

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 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 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.

MEMBER ABSENT:

THE HONOURABLE MARTIN LEE CHU-MING, S.C., 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 JOSEPH WONG WING-PING, G.B.S., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

MRS LILY YAM KWAN PUI-YING, J.P.
SECRETARY FOR THE ENVIRONMENT AND FOOD

DR YEOH ENG-KIONG, J.P.
SECRETARY FOR HEALTH AND WELFARE

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

MR PATRICK LAU LAI-CHIU, J.P.
SECRETARY FOR PLANNING AND LANDS

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

CLERKS IN ATTENDANCE:

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

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

MRS JUSTINA LAM CHENG BO-LING, 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/Instruments	<i>L.N. No.</i>
Electronic Transactions (Fees) Regulation	6/2000
Electronic Transactions Ordinance (1 of 2000) (Commencement) Notice 2000	7/2000
Industrial Training (Clothing Industry) (Amendment) Ordinance 1999 (82 of 1999) (Commencement) Notice 2000.....	8/2000
Import and Export (Registration) (Amendment) Regulation 1999 (L.N. 322 of 1999) (Commencement) Notice 2000	9/2000

Other Papers

No. 61 — Police Welfare Fund
Annual Report 1998/1999

No. 62 — Hong Kong Council for Academic Accreditation
Annual Report 1998-99

Report of the Bills Committee on Organized and Serious Crimes
(Amendment) Bill 1999

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Review of the Rice Control Scheme

1. **MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Government has advised that the Trade Department will review the Rice Control Scheme which has been in place since 1955, and study the pace and arrangements for full liberalization of the rice trade. In this connection, will the Government inform this Council:*

- (a) *of the current number of registered rice stockholders in Hong Kong; the respective numbers of rice stockholders who were newly registered and those who had their registration cancelled in the past five years;*
- (b) *of the progress of the above-mentioned study on liberalization of the rice trade; and*
- (c) *whether it has plans to lift all the restrictions on the import and storage of rice; if it has, of the implementation timetable; if not, the reasons for that?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, at present, there are a total of 40 rice stockholders in Hong Kong. Between January 1995 and January 2000, five rice stockholders were newly registered, while 11 rice stockholders cancelled their registrations.

To promote competition and in furtherance of our long-cherished free trade policy, the Government has been committed to exploring ways to further open up the rice market. The Trade Department has initiated a review of the Rice Control Scheme, and conducted consultations with the Rice Advisory Committee and the rice trade at the end of 1999 on control measures involved in opening up the market and the timetable for liberalization. Such consultations have reached the following initial consensus:

- (i) On the need to maintain a reserve stock of rice, most members of the Committee are of the view that, despite the steady decline in the average consumption of rice, people have all along regarded rice as their staple food. To cater for emergencies or any short-term shortage of supply, the Committee considers that a reserve stock should be maintained even after the rice trade is liberalized in the next few years. Nevertheless, the Committee notes that with the decreasing per capita consumption of rice and better transport facilities, rice can be replenished faster and easier nowadays. As such, the Committee agrees that from the latter half of 2000 onwards, the reserve stock level should be gradually reduced from the existing 45 days of consumption (that is, 40 000 tonnes) to 21 days of consumption (that is, 19 000 tonnes) in January 2001. We will continue to keep the stock level under review to see if it can be further reduced.
- (ii) With regard to the restrictions on the importation of rice, the Government is considering lifting all the import restrictions and abolishing the limit on the number of rice stockholders in a few years' time. We need to further consult the Committee and the trade on the detailed implementation timetable. We will report to the Legislative Council the implementation timetable and other arrangements relating to the liberalization of the rice trade when the consultation exercise has been completed.

MR CHAN KAM-LAM (in Cantonese): *Madam President, if the Government can fully open up the rice trade, will it make assessments to effect improvements to the pricing and sourcing of rice, as well as the modernization of business operation in the rice trade?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): If the full liberalization of the rice trade can be achieved, and if the percentage of rice that importers are required to keep as the reserve stock can be reduced, then there should be certain effects on the price. However, the price of rice has always been subject to a diversity of factors, such as the operating cost, the supply and demand in the market, and so on. In fact, while the control system is in place, the retail price of rice has come down significantly as a result of increasing competition among the existing importers in recent years. In 1998, the average retail prices of the most popular Thai rice, Australian rice and Chinese See Mew

came down by 1% to 12% compared to 1997. In 1999, the average price of Thai rice in November fell by 15%, compared to the corresponding period in 1997. Therefore, there is not necessarily a correlation between them.

With regard to the source, the source of rice in Hong Kong completely depends on the consumers, that is, the taste and demand of the public. Over the last decade or so, Thai rice has a market share of over 70%. I believe that even with the full liberalization of rice importation in future, this situation will remain unchanged. To wit, consumers will continue to decide on their own which type of rice to buy, whilst the importers and retailers will naturally import that particular type of rice.

On the operation of rice traders, I believe that with a more competitive market, the efficiency of importers, wholesalers and retailers will all be improved.

MR FRED LI (in Cantonese): *Madam President, the Rice Control Scheme has been in place for 45 years and has been a subject of discussion of the former Legislative Council and this Council for years. I recall that a few years ago, the Government undertook to lift the restrictions under the Scheme in 2001, but it said today that this will only be done in a few years' time. Insofar as this issue is concerned, what are the worries that have made the Government back out and precluded it from further opening up the market? What are the reasons that make the Government think that it is necessary to resort to years of procrastination, thus failing to come up with a timetable even now?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, as a matter of fact, we have never undertaken to fully open up the rice trade in a particular year. I think this might only be a proposal from some Members. Anyhow, we have never officially pledged a full liberalization in 2000. We consider opening up the rice trade on the basis of a number of factors, and we have both long-term and short-term objectives. In the long term, we hope to liberalize rice importation so that interested merchants can join in so long as they fulfill certain reserve stock requirements. Having consulted the rice trade and the Committee, we conclude that to achieve this objective, we must adopt a step-by-step approach and open up the market gradually. In this connection, we have initiated some short-term measures in recent years. In January 2000, that is, on 1 January next year, we will remove the existing restriction on importers and wholesalers which prohibits them from concurrently

engaging in wholesaling and import activities respectively, thus allowing them to engage in rice importation and wholesaling at the same time. Meanwhile, the level of reserve stock will be gradually reduced. We are currently consulting the Committee in the hope that an exact timetable for full liberalization can be announced shortly.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, in the main reply the Secretary pointed out that the limit on the number of rice stockholders will be abolished in a few years' time. Why this limit is to be abolished on the one hand but the system of rice stockholders is to be retained on the other? Will the Government retain the registration system for rice stockholders permanently?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, apart from abolishing the quota system (that is, the ceiling), we will also abolish the limit on the number of rice stockholders (or importers). Any one interested in entering the market may do so on the condition that he must register with the Trade Department. Registration is required for we think that rice will be regarded as the staple food by the people of Hong Kong psychologically in the next few years or the foreseeable future. Therefore, we must maintain a certain level of reserve stock. Importers will be required to maintain a certain level of reserve stock when importing rice. As to how this system will be implemented in future, we are still in the course of consultation and have yet reached a final decision. However, if we obviate the need of their registration, we will not be able to know who are importing rice into the territory. Nor can we require them to maintain a certain level of reserve stock.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, those in the rice trade are concerned that with the full liberalization of the rice market, the small rice traders will be phased out over time, with just a few large traders remaining in the end. Given that rice is a necessity of life, may I ask the Administration how it can ensure that the price of rice will maintain at a stable and reasonable level after liberalization?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, given that the restrictions on the quantity of imported rice and the number of importers will be lifted following the liberalization of the rice market, I believe that there should be positive effects on the price of rice, that is, the

price should not be going up or destabilized as a result. Even though it may become unstable, it will only be adjusting downward. I trust that the full liberalization of the rice market should be beneficial to consumers.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, in the first paragraph of the main reply the Secretary stated that 11 rice stockholders cancelled their registrations in the past five years. Why did these 11 rice stockholders cancel their registrations? Is it because they had difficulties in their operation? What is the scale of their business operation?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, Hong Kong is a place where free trade is consistently cherished. Whether or not a business enterprise continues to deal in rice is purely its commercial decision. We have not examined the reasons why they decided not to continue engaging in the importation of rice. I think one of the main reasons is that they regarded this business unprofitable, or that they are losing money. In fact, as I said earlier, while we have seen stockholders withdrawing from the market in recent years, we have also seen registrations of new rice stockholders. This proves that there are indeed people who are interested in this trade.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, in the second paragraph of the main reply, the Secretary pointed out that the Trade Department had conducted consultations with the Committee and the rice trade. May I ask whether parties outside the trade, such as chain stores, retailers, the Consumer Council, or even people representing the consumers, were involved in the review? Should these parties and people be consulted in the opinion of the Secretary?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, in fact, the Committee is composed of members from various sectors. Other than rice importers and wholesalers, the Committee also comprises retailers, professionals, academics and consumer organizations. The Consumer Council will certainly be consulted in our consultation exercise.

DR LUI MING-WAH (in Cantonese): *Madam President, the reason for a continued reduction in rice consumption in Hong Kong despite an increasing population is that the consumption of flour has been on the rise. Will the Government inform this Council of the proportion of the consumption of rice to flour in each year? Will irregularities be resulted if we only seek to control rice without considering keeping the supply of flour under control?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I do not have the statistics sought by Dr LUI Ming-wah on hand, but I will try to collect the relevant information and give him a written reply. (Annex I)

In fact, the rice import control system is a problem left over from history. As pointed out by Mr Fred LI, it has a history of 45 years. At that time, it was necessary to ensure a stable supply and price of rice because sometimes there might be shortage in supply or upsurge in the price during the post-war period. Besides, society back then was not as affluent as it is now, so rice was the main type of food of the people at that time. Certainly, Hong Kong society nowadays is far more affluent and the standard of living of most of the people has been improved, resulting in a constant drop in per capita consumption of rice. For instance, the per capita rice consumption was 78 kg back in 1975, but reduced to 48 kg in 1998. Of course, the impoverished are not so lucky and they still have to rely on rice. Nevertheless, flour is a different case. Flour has never been subject to any form of control, and its supply and price are acceptable to the public so there is no reason for us to control it. Given that the economic policy in Hong Kong calls for an open market as far as possible and upholds free trade, we will certainly not put flour under control if there is no need to do so.

MRS SOPHIE LEUNG (in Cantonese): *Madam President, part (i) of the second paragraph of the main reply stated that a reserve stock is regarded necessary by the people. Each year, we arrange for many youngsters to visit various trades and industries in Hong Kong, and the visits to rice traders where one can find out how rice is stored, packaged and selected are most exciting. The public very much appreciates the various aspects such as storage and vacuum packaging of rice.*

PRESIDENT (in Cantonese): Mrs LEUNG, what is your supplementary question?

MRS SOPHIE LEUNG (in Cantonese): *My supplementary question is this: The people themselves also store rice at their homes, and following the liberalization of the rice market, the number of rice importers will increase. In that case, is it necessary for the Government to monitor the quality of rice supplied by them? How can the Government guarantee that the public is supplied with rice which is up to a certain standard?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, while we do have a rice control system at present, we do not monitor the quality of rice for we believe that consumers have discerning eyes. If they found that the rice is of a poor quality, naturally they will not buy it. Therefore, we have not looked into this aspect of the issue.

PRESIDENT (in Cantonese): Last supplementary question.

MR NG LEUNG-SING (in Cantonese): *Madam President, in his reply earlier, the Secretary said that they do not quite understand why those 11 rice stockholders cancelled their registrations. May I ask the Government if it will make an effort to look into these cases? Will the Secretary, as head of the body responsible for formulating trade and industrial policies, try to look into the reasons why these 11 veteran rice stockholders cancelled their registrations and see if special reasons are involved or whether there are situations worthy of its attention in order to facilitate improvements to other similar business operations?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, we have no plan to do so. The most important reason is that we are gradually moving towards full liberalization. We hope to introduce more competition a couple of years later when the limits on the quantity for rice importation or the number of rice traders are completely abolished, so that interested companies can participate in the importation of rice. I think it is unnecessary for us to study at this stage why those 11 rice stockholders cancelled their registrations.

Pilot Scheme for Training to be Junior IT Assistants

2. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, regarding the pilot scheme for training young school leavers and the unemployed to be junior information technology (IT) assistants, will the Government inform this Council:*

- (a) of the measures it has for ensuring that the training course is of a recognized standard;*
- (b) whether it will invite private training bodies to undertake the training work so as to expand the scheme; if it will, of the details; if not, the reasons for that; and*
- (c) whether it has plans to recognize completion of the training course as one of the acceptable academic qualifications for applying for relevant government posts; if so, of the details?*

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

- (a) With the increasing application of IT in all walks of industries, the IT sector and many commercial and industrial establishments, including small and medium enterprises, need many trained IT personnel. Through contacts with the IT industry, we come to know that trained IT personnel, in particular junior assistants, are in great demand by the industry for handling jobs involving basic IT application and e-commerce, for example, maintaining and updating web page, processing trade documents in electronic format, office database application and so on. In the light of the above, we have developed this IT assistant course together with the industry.

We have introduced a series of measures to ensure that the training course is of a recognized standard. First of all, a working group, comprising representatives from the industry and training bodies, has been set up to develop the training course to ensure that the contents match the requirements of the industry. The working group included members from the Hong Kong Information Technology Federation, Tradelink Electronic Commerce Limited,

Hong Kong Article Numbering Association, Hong Kong Internet Service Provider Association, Small and Medium Enterprises Committee of the Hong Kong General Chamber of Commerce, Vocational Training Council (VTC), Employees Retraining Board (ERB), Education and Manpower Bureau and Information Technology and Broadcasting Bureau.

Secondly, the VTC which is responsible for developing the course will compile a course manual to provide course teachers with a fuller picture on the course contents. The course manual will be drawn up by experienced teachers on the basis of the recommendations of the working group, with individual modules on the operations of industries to be developed by relevant organizations in specific industries. For example, the Tradelink Electronic Commerce Limited and the Hong Kong Article Numbering Association are responsible for developing the modules on electronic data interchange operations and retail and warehouse operations respectively. This will help ensure that the course contents will meet the requirements of the industries. In addition, course teachers have to undergo a rigorous selection process so that only those with recognized qualifications and relevant teaching experience in IT will be selected.

To ensure that all graduates are up to the required standard, applicants for the training course will have to sit for an IT aptitude test. Apart from regular classes from Mondays to Fridays, training bodies will help trainees master what they have learned by arranging revision and practice sessions on Saturdays. Lastly, all trainees will be required to complete specific assignments and pass an assessment test to make sure that their knowledge and skills are up to the required standard.

- (b) Upon completion of the pilot course, a review will be carried out to assess its effectiveness. If the course proves successful, the Government will consider increasing the number of training places and examine with the industry the feasibility of inviting private training bodies to undertake the course.

- (c) The provision of this course is mainly to cater to the demand for junior IT assistants by the industry, particularly small and medium enterprises. At present, no suitable vacancies for junior IT assistants are available in the Information Technology Services Department (ITSD) of the Government. We will further discuss with the relevant departments on whether the completion of this training course could be recognized as an acceptable academic qualification for applying for relevant government posts.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, many IT-related companies (the so-called ".com") mushroomed in Hong Kong in the past year. Will the Government, in light of the present circumstances, expedite the plan mentioned in part (b) of the main reply? Has the Government ever assessed the demand for these trained personnel? Such demand can be reflected if the trainees can find a job after completing the training course. Has the Government made an assessment to ascertain the actual demand for such training places?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, through our contacts with the industry — Members may know that we have a working group comprising many representatives from the industry — and from what we have learned, there may be a great demand for these personnel due to the increasing application of IT and the fact that e-commerce has been launched in many trades and industries. Some say that 1 000 or thousands of these assistants are needed. We hope to assess the genuine demand based on the actual employment rate of trainees after the completion of the course. The course, which started at the end of February, will last 10 weeks, and the first batch of trainees will graduate in early May. If they are employed after graduation and if full employment or a high employment rate is registered, we will obviously consider increasing the number of training places. Meanwhile, as I stated in part (b) of the main reply, we will actively examine with the industry the ways to engage private training bodies to undertake this training course so that we can greatly increase the number of training places within a short period of time to cater for the needs of the industry.

MR JASPER TSANG (in Cantonese): *Madam President, in reply to part (c) of the main question which asked the Government if it will consider recognizing completion of the training course as an acceptable academic qualification for entry into the Civil Service, the Secretary only mentioned that no such vacancies are available in the ITSD. Does it mean that all the other government departments do not need these junior IT assistants and that these personnel are pooled under the ITSD only? Or is it that all the other government departments already have enough junior IT assistants so likewise, no such vacancies are available there?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in the main reply I gave some information about the ITSD in this respect. Basically, there are indeed the posts of computer operators within the establishment of the ITSD. But with the wide application of computers in government departments, all departments do require personnel to perform such duties as maintaining or processing the database. In this connection, the key measure adopted by many departments is to train up their own clerical staff or Executive Officers so that they can possess the necessary knowledge to handle these tasks in the day-to-day operation. In fact, as we all know, the Government of the Hong Kong Special Administrative Region has stopped recruiting civil servants. Under the Enhanced Productivity Programme, it is unlikely to have vacancies available. The course mainly targets on the need of the various trades and industries where, we believe, the demand for these personnel will still be very large.

MR JAMES TO (in Cantonese): *Madam President, I notice that the Government, in considering this training course, has liaised with many institutions in the industry on, among other things, the course contents and the demand for IT personnel. May I ask the Government what are the findings of the consultancy study commissioned by the Government last year on IT manpower training? When can the findings be released to facilitate a review of the manpower training policy in this field?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, last year we conducted a review of manpower training and demand for IT personnel in the next five years. According to the findings of the

review, there will be a huge demand for IT personnel not only in the IT industry, but also in all sorts of industries and trades. Moreover, the findings also show that additional manpower will be required on different technological levels in the next few years. As for the findings of the study, I will be happy to provide Members with the documents via the relevant panel for further discussion in future.

MR LEE KAI-MING (in Cantonese): *Madam President, in the second paragraph of part (a) of the main reply, the Secretary stated that the working group comprises representatives from many institutions, including the VTC and the ERB. May I ask the Secretary the amount of additional resources to be provided for these training bodies to train IT personnel, and which institutions will the Government focus on in future?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Government has provided \$3 million in support of the pilot scheme. As regards the ways to increase the number of training places in future if it is so intended, I think this is a subject which must come under our review. In part (b) of the main reply, I mentioned that we will examine and consider the feasibility of engaging private training bodies to undertake the course. Certainly, courses undertaken by private training bodies can be included in the ambit of the ERB. In other words, when those private training bodies are recognized by the ERB as retraining agents, they will be funded by the ERB to run the courses. But we are also thinking about another idea. Should this course run well with good results, I may further consider, in consultation with the industry, uploading onto the Internet the many teaching materials used for the course after the course has been completed for the purpose of on-line teaching and learning. This can shorten the duration of the course and resolve the problem pertaining to teachers' qualifications. We will conduct a comprehensive review of all feasible options upon completion of the pilot scheme.

DR RAYMOND HO (in Cantonese): *Madam President, just now the Secretary mentioned the way to ascertain the demand for junior IT assistants in the industry. In part (a) of the main reply, he said that we can learn of the demand through members of the working group. Nonetheless, the close to 1 000 members of the*

IT division and electronics division of the Hong Kong Institute of Engineers do not have any representatives in the working group. This means that many employers are not actually aware that the Government is training IT personnel. May I ask the Secretary how this training scheme will be promoted so that employers can employ the graduate trainees?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, on the publicity for the course, the community is in fact very concerned about the course. As far as I can remember, since the Task Force on Employment chaired by the Financial Secretary proposed this scheme, we have received over 500 telephone enquiries. In the next month, we will arrange course briefings with the Chinese Manufacturers' Association, Hong Kong Article Numbering Association, Hong Kong Information Technology Federation and Small and Medium Enterprises Committee of the Government. Moreover, we will send letters to the relevant employers organizations as far as possible to introduce the course. Through these promotional activities, I believe that this course will certainly be widely recognized by the industry.

