in their own countries to seek compensation. Why do we still treat this issue as a diplomatic one? Actually, the Chinese Government has, through many books (this one was published in 1998), conveyed a clear message that the rights to seek compensation at the non-governmental level should be respected. In addition, Japan must resolve this issue properly. Therefore, I cannot understand why the SAR Government still considers it a diplomatic issue rather than an issue concerning the rights to claiming compensation by individuals. I hope the Secretary and the Government can learn from this issue properly instead of shirking their responsibilities.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Albert HO, as amended by Mr YEUNG Yiu-chung, be passed.

Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr Albert HO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr Michael HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAW Chi-kwong and Mr FUNG Chi-kin voted for the amended motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted for the amended motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 16 were present and 16 were in favour of the amended motion; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present and 23 were in favour of the amended motion. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amended motion was carried.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 3.00 pm tomorrow.

*Adjourned accordingly at ten minutes past Nine o'clock.*

## Annex I

## WRITTEN ANSWER

**Written answer by the Secretary for Education and Manpower to Mr LEUNG Yiu-chung's supplementary question to Question 1**

In regard to the question: out of the students who needed to attend schools in other districts as set out in Annex B of the principal answer, how many were allocated to these schools not according to their own choice, the relevant information is now set out in the Appendix for Members' reference. As Members can see, the situation which Members are concerned about is not common and is not worsening.

## Appendix

Number of students allocated to secondary schools in other districts  
which were not selected by students under  
the Central Allocation System in the past three years

<i>School Year</i>	<i>Number of students allocated to secondary schools in other districts which were not selected by students under the Central Allocation System<sup>(Note 1)</sup></i>
1997-1998	1 103 (1.5%)
1998-1999	1 004 (1.5%)
1999-2000	784 (1.1%)

<sup>(Note 1)</sup> The Education Department only keeps records on the number of students allocated to *secondary schools in other districts which were not selected by students themselves*. In other words, the figures as shown may include students who themselves do not resist to going to secondary schools in other districts and have indeed chosen secondary schools in other districts which are made available in the school nets to which these students belong, although they are finally allocated to some other schools in other districts which have not been selected by them. For example, student A of the Kowloon City school net may have chosen a secondary school X in the Kwun Tong District which is included in that school net. However, student A is not allocated to school X but to Y, which is also in the Kwun Tong District and available in the same school net but has not been selected by student A. The figures in column two above may include cases which are similar to A's.

**WRITTEN ANSWER****Written answer by the Secretary for Housing to Mr LEE Cheuk-yan's supplementary question to Question 2**

The use of prefabricated building components is specified in the Housing Authority's (HA) building contracts. The building contractor is responsible for the procurement of items under the contract which forms an integral part of the contract sum.

Although the HA does not have direct procurement contracts with the suppliers of prefabricated components, any procurement requirement set by the HA to the building contractors, under contracts covered by the World Trade Organization Agreement on Government Procurement (WTO GPA), should also follow the principles of the WTO GPA. These principles include, *inter alia*, providing treatment to foreign suppliers of goods and services no less favourable than that given to domestic suppliers.

The estimated construction cost of a typical residential block (that is, Harmony type) is about HK\$220 million, which is well over the threshold value of 5 million Special Drawing Rights<sup>1</sup> (approximately HK\$53 million) as stipulated in the WTO GPA. In any event, the WTO GPA specifies that any procurement requirement shall not be divided with the intention of avoiding the application of the Agreement.

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<sup>1</sup> Special Drawing Rights is an international currency unit created by the International Monetary Fund.

**Annex III**

## STAMP DUTY (AMENDMENT) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for the TreasuryClauseAmendment Proposed

3(b) In the proposed section 13(1C), by deleting from ", on application" up to and including "the fee."; and substituting -

"cancel the stamp denoting payment of the fee and refund the fee if -

- (a) an application for this purpose is made to him not later than 2 years after the day on which the Collector expressed his opinion under subsection (1); and
- (b) the instrument is stamped under subsection (3).";".