MR ANDREW CHENG (in Cantonese): *Madam President, the development of IT progresses by leaps and bounds. On the question of engaging private training bodies to undertake the training courses, the main reply kept on saying that studies are underway. Has the Government considered adopting measures which are more in keeping with the times, such as setting up a system of IT training vouchers, in order to encourage young people to learn IT skills based on their interests, and to serve as an inducement to the private sector to design creative courses that can keep pace with the trend and the development of IT?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I beg your pardon. I missed a key phrase. What did Mr CHENG propose to set up? Can Mr CHENG repeat it?

MR ANDREW CHENG (in Cantonese): *Madam President, it is a system of IT training vouchers. We have put forward this proposal at the previous meetings of the relevant panel.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, on the question of training vouchers, this has been proposed by Mr CHENG and many other Members before. In the relevant motion debate, I also responded that we must take it into detailed consideration before implementing it across the board. However, I do not rule out the possibility that we may consider the feasibility of subsidizing the course fees of students through training vouchers or in other forms of subsidies, or paying the course fees for students after they have completed the course, if, upon completion of the pilot scheme, suitable private training bodies are identified in our review and a stringent quality assurance mechanism is put in place. We will be very happy to conduct further studies on this scheme.

MISS CHOY SO-YUK (in Cantonese): *Madam President, may I ask the Secretary if he has any specific statistics showing the demand for IT personnel each year in Hong Kong? Based on the current progress of training, how many more years do we need to meet the demand? What is the approximate amount of resources that the Government is going to allocate for such training endeavours?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, as I said just now, last year we conducted a review of IT manpower training and demand in the next five years. The findings show that a large pool of IT personnel will be required for the next few years. Given the rapid development of the industry, and from the experience of similar training efforts in other countries, the demand will grow increasingly. For this reason, I think we can continue to increase the number of training places. In the meantime, apart from the government-run training courses, we will also examine ways to encourage input from private training bodies.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Although there are still many Members waiting to ask their questions, I am sorry that I have to let you down. We now move on to the third question.

Processing Time for Visa Applications by Passport Holders from Middle East Countries

3. **MR HOWARD YOUNG** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the time normally taken by the authorities concerned to process visa applications by holders of passports issued by those Middle Eastern countries whose nationals need visas for visits to Hong Kong; and*
- (b) *whether it has compared such processing time to that taken by the relevant authorities of each of our major competitors in tourism, such as Singapore, Malaysia, Thailand and the Mainland; if it has, of the detailed findings of such comparison?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) Hong Kong operates a liberal regime which gives nationals of about 170 countries and territories visa-free access to the SAR. Our visa requirements are kept under constant review to facilitate visitors while ensuring that immigration control and security are effectively maintained.

The nationals of only six Middle Eastern countries require visa to visit Hong Kong. In the past, processing of visit visa applications from nationals of these countries took about four to six weeks. In 1995, we simplified the application procedures for the nationals of five of these countries. If they apply for visit visas for Hong Kong at overseas Chinese Diplomatic and Consular Missions, they may obtain them 14 days after the date of application. These applications will be referred to the Immigration Department for processing. The normal requirement for local sponsor is waived in respect of these nationals, unless there is doubt as to the real intention of the visit. This compares to the processing time of four to six weeks for visa applications submitted directly to the Immigration Department, which includes two weeks for the transit of mail in both directions.

We do not maintain separate statistics on the processing time of visit visa applications from nationals of individual countries. In a sample survey conducted on a total of 770 visit visa applications received from the nationals of the six Middle Eastern countries between September and November in 1999, 93% of the applications were submitted through overseas Chinese Diplomatic and Consular Missions, while only 7% were submitted directly to the Immigration Department. Overall, 90% of applications were completed within two weeks.

- (b) We do not have authoritative information on the actual processing time taken by the relevant authorities of other governments in respect of visa applications by nationals of these six countries. According to information contained in the Internet homepages of the relevant governments, the processing time pledged by Singapore is two weeks; Thailand two days to one week; whilst Malaysia grants visa-free access to all except Sudan for which the pledged processing time is seven days to two weeks. The consulates in Hong Kong of these countries have not been able to confirm the accuracy of such information or the actual processing time. We have not been able to gather information on visa processing time by mainland authorities and are not in a position to speak on their behalf.

MR HOWARD YOUNG (in Cantonese): *Madam President, I am informed by members of the industry that they have also conducted a research in this respect and obtained similar results: Whilst the Immigration Department of Hong Kong takes about two to four weeks' time to process the visa applications concerned, the relevant authorities of Singapore, Malaysia and Thailand take about a week's time only. However, according to some of their statistics, nationals of Iran applying for visas for visits to mainland China at overseas Chinese Diplomatic and Consular Missions could obtain them in, at most, a week's time; however, it would take them two to four weeks' time to obtain visas for visits to Hong Kong. Given that the visa applications are all submitted through the overseas Chinese Diplomatic and Consular Missions concerned, could the Secretary inform this Council whether it is due to our complicated procedures at different levels that we need longer processing time than our counterparts in the Mainland? May I also ask the Secretary whether she has on hand any information in this connection?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, with regard to the visa applications from nationals of Iran mentioned by Mr Howard YOUNG just now, I am afraid I am not quite sure how the Chinese authorities concerned handle them. On the part of the Immigration Department, however, visa applications received through overseas Chinese Diplomatic and Consular Missions would normally be handled in two ways. To begin with, for applications which do not have to be referred to the Immigration Department for further investigation, we have agreed that overseas Chinese Diplomatic and Consular Missions may issue visas after processing the applications concerned in accordance with our procedures. Visas of this kind could be issued within a week's time. Hence, it is probable that the Chinese Diplomatic and Consular Missions concerned could issue visas for visits to mainland China to nationals of Iran without referring their applications to the Foreign Ministry for processing. In which case only a week's time would be enough. However, visa applications from nationals of the six countries mentioned by me earlier must all be referred to the Immigration Department. In the past, visas would be issued by overseas Chinese Diplomatic and Consular Missions only after the applications concerned had been approved by the Immigration Department. But we have simplified the application procedures since 1995. Visa applications submitted to Chinese Diplomatic and Consular Missions in five of these countries — with the exception of Libya — would be referred to the Immigration Department by fax. If the Immigration Department does not raise any objection within 14 days, visas will be issued. That is why our pledged processing time is two weeks. As I said just now, the survey conducted by us towards the end of 1999 indicated that 90% of the applications were completed within two weeks.

MR AMBROSE LAU (in Cantonese): *Madam President, the Secretary mentioned in the main reply that the nationals of six Middle Eastern countries require visas to visit Hong Kong. To my understanding, it would take some four to six weeks for visa applications submitted to Hong Kong to be processed. This is rather time-consuming, comparing with our competitors in tourism. In this connection, I should like to raise a supplementary question as follows. Could the Secretary inform this Council, firstly, whether the Government would consider waiving the visa requirements for some of the countries concerned; and secondly, why our pledged visa application processing time is much longer than that of our competitors in tourism like Singapore, Malaysia and Thailand? Could the Secretary also inform this Council whether we could shorten the visa processing time concerned?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, actually nationals of other countries who need visas for visits to Hong Kong may apply for them through two channels. Firstly, they can apply for visit visas for Hong Kong at overseas Chinese Diplomatic and Consular Missions. Secondly, they may also submit their visa applications direct to the Immigration Department. Given that the applications submitted direct to the Immigration Department are sent to us by mail, naturally the processing time would be comparatively longer, which is around four to six weeks. However, the majority of the people who need visas for visits to Hong Kong tend to lodge their applications at overseas Chinese Diplomatic and Consular Missions. With regard to those six Middle Eastern countries, according to the survey we conducted between September and November last year, 93% of the applications were submitted through overseas Chinese Diplomatic and Consular Missions. Overall, 90% of the applications were processed within two weeks. So, the services we provide in this connection should be comparable to that of our major competitors.

MR JAMES TIEN (in Cantonese): *Madam President, the Secretary mentioned in the main reply that between September and November last year, a total of 770 people from those six Middle Eastern countries visited Hong Kong. I am afraid this is a very small figure. On the other hand, as also mentioned in part (b) of the main reply, nationals of those six Middle Eastern countries have also visited Singapore, Malaysia and Thailand. In this connection, could the Secretary inform this Council whether the Government has any information indicating that the number of nationals of those six Middle Eastern countries visiting the aforementioned countries between September and November last year was also very small? May I also ask the Secretary whether the Government has any information indicating that although thousands of nationals of the six Middle Eastern countries have visited those three countries, only 770 have visited Hong Kong?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the figure of 770 mentioned by me just now referred to the number of visa applications on which our sample survey was conducted. I was not saying that only 770 people had visited Hong Kong from those six Middle Eastern countries during the period between September and November. Nevertheless, generally speaking, the number of visitors coming to Hong Kong from those six Middle Eastern countries is very limited. According to the statistics I have on hand, over the

past few years, whilst a total of only 2 736 people from these Middle Eastern countries visited Hong Kong in 1999, the corresponding figures for the years 1998 and 1997 were 2 391 and 2 377 respectively. I do not have on hand any information on their visits to other countries and places in Asia.

MR HO SAI-CHU (in Cantonese): *Madam President, in the second paragraph of the main reply, the Secretary mentioned that applicants would be required to produce information regarding their local sponsors if the Immigration Department should have doubts about the real intention of their visits. Could the Secretary inform this Council whether there is any information on the number of applicants whose intentions have been doubted? In addition, just now the Secretary also mentioned that there were some 2 000 to 3 000 people visiting Hong Kong from those six Middle Eastern countries. Could the Secretary inform this Council how many of these visitors have caused doubts as to their real intention of visit? Could the Secretary also inform this Council whether there is any specific reason causing the Government to be doubtful about their intentions of visit?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I do not have at hand any statistics concerning the number of visitors from Middle Eastern countries who have been required by the Immigration Department over the past year to produce information on their sponsors. However, I could furnish the Honourable Member with the relevant statistics in a written reply. (Annex II) According to the practice of the Immigration Department, if we should be doubtful about the intention of any visit visa applicants on account of the information they provide, such as income level, occupation and so on, or even suspect them of coming to Hong Kong to engage in some illegal activities, we would require the applicants concerned to produce information regarding their sponsors or referees in Hong Kong, with a view to understanding better their background.

MR JAMES TO (in Cantonese): *Madam President, I could imagine how the time needed to process the applications varies with the number of applications received. For example, the time needed to process several hundred thousand applications would differ greatly from that needed to handle several thousand applications. In the past, security clearance was conducted manually by*

checking the information cards; however, with the advancement in technology, the work has been computerized. Why then should the Immigration Department still need 14 days to complete the job? Since there have some 2 000-odd applications, could the Secretary inform this Council whether we could boldly shorten the pledged processing time from 14 days to 10 or even seven days?

SECRETARY FOR SECURITY (in Cantonese): Madam President, firstly, I have explained the processing time needed. If we consider the visa applications submitted by nationals of certain countries do not need to be referred to the Immigration Department, the overseas Chinese Diplomatic and Consular Missions concerned may issue visas after processing the applications concerned in accordance with our suggested procedures. Visas of this kind could be issued within a week's time. The applications which take 14 days to process are the ones that must be referred to the Immigration Department for further investigation. I should like to point out that the processing time required does not necessarily vary in direct proportion to the number of applications received. For example, whilst the majority of our visitors come from either the Mainland or Taiwan — more than 2 million people are visiting Hong Kong from the Mainland every year and over 1.8 million people from Taiwan visited our city last year — it took us very limited time to process their visa applications. It is due to security reasons that the visa applications from nationals of certain countries have to take longer time for processing, since the Immigration Department may need to consult other government departments to look into the background of the applicants concerned. For this reason, we consider it is not possible to further shorten the processing time to less than 14 days. Apart from that, I should also like to stress that the number of visitors coming from those six Middle Eastern countries is actually very small. In particular, only a few dozen of the nationals of one of those six countries visited Hong Kong last year.

MR HOWARD YOUNG (in Cantonese): *Madam President, I am more interested in the comparison with Thailand. I believe the country with only a few dozens of its nationals visiting Hong Kong last year as mentioned by the Secretary just now should not be Iran, since Iran is a country with great potentials. The Thai authorities have pledged to issue visas in two days to a week's time, but we are unable to do the same. Could the Secretary inform this Council whether it is because of the problems with our procedures or because of our policies towards these countries that we could not process visa applications as quickly as other countries?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I understand that the visa requirements of Thailand are rather lenient. According to a report by the Associated Press today, because of the recent increase in serious crimes involving foreigners — including people from Hong Kong — the Thai authorities are considering tightening the country's visa requirements. In other words, in considering their respective visa requirements, countries and places will normally try to strike a balance between convenience for visitors and security needs. On our part, the visa requirement for those Middle Eastern countries and the procedures concerned are maintained in the light of our security and policy needs rather than the processing time required.

PRESIDENT (in Cantonese): Last supplementary.

MR JAMES TO (in Cantonese): *Madam President, I should like to know whether the Government has considered the matter from another perspective. Just now the Secretary said only several dozen people had visited Hong Kong from a certain country. I believe this might be a "chicken and egg" problem. May I ask whether the Government has tried to attract more nationals of other countries to visit Hong Kong through the Hong Kong Tourist Association? Could the Secretary inform this Council whether the Government has given any consideration in this respect, with a view to finding out whether shortening the visa processing time could be beneficial to Hong Kong as a whole?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as I explained before, in determining the visa requirements as well as the processing procedure for a certain country or place, apart from facilitating the development of tourism and offering greater convenience for our visitors, we also need to ensure that the security and safety of the local community are being effectively maintained. As regards those six Middle Eastern countries, while very few of their nationals have visited Hong Kong, they are also not comparable to other Middle Eastern countries in terms of their economic development. Moreover, we also need to take into consideration security reasons. As such, we do not consider the requirement solely in the light of tourism needs.

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

MR JAMES TO (in Cantonese): *Madam President, my supplementary was asking whether the Government has considered the issue from the perspective I referred to. Could the Secretary inform this Council whether the Government would consider assessing the potential for attracting more tourists from the countries concerned?*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, actually I have already answered the Honourable Member's supplementary. Just now I said it has been our policy all along to facilitate the development of tourism while ensuring that the security of Hong Kong is effectively maintained.

Installation of Audible Signal Devices at Signalized Pedestrian Crossings

4. **MR FRED LI** (in Cantonese): *Madam President, regarding the provision of facilities for the disabled, will the Government inform this Council:*

- (a) *whether there are plans to install audible signal devices for assisting the blind to cross the roads at all signalized pedestrian crossings; if so, of the implementation schedule for the relevant works; if not, the reasons for that;*
- (b) *of the criteria and factors that it uses for determining the level of audible signals emitted by those devices; and*
- (c) *whether it will consider giving statutory status to the principles and requirements as set out in the Transport Planning and Design Manual (TPDM) regarding the provision of facilities for the disabled; if not, of the measures to ensure the implementation of these principles and requirements?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President,

- (a) Audible signal devices have been installed as a standard facility at all newly provided signal-controlled pedestrian crossings and junctions since 1994. At present, 712 (or 64%) of the signal-controlled pedestrian crossings and junctions are equipped with audible signal devices. The Transport Department (TD) has all along been holding regular meetings with the various associations representing people with a disability to discuss the improvements to be made to road crossing facilities for the disabled. The TD is currently retrofitting existing pedestrian crossings and junctions with audible signal devices according to the suggestions and priority order proposed by these associations.
- (b) The sound level of the audible signals emitted is set according to the background noise level. Normally, it is set equivalent to 68 dBs at one metre from source. This is the general level agreed with relevant non-governmental organizations for the visually impaired and has been found to be generally satisfactory.
- (c) The TPDM is an internal working document providing guidelines for the planning and design of transport infrastructure in Hong Kong. The requirements stipulated therein are to be adhered to by both public and private roads unless special circumstances warrant a departure. The document will be revised from time to time in the light of the changing community needs. We do not see any need to make the TPDM a statutory document.

MR FRED LI (in Cantonese): *Madam President, in paragraph (b) of the main reply, the Secretary said that the sound level of the audible signals emitted is set according to the background noise level. Madam President, there is an enormous difference in the background noise levels between the day and the night. According to my understanding, as a result of the complaints lodged by residents in the neighbourhood, the Government would adjust the volume of the audible signals to a very low level at night. If the visually impaired should go out at night, since less pedestrians would be there on the streets, the later the hour, the*

more difficult it would be for them to inquire pedestrians close by of the traffic light signal. This is indeed very dangerous. In this connection, could the Secretary inform this Council how the Government would strike a balance between the need to cater to the complaints lodged by residents against the noise level and the safety of the visually impaired pedestrians?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, if we should receive such complaints, we would of course seek to cater to the different needs of the various parties concerned in the light of the actual situations. Under such circumstances, we would normally consult associations representing the interests of the visually impaired, including the Hong Kong Blind Union, with a view to setting the volume of the audible signals at an appropriate level.

For example, in Murray Road and the areas in the vicinity of Mei Foo Sun Chuen in Cheung Sha Wan, the residents there did lodge complaints recently against the nuisance caused by audible signal devices during the night. After discussions with the relevant associations, we have agreed to shorten the operating hours of the relevant devices to between 7.00 am and 11.00 pm and to adjust the volume to an appropriate level. This is a good example demonstrating that if there should be any conflict of interests between different parties, we would need to identify specific measures in the light of the merits of the case to resolve the problem. We would not make any sweeping or broad-brush solutions.

MR LAW CHI-KWONG (in Cantonese): *Madam President, my supplementary is related to the one raised just now. I understand that the technology "fuzzy logic" is currently being used in some foreign countries to determine an appropriate sound level according to the background noise level. As regards the arrangement referred to by the Secretary just now, I really cannot see how it could help to resolve the problem, since people who are visually impaired would still have a need for road crossing facilities after 11.00 pm. Could the Secretary inform this Council whether the Government would consider introducing the fuzzy logic technology into Hong Kong to enable the audible signal devices to adjust the sound level emitted according to the background noise level?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, we have already introduced this technology into Hong Kong. Actually, we have been watching out for any new technologies or new products that are suitable for application in Hong Kong. The Electrical and Mechanical Services Department (EMSD) is responsible for the installation of the audible devices, and it has all along been liaising with manufacturers and organizational users of new products. As a matter of fact, we are currently carrying out tests on a number of new products to examine whether they are suitable for use in Hong Kong. One of the new products being tested is the one mentioned by Mr LAW Chi-kwong, which is the device to adjust volume according to the background noise level. Apart from that, we are also looking into the feasibility of using vibrating units, which could indicate clearly whether the illuminated traffic light signal is red or green. Pedestrians who are visually impaired can find out what the illuminated traffic light signal is by touching these vibrating units. We are now considering installing one or two of these new types of products at different locations, with a view to testing their effectiveness. If the trial results should be satisfactory, we would then install these new products at suitable locations.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, paragraph (a) of the main reply seems to have failed to answer specifically the part of Mr LI's main question about the implementation schedule. Actually, many of the pedestrian crossings built before 1994 are not yet equipped with audible signal devices. Could the Secretary inform this Council whether he has any plan to install audible signal devices at these pedestrian crossings, and of the time when the installation work could be completed? In addition, could the Secretary also inform this Council how long it would respectively take to install the audible signal devices and to install a group of traffic light system with such devices?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I am afraid I do not have on hand any information regarding the time needed to equip a group of traffic signals with audible devices. However, regarding the Honourable Member's supplementary on the number of signal-controlled pedestrian crossings and junctions built before 1994 that have yet to be equipped with audible devices, I could tell him that the number is around 400. As I mentioned just now, more than 60% of the 700-odd pedestrian crossings and junctions in Hong Kong are already equipped with audible devices; so, the facility has yet to be installed at the remaining 400-odd locations. Actually, we

have planned every year to gradually install these devices at the 400-odd pedestrian crossings and junctions. Moreover, we will also discuss with the associations regarding the priorities. If we were to handle the 400-odd pedestrian crossings and junctions all at the same time, I am afraid we could hardly be successful considering the resources allocation, practical needs and specific arrangements to be made. However, in our estimation, the phased installation of the devices should not take too long a time. As regards the priorities, in addition to consulting the associations concerned, we would also be installing the audible devices at locations where the needs for them are more urgent.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I do understand that it might not be possible to handle so many pedestrian crossings and junctions all at once. However, may I ask the Secretary how long in his estimation it would take to complete the installation process?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, given that we could handle about 100 of these pedestrian crossings and junctions yearly, I think we could complete installing the devices at the 400-odd locations in three to four years' time.

MR ALBERT HO (in Cantonese): *Madam President, it has been reported that some residents have complained to the Government against the nuisance caused by the sound emitted by the audible signal devices. Naturally, the Government has to do something upon receiving the complaints. In this connection, could the Secretary inform this Council how the Government handles the complaints, and whether the Government has tried to educate the residents of the importance of these devices to people with a disability, with a view to persuading them to withdraw the complaints?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, actually, my reply just now has answered part of this question. The Government will take a multi-pronged approach. Firstly, we would make use of education to enable both parties to appreciate the needs and feelings of each other. Secondly, we would seek to resolve the problem by way of compromises. Thirdly, we

would apply new technologies and knowledge, with a view to alleviating the level of nuisance and enabling the visually impaired to effectively make use of the facilities concerned at the same time.

MR ANDREW CHENG (in Cantonese): *Madam President, I should like to follow up on the reply given by the Secretary just now. At present, more than 30% of the signal-controlled pedestrian crossings and junctions are not yet equipped with audible signal devices, and it is estimated that the devices could be installed at all of these locations in three to four years' time. However, could the Secretary inform this Council whether the Government has any policy to equip, from now on, the traffic light systems at all newly built pedestrian crossings with these audible devices?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the answer is no. Nor is there the need for the existing arrangement has been in operation since 1994.

DR RAYMOND HO (in Cantonese): *Madam President, while audible signal devices have been installed at all the newly built signal-controlled pedestrian crossings and junctions for use by the visually impaired, many of the signal-controlled pedestrian crossings and junctions built before 1994 are not yet equipped with such devices. Could the Secretary inform this Council whether the Government would consider making use of such road works as excavation and cabling to install also the audible signal devices instead of following the original installation schedule, with a view to speeding up the installation process?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, actually, the work concerned is proceeding in this manner. Apart from holding discussions with the relevant organizations in respect of priorities, we would also make good use of the opportunities provided by large-scale road works to install the devices. But generally speaking, we would take actions in the light of the situations of the individual locations concerned.

MISS CYD HO (in Cantonese): *Madam President, just now the Secretary mentioned that some 400 signal-controlled pedestrian crossings and junctions were not yet equipped with audible signal devices due to resources constraints. May I ask the Secretary where the resources constraints lie and why the Government can handle only 100 pedestrian crossings and junctions annually? In addition, could the Secretary inform this Council whether it is due to the difficulty involved in hiring relevant technicians other than excavation workers that the Government would need four years' time to complete the installation work?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the existing policy to install audible signal devices at all new signal-controlled pedestrian crossings and junctions was launched in 1994. As regards the old pedestrian crossings and junctions, we would handle them step by step. At present, audible devices have been installed at more than 700 pedestrian crossings and junctions, with some 400-odd locations outstanding. Together they total at more than 1 000 traffic light systems. If we should seek to handle the 400-odd pedestrian crossings and junctions all at once, we would need to resolve many practical problems in terms of technologies, manpower or even other resources. It is necessary for us to set priorities because certain areas, which we have handled already by now, did have more urgent needs for these devices. With regard to the areas where road crossing facilities for people with a disability, we have to arrange the installation work according to priorities. In any case, we will certainly implement the installation plans as quickly as practicable.

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

MISS CYD HO (in Cantonese): *Yes, Madam President, because my supplementary was asking about the specific resources constraints. With regard to the practical problems in terms of technologies and manpower resources referred to by the Secretary just now, may I ask the Secretary to provide this Council with a written reply explaining the practical problems concerned if he does not have the relevant information on hand?*

SECRETARY FOR TRANSPORT (in Cantonese): With pleasure, Madam President. (Annex III)

MR FRED LI (in Cantonese): *Madam President, according to many associations representing the visually impaired, more often than not the audible signal devices installed at the traffic light systems are faulty. This is very dangerous because the red light sound signal would be emitted during the green phase or the green light sound signal would be emitted during the red phase. Similar problems have occurred in Mong Kok as well as other areas with heavy pedestrian traffic. Situations of this kind are very dangerous because the safety of pedestrians who are visually impaired would be at stake if the sound signal emitted should be incorrect. May I ask the Secretary whether there is any mechanism in place whereby the audible signal devices are inspected on a regular basis and the devices found faulty can be reported to the Government expeditiously, so that they can be repaired promptly?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, naturally it would be very dangerous and inconvenient if any traffic facilities should become faulty. With regard to these audible signal devices, we have in place a two-pronged maintenance programme. The first prong is preventive maintenance. Normally, all of these devices will be inspected every six months to check whether they operate properly, and whether there are any faulty functions. The second prong is urgent repairs work. Upon receiving any reports of faulty devices, staff members of the EMSD would be sent immediately to the locations concerned to carry out urgent repairs.

PRESIDENT (in Cantonese): Last supplementary.

MR ANDREW CHENG (in Cantonese): *Madam President, I should like to follow up the matter a bit further. Just now the Secretary said that audible signal devices could be installed at 100 signal-controlled pedestrian crossings and junctions in a year's time. But is it not too slow to equip only 100 locations with the devices in a year's time? Could the Secretary inform this Council why*

must the installation work concerned progress so slowly, and of the installation costs involved as well as the wage payments to be made to workers? Given that Hong Kong is an advanced community, should we consider speeding up the installation work to ensure the safety of people with a disability crossing roads?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, earlier on I undertook to provide Miss Cyd HO with a written reply in specific terms. (Annex IV)

Testing of Pigs for Clenbuterol

5. **DR TANG SIU-TONG** (in Cantonese): *Madam President, in November last year, four persons fell ill and were admitted to hospital after eating pig livers which were suspected of containing Clenbuterol, an asthma drug. In this connection, will the Government inform this Council of:*

- (a) *the number of urine tests for the asthma drug on pigs before they were slaughtered in slaughterhouses conducted last year by the Agriculture, Fisheries and Conservation Department (AFCD) (formerly known as the Agriculture and Fisheries Department); the percentage of the pigs which were tested in the total number of pigs slaughtered;*
- (b) *the number of pigs whose urine samples showed positive responses in the tests, and how the pigs concerned were dealt with; and*
- (c) *the new measures the newly established Environment and Food Bureau has in place for preventing pigs containing the asthma drug and pigs which are imported or slaughtered illegally from reaching the market; and whether it will formulate work targets and performance pledges in order to assess the effectiveness of those measures?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese):
Madam President,

- (a) The AFCD conducted 56 000 tests on pig urine samples in the past year. The number of pigs tested represented 2.5% of the total number of pigs slaughtered. This testing procedure based on sampling is reliable and ties in with the actual operation of slaughterhouses. This is because pigs from the same farm are normally fed the same feed. Moreover, the slaughterhouses need to slaughter on average about 6 200 pigs a day. To cater for the market demand, the pigs have to be slaughtered promptly and put to the market for sale, so they stay in the slaughterhouses only for an average period ranging from half to one day. On the other hand, it takes at least three hours to obtain the test results. Therefore, there are practical difficulties in increasing the number of pigs being tested.
- (b) The urine samples of 550 pigs showed positive results in the above tests. Including other pigs from the same farms, the total number of pigs involved was 7 800, which represented 0.35% of the total number of pigs slaughtered.

The two former municipal services departments dealt with these pigs in three ways. First, pigs with a low level of Clenbuterol in their urine samples were slaughtered and their offals were immediately destroyed while the pig carcasses were released for sale. This is because Clenbuterol is concentrated mainly in offals. Second, offals of pigs with a high level of Clenbuterol in their urine samples were immediately destroyed after slaughtering and further tests were conducted on the pig carcasses. Based on the test results, carcasses which contained Clenbuterol would be destroyed. Third, pigs for which meat traders decided to postpone slaughtering were kept in the slaughterhouse. They were slaughtered only after further urine tests showed negative results.

- (c) Since the introduction of the pig tattoo and urine testing system and the stepping up of investigation and enforcement efforts in August 1998, pork and offal samples found to contain Clenbuterol have dropped significantly from 12.5% to the present 1.1%. With the establishment of the Environment and Food Bureau, the departments concerned [that is, the Food and Environmental Hygiene

Department (FEHD), AFCD, Department of Health (DH) and Customs and Excise Department (C&ED)] will continue to safeguard food safety at various levels outlined in the following paragraphs.

With respect to farms and slaughterhouses, the FEHD will continue to take urine samples for testing for Clenbuterol. If problems were found with the imported pigs, the AFCD will inform the mainland authorities for follow-up action. In addition, the AFCD in conjunction with the DH will continue to inspect local pig farms suspected of using Clenbuterol. If pig farmers were found to be in possession of the prohibited drug, prosecutions under regulation 36 of the Pharmacy and Poisons Regulations will be considered. The AFCD will also continue to educate local farmers on the proper use of animal feeds.

With regard to new measures, as there is no legislation which regulates animal feeds at present, we plan to introduce a new set of regulations under the Public Health (Animals and Birds) Ordinance to regulate the use of Clenbuterol and other chemicals by farmers in feeding livestock and poultry, to require feed suppliers to state explicitly feed composition and usage directions, to control the chemical contents in animal feeds and to ban the sale and import of live pigs containing harmful or excessive chemicals. The AFCD will consult the agriculture industry on the proposal in the next few months. Subject to the outcome of the consultation, we plan to introduce the proposed regulation into the Legislative Council in the next legislative year.

The FEHD will continue to organize inter-departmental joint operations against illegal slaughterhouses to combat illegal slaughtering activities.

At the retail level, the FEHD will step up inspections of fresh provision shops (that is, the so-called meat shops) and market stalls to detect the sale of pork from unknown sources. Priority is given to the inspection of suspected outlets by carrying out surprise operations and prosecuting the offenders.

With regard to illegal imports, the C&ED will continue to intercept live pigs, chilled and frozen pork illegally imported by road and by sea. It will continue its anti-smuggling actions through intelligence gathering and surprise operations and step up prosecution in conjunction with the departments concerned with a view to further combating smuggling activities.

DR TANG SIU-TONG (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary said that 56 000 tests on pig urine samples were conducted last year in which the samples of 550 pigs showed positive results. This means that the contaminated samples accounted for nearly 1% which is a rather high percentage. May I ask the Government the number of cases in which pig farmers and meat traders were successfully prosecuted for illegal use of the asthma drug since September 1998 when pigs started to be tested for the asthma drug? What is the highest penalty imposed on them? Are there cases of repeated offence by the convicted farmers or traders? In this connection, can the Government give an undertaking as to when this problem can be stamped out?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, on the question of the proportion, just now Dr TANG said that as the urine samples of 7 800 pigs showed positive results, so they accounted for 1% of the total number of pigs slaughtered. This is really not the case for we did not conduct tests on the urine samples of these 7 800 pigs. Instead, tests were conducted on samples from herds of pigs, that is, we conducted tests on one pig out of each herd of pigs. These 7 800 pigs came from the same source, that is, the same farm. If we have to work out the proportion of these 7 800 pigs, we should do the calculation against some 2.2 million pigs slaughtered in Hong Kong each year. Therefore, the percentage should not be as high as 1% in fact.

As regards prosecution of pig farmers and meat traders, I think it all depends on the evidence. Even though their pigs are tested positive for Clenbuterol, we cannot jump to the conclusion that the meat trader concerned must be held responsible because he may argue that he did not know the pigs had been fed with feed that contains Clenbuterol. So, under the circumstances, we can only take actions in a number of ways. First of all, we have to ensure that the pigs with problems will not be put to the market for sale. For pigs with a

low level of the drug, their offals will be destroyed immediately. The pig carcasses, if found to be contaminated, will also be destroyed. Only those tested to be cleared of the drug are allowed to be put to the market for sale.

On prosecution against other parties concerned, sampling tests can be conducted in respect of pig farmers and feed suppliers. Prosecution may be instituted if Clenbuterol is found on the farms or in animal feed. This is because Clenbuterol is prohibited so actions can be taken by virtue of the Pharmacy and Poisons Regulations. On the level of retail sales, spot checks are regularly conducted by the FEHD on fresh provision shops (that is, meat shops) and market stalls to see if the pork on sale contains Clenbuterol. Other than the accurate testing procedures at slaughterhouses, we also endeavour to combat illegal slaughtering activities. In the past year, the two municipal services departments also carried out many surprise operations against the import of illegally slaughtered pigs.

PRESIDENT (in Cantonese): Dr TANG Siu-tong, which part of your supplementary question has not been answered?

DR TANG SIU-TONG (in Cantonese): *Madam President, the Secretary talked about the 7 800 pigs in her reply just now and this was actually not mentioned in my supplementary question. In my question I said 56 000 tests were conducted in which the urine samples of 550 pigs showed positive results, so the percentage they accounted for is 1%. I think the Secretary has got it wrong.*

My follow-up question is this: Is it that meat traders or pig farmers have no responsibility to take even if the pork they sell is contaminated?

PRESIDENT (in Cantonese): Dr TANG, is this part of the question that you asked just now?

DR TANG SIU-TONG (in Cantonese): *Yes, it is.*

PRESIDENT (in Cantonese): Dr TANG, your question is indeed so long that not even can I remember it all. I hope the Secretary for the Environment and Food can catch it. Secretary, your reply please.

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): With regard to the liabilities of fresh provision shops (that is, meat shops), section 52 of the existing Public Health and Municipal Services Ordinance provided that "If any person sells to the prejudice of a purchaser any food or drug which is not of the nature, or not of the substance, or not of the quality, of the food or drug demanded by the purchaser, he shall be guilty of an offence." Moreover, under section 54 of the same Ordinance, no one is allowed to sell food which is unfit for human consumption. Therefore, retailers do have legal liabilities to bear under these two provisions.

There are some cases, in which prosecution was instituted under section 52 of the above Ordinance, currently pending trial. In other words, the commodities concerned are sold to the prejudice of the purchaser and are not consistent with the food or drug demanded by the purchaser. This is a more general provision under which the prosecutions were instituted. Why do we not institute prosecution under section 54 which prohibits the sale of food unfit for human consumption? From the professional opinion we obtained, there may be difficulties in giving evidence if this section is to be invoked. It is because we must produce scientific evidence to prove that the food in question is unfit for human consumption. We will conduct a review in light of the outcome of our prosecutions in these cases to study what measures we can take as the next step.

MR WONG YUNG-KAN (in Cantonese): *Madam President, my supplementary question is about the last paragraph of the main reply. As the Government has carried out many operations against the smuggling of meat, what quantity of chilled pork and frozen meat was intercepted by the Government over the past two years, and how such meat was dealt with?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, in the year 1998-99, the C&ED seized a total of over 1.4 million kg of meat and 581 live pigs in its anti-smuggling operations at land and sea border points. Statistics show that more than 500 persons have been prosecuted.

MR AMBROSE LAU (in Cantonese): *Madam President, it is learned that many of the pigs with the asthma drug came from illegal slaughterhouses. I would like to ask the Administration how many illegal slaughterhouses and pigs with the asthma drug have been found in total since the pig tattoo and urine testing system was introduced in August 1998?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I have on hand only the statistics in relation to the operations against illegal slaughtering activities by the two municipal services departments last year. In 1999, the two former municipal services departments carried out a total of 208 surprise inspections, which is 3.2 times more than the previous year's figure. Thirteen persons were arrested in these surprise operations in 1999. A total of 18 tonnes of pork and offals were seized from illegal slaughterhouses, with an 80% increase compared to 1998. As far as I know, over 20 locations had been used for illegal slaughtering activities in Hong Kong before enforcement actions were stepped up. But after we have stepped up our enforcement efforts a mere two or three illegal slaughterhouses remain, at a rough estimate. I hope that these figures will not give Members a wrong impression that the Government had not made the best of its efforts in enforcement. In fact, illegal slaughtering activities are carried out sporadically with makeshift equipment, using varying ploys and changing locations. For this reason, the newly established FEHD really need to continue to work with the relevant departments to gather intelligence before surprise operations can be carried out promptly.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. While there are still many Members waiting to ask their questions, we must now proceed to the sixth question.

Statutory Scheme on Preventive Maintenance of Buildings

6. **DR RAYMOND HO** (in Cantonese): *Madam President, the Government plans to introduce a new statutory scheme to require building owners to carry out preventive maintenance works for their buildings. In this connection, will the Government inform this Council:*

- (a) *of the scientific standard or method it will adopt in identifying the target buildings;*
- (b) *of the technical criteria it will adopt for assessing whether or not the preventive maintenance works that have been carried out are acceptable; and*
- (c) *of the additional manpower resources it will allocate to the Buildings Department for implementing the new scheme?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, at present, many older privately-owned buildings are not regularly maintained. Without proper maintenance, buildings may suffer extensive defects from deterioration of materials and may pose significant dangers to both their occupants and the general public.

The Government is of the view that there is an urgent need for the owners of older buildings which are in disrepair to participate in a statutory scheme of preventive maintenance. The purpose of the proposed scheme is to prevent old buildings from premature ageing and dilapidation by carrying out timely and appropriate works at an early stage.

The Government is now working out details of the proposed statutory preventive maintenance of buildings scheme. Our preliminary view is that the Buildings Department (BD) may conduct initial assessments on the conditions of the individual ageing privately-owned buildings and may, after such assessments, require the owners of the buildings concerned to participate in this statutory scheme. Our present thinking is for the owners of such buildings to appoint an Authorized Person (AP) and, where structural defects are found, a Registered Structural Engineer (RSE) to conduct a detailed investigation with a view to establishing the necessary maintenance and repair measures. The concerned owners may then employ a qualified contractor to carry out these maintenance and repair works. The completion of such works may then be certified by the AP and the RSE.

The broad criteria that the Department intends to use in identifying buildings for inclusion in the proposed scheme include:

- (i) age of the building;
- (ii) structural condition of the building;
- (iii) integrity of the external furnishes of the building; and
- (iv) fire safety condition of the building, mainly in the area of the means of escape.

The Department is now developing an assessment manual to provide technical guidelines for its staff to determine the degree of seriousness of any problem that would call for a building to be included in the proposed scheme.

The Department has already commissioned a professional consultant to formulate a detailed and comprehensive technical code of practice on the conduct of the various types of preventive maintenance works, including investigation, repair and maintenance works, which would be required under the proposed scheme. The draft code of practice will be put to professional institutions for comments.

With regard to the resource requirements, we expect that some of the work now done by the BD to remove dangers in existing buildings, for example, the work relating to the voluntary Building Safety Inspection Scheme, will be subsumed in the assessment and enforcement work to be carried out by the Department under the proposed scheme. Together with the measures currently being introduced to improve the efficiency of the Department, the Government aims to absorb the additional resources required by the proposed scheme within the existing resources of the BD. However, the actual additional resource requirement can only be determined after details of the proposed scheme have been fully worked out.

Our aim is to consult the public, the professionals and the concerned parties on the whole proposal this summer when we will provide the details of our proposal, including the criteria for the BD to assess and identify the buildings to be included in the proposed scheme, the technical code of practice on the required preventive maintenance works to be carried out by the building professionals under the scheme, and also any additional resource requirements for the Department.

DR RAYMOND HO (in Cantonese): *Madam President, the thinking of the Government is for the BD to conduct initial assessments on the conditions of all buildings in Hong Kong and to issue further investigation and maintenance orders to buildings with defects. However, if the owners concerned do not have the means to pay the maintenance fees required, will the authorities provide any loans to these owners on preferential terms?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, under the existing voluntary Building Safety Inspection Scheme, there is also a loans scheme on improving building safety. While we are working on the proposed preventive maintenance of buildings scheme, we will consider the idea of how best to make the existing loans scheme more flexible in terms of conditions and eligibility requirements, so as to assist those owners who are required to repair their buildings under the new scheme but are financially unable to do so. We will consider the idea of giving more flexibility to the existing loans scheme, so as to assist these people.

MR NG LEUNG-SING (in Cantonese): *Madam President, in its main reply, the Government points out that the BD has already commissioned a professional consultant to formulate a detailed and comprehensive technical code of practice, and that it will put the draft code to the relevant professional institutions for comments. May I ask the Government what it will do if the code of practice formulated by the professional consultant commissioned by the BD differs very greatly from the views put forward by the relevant professional institutions — that is, if there are huge differences in views?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, I think the question asked by the Honourable NG Leung-sing is a bit hypothetical. If the relevant professional institutions really put forward technical comments which are vastly different from the technical code of practice proposed by the professional consultant commissioned by the BD, we will certainly arrange negotiations and discussions, with a view to working out solutions acceptable to all. This can also ensure that the proposed scheme can indeed help promote the actual work of building safety and maintenance.

MR HO SAI-CHU (in Cantonese): *Madam President, in the fifth paragraph of the main reply, the Secretary mentions that the BD will develop a buildings assessment manual to provide technical guidelines to its staff. I think that the staff of the Department should also be professionals, because the work of assessing whether a building should need repairs is very important. May I ask the Secretary what ranks do these staff belong to in general? Their ranks will not be too low, I suppose?*

SECRETARY FOR PLANNING AND LANDS (IN Cantonese): Madam President, I am sorry that I do not have the relevant information on hand. With your permission, I shall submit a written reply to Mr HO Sai-chu's supplementary question. (Annex V)

MR JAMES TO (in Cantonese): *Madam President, my supplementary question also concerns the criteria mentioned in the third and fourth paragraphs of the main reply. What will be the criteria used to determine whether a building should be included in this preventive maintenance of buildings scheme? Will these criteria be the same as those adopted by the BD when issuing mandatory maintenance orders? Or, are these criteria going to be higher or lower?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, the mandatory maintenance orders now issued by the BD under the Buildings Ordinance are targeted mainly on buildings which require immediate repairs, such as those which have already developed structural dangers, or those which have developed relatively serious structural problems. The preventive maintenance of buildings scheme we now have in mind, as its name suggests, is supposed to be preventive in nature. We hope that the BD does not have to wait until problems occur before it can issue these orders to require owners to carry out repairs; rather, we hope that preventive measures can be taken when problems are not yet very serious.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary has said that the actual additional resource requirement can be determined only after details of the proposed scheme have been fully worked out. What actually is the time schedule for this scheme?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, our consultant is right now working on the draft technical code of practice. We hope that about a month or so later, we can hold discussions with the relevant professional institutions on the draft code, and then consult the public on the whole scheme in summer this year.

MR JAMES TO (in Cantonese): *Madam President, as mentioned by the Secretary when he replied to our oral questions just now, this proposed maintenance scheme is supposed to be preventive in nature. That is why I think that the criteria adopted under this scheme must be lower than those adopted for the issuing of mandatory maintenance orders. How much lower will they be? Can we be given a preliminary idea about how much lower they will be? After a building has been completed for five years, 10 years or 15 years, it is only natural for it to develop some normal wear and tear which requires varying degrees of repairs. Is it going to be very difficult to set down all these criteria objectively in the law?*

SECRETARY FOR PLANNING AND LAND (in Cantonese): Madam President, the technical code of practice is still being drafted. I hope that Members can give the Planning and Lands Bureau more time. Once the draft code is ready, we will submit it to the relevant Panel of the Legislative Council for discussions, at which time Members will be able to see what buildings will be included in this preventive maintenance of buildings scheme. They will also be able to compare the criteria under this new scheme with those for the issuing of mandatory maintenance orders under the Buildings Ordinance, and find out the differences between them. I am sure that Members will then be able to gain a clear understanding of all these issues.

MR HO SAI-CHU (in Cantonese): *Madam President, it is said in the last paragraph of the Secretary's main reply that the public will be consulted. This proposed scheme will affect owners on the one hand, and the safety of the public on the other. May I ask the Government how long the consultation period will be? Since many people will be affected, can we have a longer consultation period? Does the Secretary have any idea about the length of the consultation period?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, we are still considering this question. For government proposals in general, the usual consultation period is about six weeks to three months, depending on individual circumstances. Regarding the length of consultation for this proposed scheme, we are prepared to consider the views of different sectors.

MR NG LEUNG-SING (in Cantonese): *Madam President, I believe that the questions asked by us today are bound to be somewhat hypothetical in nature, because the proposed scheme is still at the drafting stage. So, I hope that the Government will still answer my following question, which is also hypothetical in nature.*

PRESIDENT (in Cantonese): Mr NG Leung-sing, you are not permitted to ask questions of a hypothetical nature.

MR NG LEUNG-SING (in Cantonese): *Since the scheme is still at the drafting stage, we can only speculate on what problems may arise. As mentioned in the third paragraph of the main reply, the thinking of the Government is for the owners concerned to appoint an AP to conduct a detailed investigation. I therefore wish to ask a question which, I suppose, is of a hypothetical nature. If the AP thus appointed fails to detect any structural problems, and therefore does not request the owners concerned to conduct any further investigation, will the AP be held responsible in any way under the present thinking of the Government?*

PRESIDENT (in Cantonese): Mr NG Leung-sing, in accordance with the Rules of Procedure, if even you yourself think that the question asked by you is of a hypothetical nature, I cannot possibly allow you to ask it. Please try to rephrase your supplementary question.

MR NG LEUNG-SING (in Cantonese): *Madam President, I still think that since the scheme is still at the drafting stage, we should really speculate about the possible problems. The Government wants owners of buildings to carry out structural investigation for their buildings, and owners have to appoint an AP for the purpose. But if an AP fails to detect the structural problems of a building, and if such problems thus emerge later in the future, then, under the present thinking of the Government, will the AP have to shoulder any responsibility?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, my colleagues in the BD and I will follow up the supplementary question asked by Mr NG Leung-sing.

DR RAYMOND HO (in Cantonese): *Madam President, some buildings are already very old, and they face a very serious ageing problem. Will the Government consider the idea of classifying buildings into different categories under the future new scheme, and requiring one of these categories of buildings to undergone mandatory repairs? I mean, will the Government consider the idea that the owners concerned must never be allowed to refuse to carry out those urgent repairs required by the scheme?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, our present thinking is that if the BD is satisfied after an assessment that a certain building is in need of preventive maintenance, it will exercise its power under the new ordinance and issue a notice to the owners concerned, requesting them to carry out repairs. If the owners concerned fail to repair their buildings as required by the statutory order, they will certainly have to be held legally liable.

PRESIDENT (in Cantonese): Time is up for oral questions.

WRITTEN ANSWERS TO QUESTIONS**Explosives Found in Construction Sites**

7. **MR NG LEUNG-SING** (in Chinese): *Madam President, it was reported that fuses and explosives had been found buried in a construction site near Cityplaza, which were suspected to have been left behind years ago by construction workers who carried out blastings for slope cutting works there. In this connection, will the Government inform this Council:*

- (a) *whether it has investigated the causes of the fuses and explosives being left there and the persons who should be held responsible for this; if it has, of the findings;*
- (b) *of the number of cases in which explosives were unearthed at construction sites over the past five years;*
- (c) *whether it has assessed the possibility of explosives being buried in other construction sites in Hong Kong, and if such explosives will endanger the safety of workers as well as the lives and property of residents in the neighbourhood; and*
- (d) *whether it has assessed if the existing measures to control the use of explosives at construction sites are adequate and effective?*

SECRETARY FOR WORKS (in Chinese): Madam President,

- (a) The construction site referred to by the Honourable NG Leung-sing is located under the flyover at the intersection of Kornhills Road and King's Road in Quarry Bay. Blasting works were carried out at the site for development of the Kornhills housing project during 1982 and 1986. In the current incident, two pieces of broken wires, each 200 mm long and protruding out of a 50 mm diameter drill hole, were found at the site. The colour of the wires (one red and one white) matched the lead wires used for the blasting for the Kornhills project. We believe that the broken wires are the remains of the lead wires from the previous blasting. However, no detonator nor explosives was found. To ensure safety, the police (Explosives

Ordinance Disposal Bureau) conducted a controlled explosion in the area suspected to contain explosives. The limited effect of the controlled explosion during the disposal demonstrated that there was no explosives left from the previous blasting at that location. Therefore the question as to who should be responsible for leaving behind any explosive does not arise in this case.

- (b) In the past five years, over 18 000 blasting events, totaling over 500 000 drill holes, were conducted. During this period, there was only one case in which an un-exploded cartridge explosives was found after completion of blasting work. In 1995, a cartridge explosives together with a detonator were found on a construction site. The detonator had already detonated whereas the cartridge explosives had deteriorated. The cartridge explosives was subsequently removed by the Mines and Quarries Division of the Civil Engineering Department for destruction. In fact, within the last 10 years, this is the only case of this nature.
- (c) The possibility of leaving explosives from previous blasting at a blasting site is extremely rare. The shotfirer must search for misfire (that is, unexploded explosives) immediately after each blast. Where misfire is found, the shotfirer must destroy the explosives in a proper manner. This requirement is in accordance with the Dangerous Goods Ordinance (Cap. 295). Such requirement will also be reiterated to the applicant and the shotfirer when blasting licence and Mine Blasting Certificate are issued, respectively. The entire process of explosion, searching and handling of misfire is carried out under the supervision of the Mines and Quarries Division. Following the above procedures, the possibility of leaving explosives after blasting at construction is very low.

In practice, if the shotfirer found any unexploded explosives during the removal of the blasted rocks, he must first notify the contractor and the Mines and Quarries Division immediately. The shotfirer must report information on the amount of explosives, their trade name and type and acquire the approval of the Mines and Quarries Division on the proposed remedial measures prior to their implementation. In the event that such remedial measures cannot be completed within the same day, then the site must be sealed off,

with a red flag displayed to warn people passing by the site. Also, the site will be constantly guarded by the contractor's security guards until all explosives are destroyed.

- (d) The control on the use of explosives in Hong Kong is under the Dangerous Goods Ordinance (Cap. 295). The control is more stringent than that in many advanced countries such as the United Kingdom, the United States, Canada and Australia, due to the dense population in Hong Kong.

The regulatory control on explosives covers both safety and security aspects. Area under the control includes classification, manufacture, storage, conveyance on land, use and destruction. The regulatory approach in Hong Kong is quite different from other countries. In other countries, the user is allowed to store and transport explosives under the monitoring/supervision of the government. But in Hong Kong, the SAR Government is directly involved in such activities, carrying out storage and transportation of almost all explosives. Presently, the Government has nine explosive trucks, two explosives vessels and two explosives depots, with a capacity of 500 tonnes (located in Kau Shat Wan on Lantau Island) and two tonnes (located in Sha Tin) respectively. At construction sites, the use of explosives is also monitored by government staff until all explosives is consumed.

Presently, only ammonium nitrate based explosives are allowed to be used at construction sites. Although other types of explosives such as black powder and nitroglycerine, and so on are still being used in other countries around the world, they are not used in Hong Kong. Ammonium nitrate based explosives are relatively less powerful but they are much more resistant to heat, impact and friction, and therefore the safety margin is greater.

Blasting can only be carried out by qualified personnel. To meet the requirements of the Mine Blasting Certificate, the applicant must have experience of at least 40 blasts (under the supervision of his master who is also qualified) and the recommendation of his master, as well as pass both a written and an oral examination.

Blasting work to be carried out at any construction site must be approved by the Mines and Quarries Division. Key elements of the approval process comprise site reconnaissance by our staff, establishing prelicensing requirements (for granting "Permit to use", "Licence to store") which include safety measures (for example, screens, cages, mats, sandbags and evacuation procedures, and so on), method statements (for example, quantities of explosives, area of blast, sequence, and so on) as well as qualifications of the relevant personnel. The applicant may also have to submit a blasting assessment report for the protection of properties, slopes and drainage works, and so on in the surroundings. Blasting can be carried out only after the contractor has fulfilled all the requirements and attended an interview with the Mines and Quarries Division. The amount of explosives to be used must be reported to the Mines and Quarries Division one day before the blast. During each blast, staff of the Mines and Quarries Division will be on site to supervise the use of the explosives with respect to safety and security.

Improved continuously and based on years of experience, the regulatory measures outlined above are now very comprehensive and effective. Nevertheless, blasting is inherently dangerous. Therefore, we will keep constant review on the regulatory measures and make any necessary improvements. Moreover, we will continue to exchange experience and ideas with our counterparts in other countries so as to maintain a high standard of safety and security in the use of explosives in Hong Kong.

Staff Recruitment Exercises of MPFS Authority

8. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, with regard to the staff recruitment exercise conducted by the Mandatory Provident Fund Schemes Authority (the Authority), will the Government inform this Council:*

- (a) *whether it knows*
- (i) *the establishment of the Authority; the respective numbers of posts at various ranks for which letters of appointment have been issued and are yet to be issued as at the end of last year, together with a breakdown by departments;*
 - (ii) *how the current progress of the staff recruitment exercise of the Authority compares with the original schedule; if the progress has lagged behind the original schedule,*
 - (I) *the reasons for that;*
 - (II) *whether the work of the Authority has been adversely affected; if it has not, the reasons for that; and*
 - (III) *the measures the Management Board of the Authority will adopt to expedite the progress of the recruitment exercise;*
 - (iii) *if the Administration and the Management Board of the Authority have set deadlines for the completion of the recruitment exercise to ensure smooth operation of the Authority; if they have, the deadlines and the measures the Administration or the Management Board of the Authority will adopt to ensure that the recruitment exercise will be completed before the deadlines;*
 - (iv) *the entry salaries for various ranks as set by the Management Board of the Authority, with a breakdown by departments; how they compare with the entry salaries for comparable posts in other organizations; and*
 - (v) *if the Management Board of the Authority had made reference to the current situation of the labour market when it set its remuneration policy; and*

- (b) *whether the Administration has expressed its concern to the Authority about the latter's remuneration policy and requested the Authority to review it?*

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

- (a) (i) A table showing the establishment of the Authority as at 31 December 1999, broken down by grades and Divisions/Units, and the posts for which letters of appointments have been/have not been issued is at Annex A.
- (ii) The progress of the Authority's recruitment exercise is closely monitored and reviewed regularly. The recruitment exercises are on schedule.
- (iii) The Administration and the Management Board of the Authority have not set deadlines for the completion of all staff recruitment exercises. The implementation of the Mandatory Provident Fund (MPF) System comes in stages and it is the Authority's corporate objective to ensure that adequate staff are in place as and when the key stages come on stream. For example, it is expected that contributions to the schemes would commence in December 2000, to tie in with this timetable, the inspector grade posts in the compliance division have not been filled and recruitment would commence in June 2000. Both the Authority's Management Board and its Administration Committee are briefed regularly regarding the progress of recruitment.

(iv) and (v)

The entry salaries of the salary grades in the Authority are at Annex B. A consultancy study of the Authority's organizational structure and remuneration packages was conducted in late 1998. To take into account prevailing labour market situations, the consultants conducted a pay survey which included respondents from organizations and companies in the financial sector with similar positions as the

Authority. The salary grades of the Authority recommended by the consultants were established after matching and balancing the results of this study.

- (b) The remuneration packages recommended by the consultants have been reviewed by the Administration. The Authority has subsequently adjusted downwards the packages for the Managing Director and Deputy Managing Director to take into account the Administration's comments. The situation in the labour market related to the requirements of the MPF is susceptible to changes. As far as we are aware, with the impending full implementation of the MPF System and the strong revival in the capital and financial markets, the labour market for the financial services sector has become tighter in the past year. The Administration will keep the matter under close scrutiny and, where necessary, we will ask the Authority to review the situation.

Annex A

Mandatory Provident Fund Schemes Authority
Breakdown of Establishment by Division/Unit
(as at 31.12.1999)

<i>Office/ Division/Unit</i>	<i>Position</i>	<i>Establishment</i>	<i>Posts for which letters of appointment have been issued</i>	<i>Posts for which letters of appointment have NOT been issued</i>
Managing Director's Office	Managing Director	1		1
	Deputy Managing Director	1	1	
	Personal Assistant	1		
	Executive Secretary	1	1	
	Sub-total:	4	2	2
Corporate Secretary Unit	Corporate Secretary	1	1	
	Manager	1	1	
	Secretary	1	1	
	Sub-total:	3	3	

<i>Office/ Division/Unit</i>	<i>Position</i>	<i>Establishment</i>	<i>Posts for which letters of appointment have been issued</i>	<i>Posts for which letters of appointment have NOT been issued</i>
Internal Audit Unit	Senior Manager	1		1
	Manager	1		1
	Secretary	1		1
	Sub-total:	3		3
Legal Advice Unit	Legal Advisor	1	1	
	Senior Manager	1	1	
	Secretary	1	1	
	Sub-total:	3	3	
Compliance	Executive Director	3	3	
	Senior Manager	13	10	3
	Manager	48	36	12
	Chief Inspector	7		7
	Senior Inspector	15		15
	Inspector	36		36
	Senior Officer	15	10	5
	Executive Secretary	3	3	
	Officer	30	25	5
	Secretary	8	6	2
	Assistant Officer	7		7
	Sub-total:	185	93	92
External Affairs Division	Head	1	1	
	Senior Manager	2	1	1
	Manager	7	2	5
	Senior Officer	19	6	13
	Officer	9		9
	Secretary	2	2	
	Sub-total:	40	12	28

<i>Office/ Division/Unit</i>	<i>Position</i>	<i>Establishment</i>	<i>Posts for which letters of appointment have been issued</i>	<i>Posts for which letters of appointment have NOT been issued</i>
IT Division	Head	1	1	
	Senior Manager	1		1
	Manager	6	6	
	System Analyst	1		1
	Computer Operator	2	2	
	Technical Support Analyst	1		1
	Analyst Programmer	1		1
	Officer	2	2	
	Secretary	1	1	
Sub-total:		16	12	4
Corporate Services Division	Executive Director	1		1
	Senior Manager	3	1	2
	Manager	6	5	1
	Senior Translator	1	1	
	Translator	2		2
	Senior Officer	7	6	1
	Officer	3	2	1
	Assistant Officer	3	1	2
	Executive Secretary	1		1
	Secretary	2	2	
	Receptionist	1	1	
	Driver	3	2	1
Sub-total:		33	21	12
Total		287	146	141

Annex B

Mandatory Provident Fund Schemes Authority
Entry Salary

<i>Salary Grade</i>	<i>Position</i>	<i>(Entry Salary HK\$ per month)</i>
1	— Assistant Officer)	10,670
	— Driver)	
2	— Computer Operator/Analyst)	17,670
	Programmer)	
	— Officer)	
	— Receptionist)	
	— Secretary)	
3	— Executive Secretary)	25,000
	— Inspector)	
	— Senior Officer)	
	— System Analyst)	
4	— Manager/Internal Audit)	34,000
	— Manager/Publicity)	
	— Manager/Human)	
	Resource Administration)	
	— Personal Assistant)	
	— Translator)	
5	— Manager/Customer Service)	39,000
	— Senior Inspectors)	
6	— Finance Managers)	46,000
	Information Technology)	
	Managers)	
	— Managers/Corporate)	
	Secretary)	
	— Manager/General Affairs)	
	— Manager/Human Resource)	
	— Manager/Compliance)	
	Divisions)	
	— Senior Translator)	

<i>Salary Grade</i>	<i>Position</i>	<i>(Entry Salary HK\$ per month)</i>
7	— Chief Inspector)	
	— Senior Manager/Publicity)	
	— Senior Manager/Internal)	54,340
	Audit)	
8	— Finance Senior Managers)	
	— Senior Manager/Human)	
	Resources)	
	— Senior Manager/Legal)	78,500
	Advice)	
	— Senior Manager/)	
	Compliance Divisions)	
9	— Head External Affairs)	
	— Head Information)	92,920
	Technology)	
10	— Corporate Secretary)	
	— Legal Advisor)	127,250
ED I	— Executive Directors	228,590
ED II	— Deputy Managing Director	257,170
ED III	— Managing Director	355,500

Storing Scrap Vehicles on Private Land in the New Territories

9. **MISS CHRISTINE LOH:** *Madam President, with regard to the unsightly and environmentally unfriendly dumping of scrap vehicles on private land in the New Territories, will the Administration inform this Council:*

- (a) *of the estimated area of land used for storing scrap vehicles and the estimated number of scrap vehicles on private land in the New Territories;*
- (b) *whether it has assessed if there has been an increase in the use of private land for storing scrap vehicles over the last five years;*
- (c) *of the existing legislation restricting the use of private land for storing scrap vehicles and how it is enforced;*
- (d) *whether it has plans to make legislative amendments prohibiting owners of private land from storing scrap vehicles on their land;*
- (e) *of the alternative means of disposing scrap vehicles; and*
- (f) *whether it has offered any incentives for car owners to have their unwanted vehicles recycled?*

SECRETARY FOR PLANNING AND LANDS: Madam President,

- (a) According to our records for 1998, there are about 128 sites in the New Territories, covering an area of 31 hectares, used for car dumping, repairing or scrap vehicles storing purposes. Most of these sites are on private land. The Government keeps no record of the number of scrap vehicles stored on private land.
- (b) The use of land in the New Territories for car dumping, repairing, or storing scrap vehicles has decreased from 47 hectares in 1994 to 31 hectares in 1998.
- (c) Land uses in the New Territories are controlled under the Town Planning Ordinance (Cap. 131). The Town Planning Board (TPB) would, having regard to considerations such as land use compatibility, environmental and traffic impact, and so on, decide whether any particular site is suitable for open storage purposes and promulgate its decisions through statutory Development Permission Area (DPA) Plans and Outline Zoning Plans (OZPs). In addition, specific planning approval has to be obtained from the TPB before a

properly zoned site could be used for the storing of scrap vehicles. In considering such planning applications, the TPB would impose mitigation measures (for example, screen planting and provision of drainage facilities, and so on) to alleviate any possible environmental impact of such land uses. In parallel, the Planning Department will take enforcement action against any unauthorized land uses or developments. The enforcement action aims to discontinue such unauthorized land uses or require such unauthorized undertakings to obtain planning permission from the TPB by a specified date. Failure to comply would lead to prosecution. Conviction of such offences would be liable to a maximum fine of \$500,000 and a maximum daily fine of \$50,000. The maximum fine will be doubled for repeated conviction.

- (d) The Government intends to strengthen the enforcement power of Planning Department against unauthorized land uses and developments under the new Town Planning Bill to be introduced.
- (e) There are two ways of disposing of an unwanted vehicle properly — either selling it to a private scrapper or surrendering it to the Abandoned Vehicle Surrender Centres of the Transport Department. There are two such centres which together receive about 1 000 vehicles a year. The Transport Department has a contract with a scrap dealer for him to purchase vehicles from the two Abandoned Vehicle Surrender Centres, the Police Vehicle Pounds and vehicles abandoned on government land. The contractor is allowed to use a site in Kwai Chung for the purpose of breaking up the vehicles collected. As part of the conditions in the contract, the contractor is required to dispose of the vehicles in an environmentally acceptable manner to the satisfaction of the Environmental Protection Department and to comply with the Waste Disposal (Chemical Waste) (General) Regulations and Ozone Layer Protection (Controlled Refrigerants) Regulations.
- (f) The Government has not offered any financial incentives to car owners for recycling their unwanted vehicles. However, there is a commercial incentive for scrap dealers to maximize recycling and to minimize the amount of material that has to be taken to the landfills.

LPG Taxi and Light Bus Schemes

10. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the Liquefied Petroleum Gas (LPG) Taxi Scheme and the trial scheme for LPG light buses, will the Government inform this Council:*

- (a) *of the current average market price of a LPG taxi; how this compares to the average quarterly market prices over the past two years; whether the market prices of LPG taxis are on the rise; if they are, whether it has assessed the impact of the price increase on the promotion of the LPG Taxi Scheme; if it is assessed to have no impact, of the reasons for that;*
- (b) *it has plans to monitor the prices of LPG taxis; if not, of the reasons for not planning to do so;*
- (c) *whether LPG light buses suitable for use in Hong Kong are available in the market at present; and*
- (d) *of the current market price for a LPG light bus and whether it has assessed if light bus operators can afford the costs of purchasing LPG light buses?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Chinese):
Madam President,

- (a) At present two Japanese vehicle manufacturers provide the main source of supply of diesel and LPG taxis in Hong Kong. According to local taxi dealers and the local agents of the manufacturers, the existing sale price of a new LPG taxi ranges from about \$150,000 to \$220,000. The actual sale price of a taxi would depend on factors such as the make of the vehicle and the type of accessories and equipment installed. There are two makes of new LPG taxis available since they were introduced on a commercial basis in early 1999. However, different levels of discount have been offered since early 1999. We have not detected any upward trend in the market price of LPG taxis. The sale prices of LPG taxis have been lower than those of diesel taxis. The relatively lower price of LPG taxis should be a positive factor in the conversion scheme. However, other supporting measures being

put in place for the LPG scheme are likely to be of more significance for the trade.

- (b) We are closely monitoring the market price movements of LPG taxis. In a free economy, we believe that the prices of LPG taxis should be best determined by market forces. We will however continue to encourage healthy competition in the market. We have briefed members of the Motor Traders Association on the requirements for LPG taxis and encouraged them to enter the local LPG taxi market. A vehicle manufacturer from Australia has expressed interest in doing so and has obtained type approval for its LPG taxi. Given the large-scale LPG taxi conversion programme, we believe there will be scope for other vehicle suppliers to enter the local taxi market.
- (c) Vehicle manufacturers have indicated to us that suitable LPG light buses could be produced for Hong Kong if our light buses switch from diesel to LPG. We plan to launch a trial scheme of clean alternative-fuelled light buses including LPG light buses in the first half of this year. So far, four vehicle manufacturers, two from Japan and two from Europe, have expressed an interest in providing suitable LPG light buses for the trial.
- (d) At this early stage, vehicle suppliers have yet to fix the market prices of their LPG light buses. Prices and operating data such as fuel and maintenance costs will be obtained through the trial. Such information will help us to evaluate how the light bus trade would be affected if light buses switch to LPG or other alternative fuel.

Hospital Authority's New Medical Staff Structure

11. **MISS EMILY LAU** (in Chinese): *Madam President, the Hospital Authority (HA) is planning to reform the medical staff structure by replacing the current ranks of Medical Officer, Senior Medical Officer and Consultant with the ranks of Resident Doctor, Specialist I and Specialist II, and to reduce the starting salary of newly recruited doctors. In this connection, will the executive authorities inform this Council:*

- (a) *whether they know:*
- (i) *if the level of remuneration set by the HA for its newly recruited doctors is comparable to the level of remuneration for newly recruited staff of a comparable rank in government departments for this year;*
 - (ii) *of the total number of Consultant posts created by the HA in the past five years, together with a breakdown of such posts by reasons for their creation; and*
 - (iii) *of the HA's target establishment of Specialists II and how it compares with the current establishment of Consultants; and*
- (b) *of the measures in place to ensure that the adoption of a new medical staff structure by the HA will not result in an increase in public spending?*

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

- (a) (i) In accordance with the HA's proposal, the entry salary for its Resident Doctors to be recruited will be in line with the Government's proposal to reduce the starting salary of its newly recruited Medical and Health Officers in the Civil Service. The HA will keep in view the progress of the Government's salary revision proposal to ensure that the HA's remuneration package remains comparable to that of the Civil Service.
- (ii) The HA has created a net addition of 121 Consultant positions in the past five years from 1995-96 to 1999-2000. A breakdown of the positions, by reasons for their creation in the past five years, is provided at Annex.

- (iii) The HA is currently consulting the staff on the proposed reform on the medical staff structure and has yet to determine on the number of Specialist II positions to be created. An initial ratio of 20% of the total medical staff to be Specialist II is being considered. It should be noted that the proposed medical staff structure reform, which will better delineate the respective roles of residents and specialists, aims at re-engineering service delivery into a specialist-based two-tiered structure. The implementation of a specialist-led delivery system should be able to enhance professional accountability and improve quality of the patient care process. The current consultant-led ranking structure is a three-tiered structure with overlapping roles and responsibilities between the ranks. Under the proposed system, specialists will assume major professional accountability in the care process and are regarded as qualified independent health care professionals within the HA, who will also be responsible for supervising residents to deliver care. The roles and responsibilities for Specialist II are therefore not directly comparable to those of the current Consultant rank. Consequently, the pay levels and pay structure for Specialist II will reflect its corresponding roles and responsibilities and will be different from those of the current Consultant rank. At present, consultant positions account for about 14% of the total medical staff number.
- (b) The proposed medical staff structure reform is designed to be carried out as a cost-neutral exercise. The HA will put in place measures to ensure that the newly proposed medical grade structure will not result in an increase in public spending. A central monitoring mechanism will be set up in the HA to assess the requirement for and the creation of Resident, Specialist I and II positions. Tight control will also be exercised by the HA in the creation of and appointment to Specialist I and II positions which will be subject to the availability of vacant positions, assessment of the appointees' requisite competence level and qualifications for career advancement, and funding availability.

Annex

Net Additional Consultant Positions Created in the HA
in the past five years

<i>Reasons for Creation of Consultant Positions</i>		<i>1995-96</i>	<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>	<i>1999-2000</i>
(A)	Opening of new hospitals and new services in capital work projects	24	14	13	15	0
(B)	Approved service improvement programmes in non-acute and extended care hospitals, such as the provision of hospice, rehabilitation, geriatric and psychiatric services	10	6	3	1	0
(C)	Enhancement of specialty services in major acute hospitals to cope with the rapid increase in patient volume in the clinical specialties of Accident & Emergency, Medicine, Ear, Nose & Throat, Obstetrics & Gynaecology, Orthopaedics & Traumatology and Ophthalmology	9	4	3	1	0

*Reasons for Creation of**Consultant Positions*

	<i>1995-96</i>	<i>1996-97</i>	<i>1997-98</i>	<i>1998-99</i>	<i>1999-2000</i>
(D) Enhancement of subspecialty services in intensive care, bone marrow transplant, neurosurgery, haematology and special radiological imaging in major acute hospitals	7	7	4	2	0
Total	50	31	23	19	-2*

* *In 1999-2000, new requirements for Consultants are met by redeployment, with a net deletion of two Consultant positions.*

Measures to Reduce Air Pollution

12. **MISS CHRISTINE LOH:** *Madam President, regarding the measures to reduce air pollution, will the Government inform this Council:*

- (a) of the respective weights of major pollutants, including total suspended particulates, respirable suspended particulate, nitrogen oxides and volatile hydrocarbons, emitted by all pollution sources in 1998;*
- (b) of the expected amount of annual reduction in the coming five years, in absolute and percentage terms, in the emission of each of these pollutants resulting from the implementation of the measures to reduce vehicle emissions, as outlined in the reply to a written question of this Council of 27 October 1999, and provide a breakdown of such figures attributable to each measure;*

- (c) *how the expected overall emission reduction in (b) above*
- (i) *compares to the targets set out in the 1999 policy address; and*
- (ii) *translates into improvement in the air quality in and assists in achieving the air quality objectives (AQOs) for various districts; and*
- (d) *whether it has assessed, upon implementation of all such measures in (b) above, if the air quality in Hong Kong will meet all the AQOs by 2005, and if the assessment result is in the negative, of the other measures it will take?*

SECRETARY FOR THE ENVIRONMENT AND FOOD: Madam President,

- (a) The weights of emissions of major air pollutants from all combustion sources (including industrial, commercial and domestic activities, power generation, aircraft, marine vessel and motor vehicle) in 1998 are estimated as follows:

<i>Air Pollutant</i>	<i>Emission (tonnes)¹</i>
Particulate matters (PM) ²	12 233
Sulphur dioxide	84 093
Nitrogen oxides	114 738
Volatile organic compounds ³	17 016

- (b) A wide range of on-going and new measures are being implemented to reduce emissions from all categories of vehicles. The expected amount of reduction in the emission of air pollutants by 2005 resulting from the implementation of the vehicle emission reduction measures as outlined in the reply to a Legislative Council question at the meeting of 27 October 1999, and a breakdown of such figures

¹ Overall emissions do not correspond with effects on local air quality. For example, power generation is responsible for 45% of total NO_x emissions, but vehicles are responsible for 81% of NO_x measured at roadside air monitoring stations.

² This refers to respirable suspended particulates (RSP) which is the health related portion of the particulates.

³ This refers to non-methane volatile organic compounds (VOC) which is the primary precursor for the formation of ozone.

attributable to each measure are provided at Annexes 1 and 2. The amount of annual reduction of the emission of the various pollutants within this five year period will depend on the actual timing of the implementation of the various measures.

- (c) (i) If all the measures mentioned in (b) are implemented, and provided that vehicle usage does not increase significantly, particulate and nitrogen oxide emissions from all motor vehicles should be reduced by about 80% and 30% respectively by around 2005.
- (ii) AQOs for seven widespread air pollutants have been established under the Air Pollution Control Ordinance. In 1998, we met all objectives for sulphur dioxide, carbon monoxide, ozone and lead. Nitrogen dioxide and particulates are the pollutants we need to reduce in order to achieve fully our current AQOs

Implementation of the measures will result in substantial and observable improvements in the smoke and fumes experienced in the street. The measured ambient level of respirable suspended particulates and nitrogen oxides will also improve. Assuming that there is no major change in the background air pollution levels in the region, we expect the ambient levels of respirable suspended particulates and nitrogen oxides to improve by about 35% and 20% respectively.

- (d) If we only take into account the emission reductions within Hong Kong without having regard to the changes in the regional air quality, we should be able to meet our current AQOs by 2005. As yet we do not have a sound basis for making projections as to how the air pollution levels in the region will change. To help establish the basis for a regional air quality improvement programme, Hong Kong is now conducting a joint study with Guangdong on the extent and nature of air pollution of the entire Pearl River Delta area. The findings of the study which is due for completion in early 2001 will provide the basis for Hong Kong and Guangdong to work out joint action plans to improve regional air quality.

Expected effects of vehicle emission reduction measures
as outlined in the reply to a Legislative Council question
at the meeting of 27 October 1999

1. *Replace all diesel taxis with liquefied petroleum gas (LPG) taxis*

There are about 18 000 diesel taxis in Hong Kong and they are contributing to 26% of the particulates and 12% of nitrogen oxides emitted by the vehicle fleet. Replacing all diesel taxis with LPG taxis will reduce up to 25% of particulates and 6% of nitrogen oxides from the existing vehicle fleet.

2. *Replace all diesel light buses with LPG light buses or other clean alternatives*

There are about 6 400 diesel light buses including public, private and school light buses in Hong Kong. They contribute to 5% of the respirable particulates and 3% of the nitrogen oxides emitted from the vehicle fleet. Subject to operational trials of clean alternatives to light buses to be conducted in 2000, we propose to provide financial assistance similar to that for the taxi trade to diesel light bus operators switching to use cleaner alternative fuel. The phasing out of the diesel light buses would reduce up to 4% of particulates and 2% of nitrogen oxides from the existing vehicle fleet.

3. *Retro-fit pre-Euro light diesel vehicles with diesel catalytic converters or traps*

There are 70 000 other diesel light goods vehicles (up to 5.5 tonnes in weight) in Hong Kong and they are contributing 25% of the respirable particulates and 13% of the nitrogen oxides emitted from the vehicle fleet. We propose to provide free installation of diesel catalytic converters or traps to all pre-Euro diesel vehicles which can reduce particulates emissions by about 4% from existing vehicle fleet.

4. *Retro-fit pre-Euro buses with diesel catalytic converters*

There are 12 000 buses (including franchised, public and private buses) in Hong Kong and they contribute to 12% of the respirable particulates and 18% of the nitrogen oxides emitted from the vehicle fleet. The franchised bus companies have agreed to retrofit in the next two years some 2 000 pre-Euro standard buses with diesel catalytic converters. This in turn can reduce the emissions of particulates by 3% from the existing vehicle fleet.

5. *Retro-fit pre-Euro medium and heavy diesel vehicles with catalytic converters*

There are about 40 000 medium and heavy vehicle in Hong Kong and they contribute to 30% of the respirable particulates and 30% of the nitrogen oxides emitted from the vehicle fleet. Subject to on-going operational trials, we intend to provide free installation of catalytic converters to all pre-Euro medium and heavy diesel vehicles. This would reduce particulates emissions by 11% from existing vehicle fleet.

6. *All new vehicles to meet Euro III standards*

All new vehicles are required to meet Euro III standards starting from 2001. Together with the introduction of Euro III standards, we intend to reduce the sulphur content of motor diesel to not more than 0.035% in January 2001. We are also seeking to introduce ultra low sulphur diesel to Hong Kong (with sulphur content of 0.005%). These measures can reduce particulates and nitrogen oxides emissions from the vehicle fleet by 36% and 19% respectively.

Annex 2

Emission Reduction in Urban Areas from Vehicles for 1997

Based Upon Different Measures

<i>Existing Vehicle</i>	<i>Emission Contribution in urban areas</i>		<i>Measures</i>	<i>Maximum Emission Reduction of the Vehicle Fleet by 2005</i>	
Taxi	PM: 26% (537 tonnes)		Replace all diesel	PM: 25% (516 tonnes)	
	NOx: 12% (1 286 tonnes)		taxis with LPG taxis	NOx: 6% (643 tonnes)	
Light Buses	PM: 5% (105 tonnes)		Replace all diesel light buses	PM: 4% (84 tonnes)	
	NOx: 3% (331 tonnes)		with LPG light buses or other clean alternatives	NOx: 2% (221 tonnes)	
Light Diesel Vehicles	PM: 25% (518 tonnes)		Retrofit all pre-Euro	PM: 4% (83 tonnes)	
	NOx: 13% (1 411 tonnes)		light diesel vehicles with diesel catalytic converters or traps	NOx: - (not applicable)	

<i>Existing Vehicle</i>	<i>Emission Contribution in urban areas</i>		<i>Measures</i>	<i>Maximum Emission Reduction of the Vehicle Fleet by 2005</i>	
Buses	PM: 12% (247 tonnes)	Retrofit all pre-Euro	PM: 3% (62 tonnes)		
	NOx: 18% (1 998 tonnes)	buses with diesel catalytic converters	NOx: - (not applicable)		
Medium and Heavy Diesel Vehicles	PM: 30% (622 tonnes)	Retrofit all pre-Euro	PM: 11% (228 tonnes)		
	NOx: 30% (3 379 tonnes)	medium and heavy diesel vehicles with catalytic converters	NOx: - (not applicable)		
All new vehicles to meet Euro III standards, starting from 1 January 2001, and fuel specifications to be upgraded accordingly			PM: 36% (751 tonnes)		
			NOx: 19% (2 117 tonnes)		
Total Reduction:			PM: 83% (say, 80%)		
			NOx: 27% (say, 30%)		

Guidelines on Handling of Remittance by Telegraphic Transfer

13. **MISS EMILY LAU** (in Chinese): *Madam President, will the executive authorities inform this Council if they know:*

- (a) *the current procedure adopted by licensed banks for handling remittance by telegraphic transfer from overseas to their local customers' accounts and the time required for completing such procedure;*
- (b) *whether the Hong Kong Monetary Authority (HKMA) has issued guidelines to licensed banks on the handling of various matters in connection with remittance by telegraphic transfer (such as the date for crediting the remitted amount to the recipient's account and the point of time at which the interest on the remittance payable to the recipient starts to accrue, and so on); if it has not, whether the HKMA will consider formulating such guidelines; and*

- (c) *whether the HKMA has clearly defined the terms commonly used in the banking industry (such as the date for crediting the amount in a remittance transaction), so that the industry has the ground rules to follow?*

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

- (a) Banks in Hong Kong follow international practices in handling inward remittances by telegraphic transfer to their local customers. The internationally adopted network of telegraphic communication between banks is provided by the Society for Worldwide Interbank Financial Telecommunications (SWIFT). Through the network, a remitting bank conveys funds transfer instruction to a payee bank, instructing it to effect payment to the beneficiary of the transfer.

After an overseas remitting bank has issued fund transfer instruction to a Hong Kong payee bank, the remitting bank will arrange payment of the remitted funds either direct to the payee bank, or via the correspondent bank of the payee bank. After confirming receipt of funds and checking for restraints that prohibit crediting of the beneficiary's account (for example, court restraint orders), the payee bank will effect payment to the beneficiary in accordance with the funds transfer instruction.

In general, a bank process a fund transfer instruction and the related remitted funds on the same day that they are received, provided that they are received prior to the bank closing its books for the processing of value transactions, that is, the cut-off time as determined by the payee bank. According to the SWIFT User Handbook, the payee bank is responsible for any delay in processing value received prior to the cut-off time. It is therefore a common practice for banks.

Therefore, the factors which determine the time required for payee banks in Hong Kong to process inward remittance include time taken for the funds transfer instruction to reach the payee bank, time taken to credit the remitted funds to the payee bank, time taken by the payee bank to process the remittance in accordance with its

internal procedures, and the time difference in the business hours of the remitting and payee banks.

- (b) The HKMA has not issued any specific guidelines to banks on their remittance business as these are matters relating to the commercial practice of individual banks and their relationship with customers. There are no prudential concerns in these matters which warrant the issue of a supervisory guideline.

Nevertheless, the Hong Kong Association of Banks and the Deposit Taking Companies Association have jointly issued the Code of Banking Practice, which covers cross-border payments. When the Code is reviewed this year, the HKMA will discuss with the Associations whether there is a need to revise the Code to further promote the transparency of banks in providing remittance service to customers.

- (c) The terms "remittance business" and the date for crediting the amount in the remittance transaction are not defined under any supervisory guideline or document issued by the HKMA. As point out in the reply in part (b) above, this piece of information relates to commercial practice of individual banks and their relationship with customers. It would therefore not be appropriate for the HKMA as a regulator to make any definition on matters like this. Nonetheless, the HKMA encourages authorized institutions to supply more information on their services so that bank customers are better aware of their rights and obligations and better equipped to make choices.

Policy on Public Light Buses

14. **MR LAU KONG-WAH** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *whether it has received complaints from drivers of red public light bus (PLB) over the past year about the vicious competition arising from the excessive number of PLB running on the same route;*

- (b) *whether it will consider restricting the number of red PLBs running on each route, through legislative or administrative means; and*
- (c) *of the specific measures to encourage red PLB operators to convert red PLBs to green PLBs?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, PLBs provide a supplementary public transport service and their fleet size has been frozen at 4 350 since 1976. At present, there are 2 045 red minibuses (RMBs) and 2 305 green minibuses (GMBs) in the territory.

The Transport Department did not receive any complaint in 1999 from drivers of RMBs about excessive competition on specific RMB routes.

The operation of RMBs is subject to certain restrictions. They are not permitted to operate on new expressways or in new towns and new housing developments where adequate public transport services are planned. As for existing operating areas, clearway restrictions and prohibitions are introduced where necessary to regulate their activities. On the other hand, RMB operation is characterized by the flexibility in routing, fare level, operating frequency and hours, and so on. These features have enabled RMBs to make adjustments in response to market demand quickly. We have no plan to introduce legislative or administrative measures to restrict the number of RMBs running on individual routes which would curtail the existing flexibility of RMB operation.

It is however the Government's policy to encourage the conversion of RMBs to GMBs. In pursuance of this policy, it is an ongoing task of the Transport Department to identify new GMB routes which are attractive to PLB operators. The Transport Department also work with the existing GMB operators to identify measures to improve the operations and viability of the existing GMB services to maintain their attractiveness. In the past three years, some 700 improvement measures have been implemented and 45 new GMB routes have been introduced. During the same period, 349 RMBs have been converted to GMBs.

In 1999, the Transport Department commissioned two regional studies on GMB operations in Hong Kong Island and in Kowloon and New Territories East. These studies have *inter alia* identified a total of 17 possible new GMB routes to encourage the conversion of RMBs to GMBs. Further details of these possible GMB routes are being developed and a selection exercise would be conducted in due course to invite PLB operators for the routes.

Provision of Accommodation for Artists

15. **MR BERNARD CHAN:** *Madam President, it was reported that, upon the expiry of the relevant short-term leases, the artists now accommodated in a former Government Supplies Department building on Oil Street would be offered leases for space in the former To Kwa Wan Abattoir for a period of three years. In this connection, will the Government inform this Council whether:*

- (a) it has plans to offer long-term accommodation for the artists concerned; and*
- (b) it has formulated specific measures, such as the provision of low-cost exhibition venues and workshops, in order to promote art development in Hong Kong and help local artists in developing their talents?*

SECRETARY FOR HOME AFFAIRS: Madam President, my replies to the Honourable Bernard CHAN's questions are:

- (a) As background, the site of the former Government Supplies Department Depot at Oil Street has been earmarked as a land sale site for commercial/residential development. Pending the disposal of the site, the Depot premises were offered in July 1998 to the public on month-to-month tenancies explicitly for short-term use. The rental was heavily discounted to take into account the temporary nature of the tenancies. Various art groups took up some of the short-term tenancies during 1998 and 1999.

To enable the Depot site to be released for permanent redevelopment and to assist the artists so affected, the Government has offered to lease the ex-Ma Tau Kok Cattle Depot to them on three-year tenancies. They would be renewable if the site is not required by the Government for further development. Since there is currently no timetable for such development, the present arrangement should provide for the artists' requirements in the medium term. We will monitor the situation to see what further measures are needed for the long term.

(b) The Government actively promotes the development of art in Hong Kong and supports local artists through the following measures:

- providing and operating museums, which organize art exhibitions and competitions, as well as commissioning and acquiring works of art — such museums include the Hong Kong Museum of Art, Hong Kong Heritage Museum and Museum of Tea Ware;
- providing and operating exhibition and workshop facilities at highly subsidized rates in the Hong Kong Visual Arts Centre as well as eight civic centres all over the territory;
- organizing community art programmes (including regular exhibitions of works by local artists at the civic centres), a Public Art Scheme (display of local works of art at public places, selected through an open competition), and a Cultural Ambassador Scheme (giving financial and logistical support to local artists for art projects involving community participation);
- identifying vacant government premises pending development and leasing them on short-term tenancies at nominal rental to the Hong Kong Arts Development Council (ADC), a statutory body which aims to promote and support the broad development of the arts, for temporary use as studios/exhibition space. So far seven units at Yau Ma Tei have been so leased to the ADC;

- identifying government premises, in collaboration with the ADC, for display of works of local artists. The pilot scheme at Queensway Government Offices has been well received. We plan to continue the scheme in 2000; and
- sponsoring, through funding support to the ADC, various kinds of arts projects, and encouraging the community and the private sector to support and promote arts programmes and activities.

Sharp Rise in Air Pollution Indexes

16. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, early this month, the Air Pollution Indexes (APIs) recorded by the Environmental Protection Department's roadside monitoring stations in various districts in the territory were abnormally high for several days. In this connection, will the Government inform this Council:*

- (a) *of the causes of the sharp rise in the APIs early this month, and the major source of the air pollutants; and*
- (b) *whether it has immediate and specific measures to prevent the air quality in the territory from further deteriorating?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Chinese):
Madam President,

- (a) Very high APIs, that is, more than 100, were recorded at the three roadside air quality monitoring stations during four of the first 10 days of the month. On these four days, the roadside monitoring stations recorded high levels of nitrogen dioxide emitted from vehicles. These air pollutants were trapped at the street level due to still wind conditions.

- (b) The air pollution problem at the street level is mainly caused by the intensity of vehicle use particularly diesel vehicles in our urban environment. The highly visible ambient air pollution problem is largely caused by local sources including emissions from vehicles, power generation and other fuel combustion processes. It is also affected by regional air quality.

The 1999 policy address set out a series of measures which aim to reduce the total emissions of respirable particulates from diesel vehicles by 60% by end 2003 and 80% by end 2005; and to reduce emissions of nitrogen oxide by 30% by end 2005. The measures were listed in detail in the reply to the Legislative Council question raised by Dr the Honourable LUI Ming-wah at the meeting of 27 October 1999. An updated version is attached at the Annex.

Annex

Measures to reduce emissions from vehicles

A wide range of on-going and new measures are being implemented to reduce emissions from all categories of vehicles. These include:

- (i) *taxis*: there are about 18 000 diesel taxis in Hong Kong. Grants will be provided to assist owners to switch to LPG vehicles. We are also working to ensure that adequate supporting facilities for LPG vehicles can be provided at relatively low costs;
- (ii) *light buses*: there are about 6 400 diesel light buses including public, private and school light buses in Hong Kong. A trial of LPG and other alternative fuelled light buses will be launched this year. If the results are satisfactory, we intend to provide financial assistance similar to that for the taxi trade to encourage operators to switch to clean alternatives;
- (iii) *light diesel vehicles*: there are about 70 000 other diesel light goods vehicles (up to 5.5 tonnes in weight) in Hong Kong. Subject to on-going operational trials, we intend to provide free installation of particulate traps which are capable of reducing about 20% particulates emissions for all pre-Euro standard light diesel vehicles

(including diesel taxis and light buses before they switch to LPG). For the longer term, we will be considering other alternatives to diesel for these vehicles;

- (iv) *buses*: there are about 12 000 buses (including franchised, public and private buses) in Hong Kong. The franchised bus companies have agreed to retrofit some 2 000 buses that do not meet the Euro II emission standards over the next two years with catalytic converter. They also plan to scrap most of their older buses over the next three years. All replacement buses will be new models which meet the latest emission standards. The Transport Department is also continuing with its programme to rationalize bus services and re-organize bus stops in busy areas to reduce congestion, improve traffic flow and reduce pollution;
- (v) *medium and heavy diesel vehicles*: there are about 40 000 medium and heavy vehicles in Hong Kong. Subject to on-going operational trials, we intend to provide free installation of catalytic converters which are capable of reducing up to 50% of the particulates emissions for all pre-Euro standard medium and heavy diesel vehicles;
- (vi) *all vehicles*: we will be adopting the more stringent Euro III emission standard for all new diesel vehicles as from 2001. As further practicable emission standards for diesel or for petrol vehicles are developed in coming years, they will be introduced into Hong Kong. We will present within this year proposals for phasing in age limits for different categories of vehicles for consultation;
- (vii) *fuels*: we intend to reduce the benzene in petrol to not more than 1% in 2000 and to reduce the sulphur content of motor diesel to not more than 0.035% in January 2001. We are seeking also to introduce ultra low sulphur diesel (with sulphur content of 0.005%) initially for the franchised bus fleet;
- (viii) *emission control*: we introduced in September 1999 an advanced smoke test (by means of a dynamometer) for light diesel vehicles spotted for emitting excessive smoke. Dynamometers for

conducting smoke tests on to heavy diesel vehicles will be introduced this year. We intend to shortly introduce legislative proposal to increase the fixed penalty for smoky vehicles to \$1,000. We will also conduct strengthened smoke tests as part of the annual inspection programme of all commercial vehicles and to introduce an emission check in the roadworthiness inspection to petrol vehicles;

- (ix) *education and training*: seminars and workshops for the vehicle service trade aim to promote proper maintenance to reduce emissions and to familiarize them with the dynamometer smoke tests are being held. We are working with the vehicle service trade and the Vocational Training Council to study ways to assist the trade to improve its standards of service;
- (x) *pedestrianization*: pedestrian precincts are being planned in a number of new development areas and on both sides of the harbour. An inter-departmental action group is studying potential street level pollution blackspots which could benefit from pedestrianization or other means which could reduce pedestrian exposure to pollution;
- (xi) *transport planning*: we will integrate transport and land use planning in a more timely and coordinated manner in order to reduce the public's need to travel, which in turn alleviates the demands put on the transport system and reduces vehicle emissions.

Developing Hong Kong International Airport into an International Aviation Hub

17. **MR HOWARD YOUNG:** *Madam President, the Hong Kong International Airport (HKIA) has been commended a number of times by different international travel magazines and institutes since it came into operation in 1998. In this connection, will the Government inform this Council whether it knows if the Airport Authority (AA) has any plans to develop the HKIA into an international aviation hub; if so, of the measures it has taken so far?*

SECRETARY FOR ECONOMIC SERVICES: Madam President, Hong Kong is an international and regional aviation centre. The Government and the AA are committed to enhancing the position of the HKIA as an aviation hub for both passengers and air cargo. The major measures being taken by the Government include the implementation of a liberal air services policy and the introduction of satellite-based communications, navigation and surveillance/air traffic management systems. As far as the AA is concerned, the following measures have been taken:

(a) *Additional Capacity and Facilities*

The second runway was commissioned in August 1999. It has provided the HKIA with greater capacity and operational flexibility. The declared runway capacity has increased from 37 to 40 movements per hour since October 1999 and can be further increased if necessary. The opening of the Northwest Concourse of the Passenger Terminal Building on 20 January 2000 will provide more retail shops and terminal space, as well as 11 additional aircraft parking stands.

(b) *Developing Air and Sea Freight Transshipment as well as Logistics Management Services*

To further promote the development of the HKIA as a cargo hub, the AA has invited expressions of interest for the development and management of a marine cargo terminal and two logistics centres at the HKIA. The marine cargo terminal will facilitate the transfer of air cargo between the HKIA and the Pearl River Delta. The setting up of logistics centres will facilitate Hong Kong's development into a logistics hub, thereby attracting more air cargo to go through Hong Kong.

(c) *Land Use Planning of North Commercial District*

The AA is undertaking a consultancy study on land use in the North Commercial District in order to formulate a comprehensive airport land use strategy. The objective is to complement the further development of the HKIA.

(d) *Strengthening Competitiveness*

The AA has reduced aircraft landing and parking charges by 15% with effect from 1 January 2000. This will help airlines to expand or improve flight services to and from Hong Kong. It also enhances the competitiveness of the HKIA.

(e) *Passenger Hub*

The AA is establishing a group involving major airlines to work out a joint strategy for developing the HKIA as a major passenger hub. This group will focus on overseas promotion and will explore measures to facilitate the transfer to passengers at the HKIA. These will include the rationalization and expansion of existing facilities to shorten the time for handling transfer passengers and their baggage. The goal is to attract more transfer traffic through the HKIA. In addition, the AA is looking into the improvement of operational and commercial facilities inside the Passenger Terminal Building to provide better services to transfer passengers.

Plans to Extend the Use of Octopus Cards

18. **MR BERNARD CHAN:** *Madam President, will the Government inform this Council whether it knows if the relevant parties have plans to extend the use of Octopus cards to cover payments such as those made when shopping in convenience stores and so on; if there are such plans, whether and how the Government will regulate such uses?*

SECRETARY FOR TRANSPORT: Madam President, the Octopus common ticketing system is managed by a private company, the Creative Star Limited. The company is set up by a group of public transport operators for the development and promotion of the common ticketing system which enables commuters to use one single card for travelling on different modes of public transport.

While Creative Star Limited has always had accorded, and will continue to accord top priority to expanding the use of the Octopus Card for transport-related payments, the company is also considering ways to improve services to Octopus cardholders. One such improvement is the use of the Octopus Card for small purchases at convenience stores, as value adding facilities have already been made available at convenience stores since May 1999.

The Octopus Card is currently regulated under the Banking Ordinance (Cap. 155) which provides the Hong Kong Monetary Authority (HKMA) with the power to approve and regulate the issue of multi-purpose cards including the Octopus Card. The regulatory regime of HKMA aims to ensure the soundness of multi-purpose card schemes and the financial strength of the issuers.

To pursue its plan for the use of the Octopus Card for small purchases at convenience stores, the Creative Star Limited will have to apply to the HKMA for an appropriate authorization under the Banking Ordinance. In considering its application, the HKMA will have regard as to the soundness of the card scheme, the business plan and the measures of Creative Star Limited in managing the various types of risk to which the use of the card is exposed for example, credit risk, liquidity risk and market risk.

Selling of Pirated Optical Discs by Post

19. **MR TIMOTHY FOK** (in Chinese): *Madam President, it is learnt that recently lawless elements sold pirated optical discs by post in order to evade crackdown by the Customs and Excise Department (C&ED). In this connection, will the Government inform this Council of the measures it has taken to:*

- (a) *combat crimes of selling pirated optical discs by post; and*
- (c) *eradicate crimes of selling pirated optical discs?*

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

- (a) The C&ED has for some time been closely monitoring the selling of pirated optical discs by post, and has stepped up its intelligence gathering and the tracking of the source of such pirated goods. With sufficient evidence gathered, the C&ED has recently smashed a syndicate engaged in selling pirated optical discs by post and seized a large number of such discs.

The months of successive raids by the C&ED have led unlawful elements engaged in piracy activities to resort to delivering pirated discs by post for avoiding arrests. The C&ED will remain vigilant to prevent a revival of such activities.

- (b) With the vigorous enforcement actions taken by the C&ED, significant progress has been made in containing the piracy problem in Hong Kong. The C&ED will continue to work closely with copyright owners and other law enforcement agencies to combat the problem. However, the successful eradication of piracy activities requires collaborative efforts on various fronts. Apart from law enforcement, legislative measures and education are equally important.

As regards legislation, we are striving for further improvement of the intellectual property laws of Hong Kong although they have already attained international standards. The Legislative Council approved on 12 January 2000 the inclusion of copyright piracy and trademark counterfeiting offences under Schedule 1 to the Organized and Serious Crimes Ordinance. We have also introduced into the Legislative Council the Intellectual Property (Miscellaneous Amendment) Bill, the purpose of which is to prevent bootlegging and to clarify that corporate piracy activities are caught by the existing legislation.

On the education front, emphasis is placed on the promotion of public awareness of and respect for intellectual property rights. In this connection, we have been implementing various long-term education and publicity campaigns actively. The Intellectual

Property Department will spend \$18 million in organizing various publicity campaigns in the coming three years with a view to bringing to all walks of life the message of protecting intellectual property rights. All in all, the eradication of the piracy problem hinges on the community's respect for intellectual property rights. Co-operation from the general public is therefore of utmost importance.

Long Working Hours of Doctors in Public Hospitals

20. **MISS CYD HO:** *Madam President, according to a survey conducted by the Public Doctors Association, Consultants and Senior Medical Officers in public hospitals work on average 60 hours a week, whereas Medical Officers and Housemen work on average 70 and 100 hours respectively, including on-call time. In this connection, will the Administration inform this Council whether:*

- (a) it knows if the Hospital Authority (HA) has compiled any statistics on the average number of hours worked by Medical Officers in various ranks; if it has, of the details; if it has not, the reasons for that;*
- (b) it has assessed the impact of Medical Officers' long working hours on the quality of hospital services; if it has, of the assessment results; if not, the reasons for that;*
- (c) it knows if the HA will adopt measures to reduce Medical Officers' working hours; if HA will not adopt such measures, the reasons for that; and*
- (d) it will request the HA to review the work schedules for its Medical Officers in the light of Article 7(d) of the International Covenant on Economic, Social and Cultural Rights, which recognizes the right of enjoyment of just and favourable conditions of work which includes, among others, rest, leisure and reasonable limitation of working hours?*

SECRETARY FOR HEALTH AND WELFARE: Madam President,

- (a) The HA conducted a survey in November 1998 on, among other things, the working hours of doctors in 10 acute general hospitals. The survey findings revealed that the working hours of doctors varied across different hospitals and specialties, ranging from 50 to 90 hours per week. On average, the working hours (including on-call duties) of Interns and Medical Officers were 85 and 70 hours per week respectively, whereas Senior Medical Officers and Consultants worked 62 hours per week. Due to the difference in nature of practice and the case-mix of patients with more acute and complex medical problems, the working hours of doctors in general acute hospitals with accident and emergency services are usually longer.
- (b) The HA is currently in the process of developing and implementing various input, process and outcome indicators for assessing its performance and service quality. The working hours of doctors is only one of the many input factors for assessing the quality of hospital services. Due to the complexity of health care service delivery, it is very difficult to single out this factor to assess its impact on service quality and to reach conclusive results. To ensure the provision of quality health care service, the HA has implemented various quality assurance and risk management initiatives, including enhancing clinical supervision and assuring clinical competence through training, to ensure that patient care services would be delivered by doctors with requisite knowledge, training, skills, experience and core competencies.
- (c) The HA recognizes the problem of long working hours for doctors and has put in place a number of measures to alleviate medical staff workload. These include granting of time off after excessive continuous hours of work; arranging on-call duties for no more than one in three days for interns and junior medical officers; streamlining of work processes; and reduction of clerical and administrative work performed by medical staff.

- (d) We recognize the importance of favourable working conditions, which ensure, among others, rest, leisure and reasonable limitation of working hours, as stipulated in Article 7 of the International Covenant on Economic, Social and Cultural Rights. Due to the nature of hospital operation which requires provision of round-the-clock services for patients, it is necessary for doctors to adopt work schedules which extend beyond the normal office hours. We shall request the HA to continue to review, on an on-going basis, the medical staff work schedules and to collect feedback from staff on working conditions. This will enable the HA to identify problem areas and implement measures to relieve doctors' workload and improve their working conditions.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

MEDICAL AND HEALTH CARE (MISCELLANEOUS AMENDMENTS) BILL 2000

COMPANIES (AMENDMENT) BILL 2000

CLERK (in Cantonese): Medical and Health Care (Miscellaneous Amendments) Bill 2000
Companies (Amendment) Bill 2000.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

**MEDICAL AND HEALTH CARE (MISCELLANEOUS AMENDMENTS)
BILL 2000**

SECRETARY FOR HEALTH AND WELFARE: Madam President, I move the Second Reading of the Medical and Health Care (Miscellaneous Amendments) Bill 2000. The Bill seeks to make improvements to seven Ordinances related to medical and health care services, namely,

- (a) the Pharmacy and Poisons Ordinance (Cap. 138),
- (b) the Medical Registration Ordinance (Cap. 161),
- (c) the Midwives Registration Ordinance (Cap. 162),
- (d) the Nurses Registration Ordinance (Cap. 164),
- (e) the Radiation Ordinance (Cap. 303),
- (f) the Supplementary Medical Professions Ordinance (Cap. 359), and
- (g) the Chiropractors Registration Ordinance (Cap. 428).

These Ordinances provide for the establishment of regulatory schemes to control the handling and trading of pharmaceutical products, irradiating apparatus and radioactive substances, and to regulate the practice of different health care professionals through a system of registration and discipline.

We propose to improve the Ordinances by removing some out-dated provisions, streamlining the operation of the regulatory bodies, clarifying some existing ambiguities in the Ordinances and rectifying some minor textual errors. The consistency among the relevant ordinances will also be enhanced. Some of the more significant amendments are:

- (a) Amending the Pharmacy and Poisons Ordinance to provide that regulations made by the Pharmacy and Poisons Board shall be subject to the approval of the Secretary for Health and Welfare and the negative, instead of positive, vetting by this Council;

- (b) Amending the Pharmacy and Poisons Ordinance and the Supplementary Medical Professions Ordinance so that the Hong Kong Branch of British Medical Association will no longer be required to nominate a member each to the Pharmacy and Poisons Board and the five Boards prescribed under the Supplementary Medical Professions Ordinance;
- (c) Amending the Nurses Registration Ordinance to provide that the result of an election of members to the Nursing Council of Hong Kong may be questioned by an election petition and to authorize the Council to make regulations in relation to the election petition;
- (d) Amending the Radiation Ordinance to enable the Radiation Board to transact its business by circulation of papers;
- (e) Amending the Chiropractors Registration Ordinance to provide that rules made by the Chiropractors Council may be subject to the approval of the Secretary for Health and Welfare, in addition to the negative vetting of the rules by this Council; and
- (f) Amending the Chiropractors Registration Ordinance to provide that a registered chiropractor applying for the issue of or renewal of a practising certificate shall provide information as to whether he/she has been convicted of a criminal offence or found guilty of professional misconduct.

Madam President, the amendments proposed in the Bill are necessary for improving the operation of the regulatory schemes concerned. I commend the Bill to Members for their favourable consideration.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Medical and Health Care (Miscellaneous Amendments) Bill 2000 be read the Second time.

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

COMPANIES (AMENDMENT) BILL 2000

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I move the Second Reading of the Companies (Amendment) Bill 2000. This Bill has two purposes, first, to give effect to the recommendations made by the Law Reform Commission (LRC) to formulate a series of statutory procedures for corporate rescue and introduce provisions to stipulate the legal responsibilities to be borne by the director of a company engaged in insolvent trading. Second, it implements the various recommendations made by the Standing Committee on Company Law Reform to improve the Companies Ordinance, so that the Companies Ordinance will better suit the needs of users, facilitate business and the day to day operation of the Registrar of Companies and the Official Receiver.

First, let me talk about the LRC's recommendations. At present, there are provisions in the Companies Ordinance providing a mechanism for debts repayment arrangements and reorganization, so that a company in financial straits may reach an agreement with its creditors to restructure the company's debts. However, the present mechanism is not legally binding. Thus, in some cases when a debt arrangement is almost reached, some creditors may decide to petition the court to wind up the company. As a result, the viable company will not be able to implement the restructuring plan and escape the fate of closing down.

In view of this, we agree with the recommendation made by the LRC in 1996 to introduce statutory rescue procedures on top of the present mechanism to provide a breathing spell to a viable business in financial difficulty to restructure and survive as a going concern.

Following the LRC's recommendation, the Bill stipulates that a company or the directors of a company may propose a statutory stay of proceedings, that is, a "moratorium" as referred to in the Bill, to protect a company from actions against it by its creditors during the period of the moratorium. The moratorium will be introduced for an initial period of 30 days, and thereafter an extension of up to six months from the commencement of the moratorium may be made with sufficient reasons and subject to the court's approval. During the moratorium, an independent professional third party, the provisional supervisor, will take over the control of the company and formulate a voluntary arrangement proposal for creditors within the specified timeframe.

The provisional supervisor will be a key figure in the whole rescue process. He must familiarize himself with all aspects of the company within a short time and obtain the trust and co-operation of the creditors, as well as taking charge of all operations of the company during the moratorium. Thus, the provisional supervisor must be a person of integrity and possess the necessary professional expertise. The Bill proposes that provisional supervisors should only be selected from a panel of practitioners operated by the Official Receiver and comprising solicitors and professional accountants. The Official Receiver may also approve suitably qualified independent persons as provisional supervisors.

New Part IVB in clause 24 of the Bill contains the proposed provisions on the steps for initiating the rescue procedures, the implementation of the moratorium, the appointment of the provisional supervisor; the role of the provisional supervisor in the company during the moratorium, his powers, duties and legal responsibilities; the rights of creditors; the provisions for the meetings of creditors, the proceedings of the meetings and the repayment of the secured and unsecured debts of the company, as well as the circumstances after the voluntary arrangement has been approved. Therefore, I will not go into them here.

While we have accepted the LRC's corporate rescue procedure, we have also amended certain recommendations of the LRC. Specifically, the LRC recommended in its report to expand the scope of the Protection of Wages on Insolvency Fund, so that if a company under rescue dismisses employees or owes them wages in arrears, these employees can make an application for *ex gratia* payment from the Fund.

In 1998, we conducted a separate consultation on this subject. The results showed that both employer and employee groups opposed changing the relevant applications of the existing Protection of Wages on Insolvency Fund. Therefore, the present Bill proposes that a company under rescue must pay the wages in arrears, severance payments and other statutory employee compensation to its dismissed employees first, just as an average company which operates as a going concern.

We also have reservations about the LRC's suggestion that the rescue procedure should apply to registered institutions such as insurance companies and securities and futures institutions, although it does not apply to banks. In our view, under the existing legislation, the three types of institutions mentioned

above should be subject to the same sort of regulation. The law empowers the regulatory authorities to take over these institutions when they run into financial trouble, or oblige them to act in certain ways. Therefore, we propose in the present Bill that the statutory corporate rescue procedures should not apply to the authorized institutions under the Banking Ordinance, insurers under the Insurance Companies Ordinance, registered dealers or other persons regulated under the Securities Ordinance and the Commodities Trading Ordinance and licensed leveraged foreign exchange traders under the Leveraged Foreign Exchange Trading Ordinance.

Madam President, let me stress that the purpose of introducing the statutory corporate rescue procedure is to save those viable companies which are in temporary financial difficulty or facing a temporary economic downturn. The proposed Bill is not a miraculous cure that can resurrect companies which is hopeless or prolong the life of companies heavily in debt. In future, we hope that with the statutory moratorium, the efforts of the professional provisional supervisor and the co-operation of creditors, viable companies can escape the fate of being wound up. This way, some job opportunities will be preserved and shareholders and creditors will benefit.

I wish now to talk about another LRC recommendation, that is, to introduce insolvency trading provisions. The provision stipulates that if a company is allowed to engage in insolvency trading which ends up in its liquidation, the director of the company shall be liable to make compensation to the company, unless he can prove that he has given the company appropriate warning and suggested that the company take appropriate actions. The relevant recommendation is stipulated in clause 44 of the Bill. The purpose of introducing this provision is to encourage directors and senior management of a company to take these problems seriously at an early date and not wait until the financial difficulties of the company is past remedy before taking actions.

Madam President, another purpose of this Bill is to implement the series of recommendations made by the Standing Committee on Company Law Reform, including the recommendation to reduce the documents required to be filed by local and overseas companies as set out in clauses 7 to 11, 15 and 46 to 49 of the Bill.

We also propose in clause 14 of the Bill to add new sections to enable a company to pass a resolution without holding a meeting if all the shareholders unanimously agree to do so. This is especially advantageous to small companies since it could reduce the number of formal meetings.

Clause 13 of the Bill proposes to lower the threshold for the requisition for convening an extraordinary meeting from the present requirement of members holding not less than one tenth of the paid-up share capital to one twentieth. This will facilitate the requisition of a meeting of the company by minority shareholders and is conducive to better corporate governance.

The Bill also provides the opportunity to rectify certain technical omissions and to streamline and update a number of provisions.

I hope Members will support the Companies (Amendment) Bill 2000. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Companies (Amendment) Bill 2000 be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Organized and Serious Crimes (Amendment) Bill 1999.

ORGANIZED AND SERIOUS CRIMES (AMENDMENT) BILL 1999

Resumption of debate on Second Reading which was moved on 21 April 1999

PRESIDENT (in Cantonese): I have permitted Mr James TO, Chairman of the Bills Committee on Organized and Serious Crimes (Amendment) Bill 1999, to address this Council on the Committee's Report.

MR JAMES TO (in Cantonese): Madam President, as the Chairman of the Bills Committee on Organized and Serious Crimes (Amendment) Bill 1999, I now report to this Council on the major deliberations of the Bills Committee.

The Bill requires all remittance agents to keep records of transactions which concern amounts of HK\$20,000 or more or an equivalent amount in any other currency. The Administration explained that the setting of the threshold at \$20,000 was meant to minimize the disruption caused to the businesses concerned on the one hand, and to facilitate enforcement actions on the other. The Bill also empowers the Secretary for Security to revise the threshold by notice in the Gazette. However, it is also stipulated in the Bill that all revisions of the threshold must first be put before the Legislative Council for scrutiny.

On the definition of "remittance agent", the Administration explained that "remittance agent" meant a person who provided a service to another person or persons as a business. The crucial point, according to the Administration, was that the remittance service must be a chargeable service irrespective of the number of transactions carried out in a certain period. The Administration further explained that should there be a benefit, irrespective of its form and nature, arising from a transaction, such a transaction would be regarded as a business. And, if a person provided remittance service to another person totally free of charge or without receiving any benefit, then under the Bill, this person would not be deemed to have provided remittance service as a business. The Administration would give a clear definition of this term in the Administrative Guidelines to be issued to the money changing trade.

One major concern of Members was the Bill proposal to exempt the authorized institutions regulated by the Hong Kong Monetary Authority (HKMA), the authorized insurers regulated by the Insurance Authority (IA) and the registered persons regulated by the Securities and Futures Commission (SFC) from the definition of "remittance agent". Besides, the Administration also proposed to move a Committee stage amendment to give exemption to authorized insurance brokers and leveraged foreign exchange traders regulated respectively by the IA and the SFC. Members questioned the rationale behind the proposed exemption.

The Administration explained that the primary objective of the Bill was to introduce anti-money laundering measures for non-banking financial institutions which were not currently regulated, that is, money changers and remittance

agents. The HKMA, the SFC and the IA have already put in place many sound and comprehensive regulatory measures for those institutions in their jurisdiction, and these measures include legislative control, guidelines on anti-money laundering, notices on the latest development of money laundering, regular inspection and review and special training courses for employees. The Administration was of the view that these measures could already prevent these institutions from being used for money-laundering. Moreover, the Administration also made the point that the anti-money laundering effort made by local financial institutions and the regulated segments of the financial sector had received commendation from a special international body responsible for combating money laundering. The proposed exemption is fully consistent with accepted international practice.

The Administration pointed out that the failure of any financial institutions to observe the guidelines on anti-money laundering would certainly lead to doubts about their suitability for continued business. When this occurred, the regulatory body would request the institution concerned to introduce remedial measures. If the institution refused to comply, its licence might be revoked eventually. The Administration was therefore of the view that such an ultimate sanction should be able to achieve effective deterrence, ensuring that the various financial institutions would always observe the guidelines issued by their respective regulatory bodies.

Members were satisfied that the measures put in place by the regulatory bodies could serve to guide the institutions under their regulation and ensure that they could comply with the statutory requirements in respect of money laundering. They were, however, also worried that if banking institutions were exempted from the Bill, the difference in statutory requirements between money changers and banking institutions in respect of keeping records of customer identification in money changing transactions would result in unfair competition. Members were also worried that the different statutory requirements applied to banking institutions and money changers, especially those in relation to walk-in customers, might lead to loopholes in anti-money laundering measures.

The Administration explained that it was inappropriate to compare money changers and remittance agents with financial institutions solely in terms of the customer identification and record keeping requirements. As regulated financial institutions operated differently from money changers and remittance agents, any comparison should be made with reference to the overall regulatory

regime in the respective sectors. The regime for financial institutions serves to prevent such institutions from being used for money laundering operations and ensures that an audit trail of businesses conducted can be made available whenever necessary. In addition, it was also pointed out the cost of anti-money laundering measures made for purposes of full compliance with statutory requirements would not be lower than costs arising from compliance with the Bill requirements currently proposed. The question of unfair competition between financial institutions and remittance agents and money changers should therefore not arise.

Members also expressed concern for the customer identification and record keeping requirements which banking institutions would have to meet when handling the money exchange transactions involving walk-in customers. The Administration explained that on the basis of the HKMA guidelines, most banking institutions had already formulated internal guidelines on the identification of walk-in customers involved in significant transactions. It assured Members that the customer information requested by individual banks for the purpose was in compliance with the guidelines issued by the HKMA. Banks would report suspicious transactions regardless of the amounts of money transacted. To allay the worries of Members, the Administration undertook to join hands with the HKMA to review the guidelines formulated by individual banks on money exchange transactions involving walk-in customers.

Following detailed discussions, Members accepted the proposal of the Administration to exclude authorized institutions and registered persons from the definition of "remittance agent" according to clause 24A. Members also agreed that the Administration should move a Committee stage amendment on adding leveraged foreign exchange traders and insurance brokers to the list of exemption. The Administration assured Members that it would join hands with the HKMA, the SFC and the IA to review the anti-money laundering guidelines issued to financial institutions, taking account of the need to tie in with the proposals of the Bill.

Madam President, under the Bill, an employee of a money changer or remittance agent shall bear the criminal liability for non-compliance with the proposed statutory requirements. In contrast, an employee of a banking institution will not be held criminally liable for committing the same act. Members expressed concern about the disparity in treatment.

In response, the Administration replied that banking institutions were required to comply with all the guidelines issued by their respective regulatory body. If a banking institution failed to comply with the anti-money laundering guidelines issued by the HKMA, its operating licence would be revoked. For this reason, banking institutions would issue internal guidelines to ensure compliance with the HKMA guidelines.

Despite the explanation of the Administration, I still have reservations about the disparity in treatment. For reasons of fairness, all people who commit the same type of offence should be subject to the same criminal liability as a matter of principle.

Under the Bill, a remittance agent commits an offence if he fails to comply with the statutory requirement on customer identification and record keeping, unless he has taken reasonable steps to prevent the commission of the offence. Members were of the view that some kind of defence provision should be drawn up for the employees of money changers and remittance agents. The Administration accepted the proposal and undertook to move a Committee stage amendment on that.

Madam President, the Bill confers powers on authorized officers to enter the premises of remittance agents and money changers and to inspect their records. Members asked whether such premises would also include residential premises and whether a judicial warrant would be required for entering domestic premises.

With reference to past experience, the Administration explained that some remittance agents had been found operating their businesses inside domestic premises. For this reason, "premises" should also include domestic premises. To allay Members' worries, however, the Administration agreed to add the definition of "domestic premises" to the Bill, and such a definition would be based on a similar definition found in the Import and Export Ordinance. In addition, the Administration also agreed to add a new requirement to the Bill, under which a judicial warrant would have to be obtained before entering any domestic premises. The Administration undertook to move a Committee stage amendment on that.

On the entry into composite residential/commercial premises for the purpose of investigating suspected money laundering activities, the

Administration replied that if the residential part of the premises was separated clearly from the area used for commercial purpose, the police would not enter the area used for residential purpose. The Administration assured Members that the enforcement agencies would be cautious in exercising their power to enter premises for suspected money laundering operations.

Members also urged the Government to step up the publicity on the various proposed requirements and to provide more detailed information in the guidelines issued to the relevant trades.

The Committee stage amendments to be moved by the Secretary for Security later today are all supported by the Bills Committee.

Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): Madam President, if we wish to turn Hong Kong into a centre of high value-added activities, and innovation and technologies and a knowledge-based economy, we must seek to make the protection of intellectual property rights our most urgent task. That is why the Hong Kong Progressive Alliance (HKPA) agrees that the Government should classify the offences of piracy and counterfeit trademarks as organized and serious crimes. That way, Hong Kong may shake off the notorious "Paradise for Piracy and Inferno for Genuine Goods" and prevent lawless elements from furthering their self-interests at the expense of the overall interests of Hong Kong. At the same time, however, the HKPA also hopes that the Government can appreciate the worries of the majority of law-abiding manufacturers as a result of the new legislation. We do not wish to see any loopholes in all these procedures, lest some unwary manufacturers may be victimized, thus leading to miscarriage of justice.

The fact is that following the implementation of this Ordinance, manufacturers

MR JAMES TO (in Cantonese): Madam President, a point of order.

PRESIDENT (in Cantonese): Yes. Miss CHOY So-yuk, please sit down first. Mr James TO, what is the point of order you wish to raise?

MR JAMES TO (in Cantonese): Madam President, I am afraid the Honourable Miss CHOY So-yuk may have some misunderstanding here. The Bill we are discussing is the Organized and Serious Crimes (Amendment) Bill 1999. This is not related to any piracy acts which she talked about.

PRESIDENT (in Cantonese): Mr James TO, you are right. Thank you for the reminder. Please sit down. Miss CHOY So-yuk, this Bill is about the detection and curbing of money laundering operations, and it deals with the various requirements applicable to money changers and remittance agents.

MR JAMES TO (in Cantonese): Madam President, the motion to which Miss CHOY So-yuk referred was already passed last week.

MISS CHOY SO-YUK (in Cantonese): Madam President, I understand that we are now discussing the Organized and Serious Crimes (Amendment) Bill.

PRESIDENT (in Cantonese): Yes, but when you spoke a moment ago, you talked about piracy instead of money laundering.

MISS CHOY SO-YUK (in Cantonese): This is actually part of the whole issue.

PRESIDENT (in Cantonese): Well, then please continue.

MISS CHOY SO-YUK (in Cantonese): Madam President, today, I wish to talk about the worries in connection with manufacturers of pirated goods.

PRESIDENT (in Cantonese): The worries of manufacturers of pirated goods?

MISS CHOY SO-YUK (in Cantonese): Madam President, if you rule that I cannot discuss this matter today, I can stop speaking on it.

PRESIDENT (in Cantonese): Miss CHOY So-yuk, I am not supposed to make any ruling on any remarks which you have not yet delivered. The Bill under discussion now is about money-laundering, the requirements applicable to money changers and remittance agents and the regulation of their businesses. I do not know what you are going to talk about, but please speak to the question.

MISS CHOY SO-YUK (in Cantonese): Madam President, well then, I would speak at a later time.

PRESIDENT (in Cantonese): Thank you, Miss CHOY So-yuk.

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

(No Member responded)

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, Mr James TO, the Chairman of the Bills Committee, has explained in detail the objects and provisions of the Organized and Serious Crimes (Amendment) Bill 1999 in his report. I do not wish to repeat what he has said just now. I only wish to make use of this opportunity to thank Mr TO and members of the Bills Committee. In the course of deliberating on the Bill, they have meticulously and effectively examined the contents of the Bill and put forward many recommendations.

I will propose three amendments at the Committee stage. These amendments have been discussed in the meetings of the Bills Committee which also endorsed and supported these amendments.

Madam President, I hope Honourable Members can support the Organized and Serious Crimes (Amendment) Bill 1999 to strengthen our regime to combat money laundering. I will move the relevant amendments at the Committee stage later.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Organized and Serious Crimes (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): Organized and Serious Crimes (Amendment) Bill 1999.

Council went into Committee.

Committee Stage

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

ORGANIZED AND SERIOUS CRIMES (AMENDMENT) BILL 1999

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

CLERK (in Cantonese): Clauses 1 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that clause 2 be amended, as set out in the paper circularized to Members. I move that the definition of "remittance agent" in the proposed clause 24A be amended to add authorized insurance broker and licensed leveraged foreign exchange trader into the list of persons exempted from the Bill, so that they will not fall under the definition of "remittance agent".

In the course of the Bills Committee's deliberations on this Bill, we considered the fact that authorized insurance brokers and licensed leveraged foreign exchange traders and other financial institutions exempted from the Bill should comply with the preventive measures on money laundering imposed by other regulators of financial institutions such as the IA and the SFC. As these measures are well-established, these two groups of persons should be exempted from the Bill.

Madam Chairman, I move to amend the proposed clause 24D(1)(a) on the criminal liability of money changers and remittance agents and their employees. We agree to the recommendation made by Honourable Members that defence provisions should be made for these employees and to make it an offence should

they fail to comply with the provisions to verify the identity of the customer or to keep a record of the transactions, unless the remittance agent can prove that he has exercised reasonable diligence to avoid the commission of the offence.

Madam Chairman, I move the amendment to clause 24E on the power of authorized officers to enter premises and inspect books, and so on. We agree to the recommendation made by Honourable Members to add provisions in the Bill to specify that a warrant issued by a magistrate must be obtained before authorized officers may enter domestic premises. To this effect, we propose to define "domestic premises" as any premises or place used exclusively for residential purposes and constituting a separate household unit.

Madam Chairman, I hereby move the above amendments.

Proposed amendment

Clause 2 (see Annex VI)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

ORGANIZED AND SERIOUS CRIMES (AMENDMENT) BILL 1999

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

Organized and Serious Crimes (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 Organized and Serious Crimes (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): Organized and Serious Crimes (Amendment) Bill 1999.

MOTIONS

PRESIDENT (in Cantonese): Motions. Two proposed resolutions under the Mutual Legal Assistance in Criminal Matters Ordinance.

PROPOSED RESOLUTION UNDER THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move the resolution on the making of the Mutual Legal Assistance in Criminal Matters (Italy) Order. The Hong Kong Special Administrative Region endeavours to participate in international co-operation on combating serious crime. For this purpose, we have implemented a plan to establish a bilateral agreement network

with other jurisdictions for mutual legal assistance in criminal matters. These agreements ensure that both parties shall provide mutual assistance to enhance international co-operation on combating multi-national crime. So far, we have signed the relevant bilateral agreements with eight countries, including Australia, France, New Zealand, Britain, the United States, Italy, the Republic of Korea and Switzerland.

The Mutual Legal Assistance in Criminal Matters Ordinance provides the necessary statutory framework so that we can provide assistance in the investigation and prosecution of criminal offences, including the taking of evidence from witnesses, the search and seizure of materials, the transfer of the relevant persons to appear as witnesses and the confiscation of criminal proceeds. In accordance with section 4(2) of the Ordinance, the Chief Executive in Council has made two Orders to implement the bilateral agreements we executed with Italy and the Republic of Korea for mutual legal assistance in criminal matters. These two Orders specify the scope and procedures of assistance and provide for safeguards of the rights of persons involved in criminal proceedings. These Orders are essentially in conformity with the provisions of the Ordinance. However, due to the different practices of different jurisdictions in mutual legal assistance, modifications have to be made to some provisions of the Ordinance to reflect the usual practices of a certain party. These modifications are necessary in order for Hong Kong to fulfil its obligations under the individual agreements. The modifications made in respect of the agreements executed with Italy and the Republic of Korea are summarized in the Schedule to each Order. I thank the Chairman of the Subcommittee, Mr James TO, and other members for their careful scrutiny of this Order.

The Secretary for Security moved the following motion:

"That the Mutual Legal Assistance in Criminal Matters (Italy) Order, made by the Chief Executive in Council on 14 September 1999, be approved."

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

MR JAMES TO (in Cantonese): Madam President, this Council formed a Subcommittee to examine the Italy Order and the South Korea Order made under the Mutual Legal Assistance in Criminal Matters Ordinance (the Ordinance). I rise to speak in my capacity as the Chairman of the Subcommittee.

Pursuant to section 4(2) of the Ordinance, the Chief Executive in Council has made two Orders to implement the bilateral arrangements for mutual legal assistance in criminal matters with Italy and South Korea. These two Orders specify the scope and procedures in relation to the provision of assistance. They also provide for safeguards of the rights of persons involved in criminal proceedings.

I shall now highlight the deliberations of the Subcommittee on these two Orders.

The Italy Order

The Subcommittee considers that the scope of assistance to be provided under paragraph (2)(k) of Article I of the Hong Kong/Italy Agreement is too wide. The Administration has explained that paragraph (2)(k) of Article I is included to ensure that types of assistance which are not specifically listed would nevertheless be provided so long as such assistance is consistent with the objects of the Hong Kong/Italy Agreement and with the law of the Requested Party.

The Subcommittee expresses concern about the provisions in paragraph (5) of Article VIII of the Hong Kong/Italy Agreement requiring a person asserting a claim of immunity, incapacity or privilege to give evidence first before such claim is made known to the authorities concerned for subsequent resolution as to whether the claim is valid.

The Administration has advised that such a situation will only occur when there is no provision in the law of the Requested Party for asserting a claim of immunity, incapacity or privilege. The Administration considers it more practical for the Requesting Party to rule on questions that arise pursuant to its law.

The Subcommittee notes that the modifications to the Ordinance set out in Schedule 2 to the Italy Order are similar to the modifications provided in other Orders made under section 4 of the Ordinance.

The South Korea Order

The Subcommittee notes that the modifications to the Ordinance set out in Schedule 2 to the South Korea Order are exactly the same as the modifications provided for in the Italy Order.

The Subcommittee has concluded that the Italy Order and the South Korea Order should be supported.

Madam President, these are my remarks on the deliberations of the Subcommittee. Thank you.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Security, do you wish to reply?

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

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

(Members raised their hands)

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

(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): Second proposed resolution under the Mutual Legal Assistance in Criminal Matters Ordinance.

PROPOSED RESOLUTION UNDER THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move the second motion under the Mutual Legal Assistance in Criminal Matters Ordinance which has been printed on the Agenda, relating to the enactment of the Mutual Legal Assistance in Criminal Matters (South Korea) Order.

Earlier on, in my speech moving the motion to enact the Mutual Legal Assistance in Criminal Matters (Italy) Order, I explained the importance of enacting the Mutual Legal Assistance in Criminal Matters Order, so I do not intend to repeat it here. I urge Members to approve the Mutual Legal Assistance in Criminal Matters (South Korea) Order. Thank you, Madam President.

The Secretary for Security moved the following motion:

"That the Mutual Legal Assistance in Criminal Matters (South Korea) Order, made by the Chief Executive in Council on 14 September 1999, be approved."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR RONALD ARCULLI: Madam President, in my capacity as Chairman of the Subcommittee on subsidiary legislation relating to 2000 Legislative Council Election, I move the motion standing in my name on the Agenda.

The Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation sets out the procedure to be followed for having certain particulars, that is, the name, an abbreviation of the name or an emblem of an organization or an emblem of a natural person printed on a ballot paper for use in a Legislative Council Election (excluding an Election Committee subsector election).

The Subcommittee has met with the Administration's team, namely, representatives of the Administration and the Registration and Electoral Office, to discuss the Regulation on three occasions.

As proposed under the Regulation, applications for registration will only be invited in the year in which a Legislative Council Election is to be held. If the Electoral Affairs Commission (EAC) is of the opinion that it may refuse an application, the applicant will be given 14 days to lodge with the EAC a statement of reasons why the EAC should not refuse to grant the application or to make a request to vary the application. The EAC will then compile a

Provisional Register for all the applications that it intends to grant for publication in newspapers and for public inspection. Upon receipt of an objection, the EAC will hold a hearing. The EAC's decision is final and not subject to any appeal. An applicant has to apply to the EAC for renewing the registered particulars if the applicant would like to retain the registered particulars in the next register, otherwise, the particulars will cease to be registered.

Apart from a member who has expressly indicated that he does not support the Regulation, the Subcommittee supports in principle the proposal of enabling the emblem or name of an individual, organization or a political party to be on ballot papers. However, the majority of the members of the Subcommittee have raised concern about the technical and implementation aspects of the proposal.

I would like to quote two examples of the confusion that could arise upon the implementation of the Regulation.

In the first example:

Under section 7(1), the EAC may refuse an application made by organization A for the registration of a name or an emblem if the name or an emblem is identical or so closely resembles that of organization B on the condition that:

- (i) the name or emblem of organization B is registered; and
- (ii) organization B has applied for renewal of its application.

Since the two conditions must co-exist, the EAC apparently has no power under section 7 to refuse the application of organization A if organization B does not make an application to renew its registration. The Administration's team does not consider the arrangement would pose any problem because when the Provisional Register containing details of the application of organization A is published, any objection raised by organization B will be considered by the EAC. In any event, if organization B has not made an application for renewal, its name or emblem will not be entered in the new register.

However, the Administration's team has not addressed the question of the failure of organization B to object, and the question of the incapability of organization B to object to the application because it has ceased to exist.

In the second example:

Under the Regulation, applications for registration should be made during a "relevant period" which falls within the nine months immediately preceding the date of a general election of the Legislative Council.

The Subcommittee is concerned about this scenario: Let us say shortly after the 2000 Legislative Council Election, or indeed, any subsequent general election of the Legislative Council, organization A adopts an emblem which might be similar to a registered emblem of organization B. However, organization A cannot apply for registration of the emblem at that time because of the existing arrangement. When organization A submits an application for registration of its emblem in 2004 for the purpose of printing the emblem on a ballot paper for the 2004 Legislative Council Election, can the EAC refuse its application on the ground that the emblem is similar to that of organization B which has also applied for renewal of its emblem? One has to bear in mind that organization A may have been using the emblem for over three years.

To sum up, some members consider that the registration procedure under the Regulation is very cumbersome and should be simplified. Since candidates are at present free to use any names and emblems in election publicity materials without being subject to any registration procedure, they have proposed that the registration procedure should be replaced by a notification procedure. The EAC's role should be confined to ascertaining whether a candidate is authorized to use the particulars. Although the EAC's approval *per se* is not required, it would also be empowered to refuse to accede to the request on specified grounds. These members have also expressed concern that a procedure which has imposed too many restrictions might compromise political freedom or even freedom of expression. As the EAC is an independent statutory body, it would be undesirable for it to be involved in sensitive and political issues.

Other members have proposed that applications for registration should not be restricted to a specified period which falls within the nine months immediately preceding the date for a general election. In addition, the requirement for

applicants to apply for renewal of the registered particulars before the next Legislative Council general election should be removed. Applicants should be allowed to retain the registered particulars until such time when the EAC decides that the particulars should cease to be registered, such as when an organization has ceased operation.

All these issues have not been adequately addressed by the Administration's team.

Madam President, in view of the time constraint facing the Subcommittee for scrutinizing the Regulation under the negative vetting procedure and members' substantive views on the Regulation which is very complex, the Subcommittee requested the Administration's team to consider repealing the Regulation at this Council meeting, with a view to having it gazetted again with or without amendments, after conclusion of deliberation by the Subcommittee. The Administration's team has advised that applications for registration will be invited in February 2000, in order that the Register containing the registered particulars will be compiled in good time before the commencement of the nomination period for the 2000 Legislative Council Election. It further said that if the proposal is to be implemented in time for this year's Legislative Council Election, the timetable could not be postponed.

Nine out of 13 members attended the Subcommittee's meeting on 13 January. In view of the EAC's position on the timetable, members have agreed that it is impracticable for the Subcommittee to complete scrutiny and also propose amendments to the Regulation before the expiry of the scrutiny period on 19 January, not to mention the time that other Members would need for considering the proposed Regulation or any amendments. In addition, it would be undesirable for the Legislative Council to impose a revised proposal on the EAC without adequate consultation. After deliberation, it is the consensus of the members present at that meeting that despite their support for the inclusion of names or emblems on ballot papers, regrettably due to the lack of time, they felt that the Regulation should be repealed.

I would also like to say a few words on the response of the Administration's team to the Subcommittee's decision. In the view of the Administration's team, the proposal is workable as set out in the Regulation. However, given members' views on the proposal, the Administration's team also considers that it is better for the Legislative Council to repeal the Regulation than

to put forward a revised proposal which might have problems in implementation. While the EAC would reconsider the proposal having regard to the views expressed by the Subcommittee, the proposal, however, will not be implemented for this year's Legislative Council Election.

The motion, as I understand it, Madam President, will require the majority support, on the one hand of the functional constituency Members, and on the other hand, of the Members returned by geographical constituencies through direct elections and by the Election Committee, since it is a Members' motion and the voting has to be done as specified in the Basic Law. Should the motion, namely, my motion to repeal the Regulation, be defeated, the Regulation under consideration will take effect on 21 January 2000, that is, this Friday. With these remarks, Madam President, I urge Members to support the motion.

Mr Ronald ARCULLI moved the following motion:

"That the Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation, published as Legal Notice No. 306 of 1999 and laid on the table of the Legislative Council on 15 December 1999, be repealed."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Ronald ARCULLI, as printed on the Agenda, be passed.

DR YEUNG SUM (in Cantonese): Madam President, I am having a cold today and I do not feel very well, but still I wish to say a few words to oppose the motion moved by Mr Ronald ARCULLI.

Members of this Council had struggled for many years before the EAC was eventually set up. We struggled so hard because we knew that if the Government was to manage electoral affairs, conflicts of political interests would easily result and the impartiality of the Government might be open to question. That was why we wanted to establish an electoral affairs commission under the charge of a judge who could handle the technical and legal problems relating to electoral affairs in a professional and impartial manner. I think this principle is really very important. The problem before us now is just of a technical nature,

or we may perhaps say that the relevant subsidiary legislation is very clumsy. But if we thus oppose it, I am afraid that we would set a very poor precedent. This time around, people may say that the subsidiary legislation is clumsy and oppose it, but in the future, they may resort to various different excuses to oppose the proposals of the EAC. So, once the "gate" is opened, will similar incidents follow in the future? Should we really do something like this which will set such a bad precedent? We have held discussions with the Government on the feasibility of this proposal of the EAC, and the Government has told us that it is feasible. Since it is feasible, and since the subsidiary legislation may be just a little bit clumsy in respect of the application procedures, is it then not a good idea to pass it for the time being, so as to show our respect for and recognition of the autonomy of the EAC? Afterwards, following the implementation of the proposal, we may then carry out a review if necessary — bearing in mind that a review can be conducted at any time, and we can in fact wait until the next Session before we introduce any amendments. Is this going to be better? We have had only 28 days to scrutinize this subsidiary legislation. So, if it is really so clumsy as claimed, small wonder that many Members may think that since they have to be held accountable, they simply should not pass it for they, have not had enough time to scrutinize it thoroughly. Their hesitation is very much caused by the very tight schedule of only 28 days. I am of the view that even if this subsidiary legislation is really a bit clumsy, and even if the application procedures are a bit complicated and prone to mistakes, it is still very much unlikely that any existing political parties in Hong Kong will ever try to use the emblems of other political parties as their own emblems. I think that this will rarely occur.

To sum up, I call upon Members to consider the matter in the light of the principle of maintaining the autonomy of the EAC. I hope that even though they may know very well that this subsidiary legislation is not very satisfactory, they can still allow it to operate for some time before urging the EAC to carry out a review. They can also defer any amendment until the next election, so as to allow for time for making the subsidiary legislation more satisfactory. On behalf of the Democratic Party, I oppose the motion of Mr Ronald ARCULLI. Thank you, Madam President.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, the Democratic Alliance for the Betterment of Hong Kong (DAB) supports the motion moved by Mr Ronald ARCULLI, which seeks to repeal the Electoral Affairs Commission

(Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation. But I must add that the DAB does not oppose the idea of printing the names of organizations and emblems on ballot papers.

But why are we in favour of the idea in principle, but against it in practice? This is actually related to the fact that in the course of scrutinizing the Regulation, we noticed too many technical problems, which, we are afraid, may make it difficult for us to implement the Regulation in any effective, fair and impartial manner. We are also afraid that the implementation of the Regulation may even lead to more new problems. However, despite the many technical comments offered by us, the EAC still stated that any amendments would be unacceptable bearing in mind its autonomous status. That being the case, we have been asking ourselves, "Should we still support such a Regulation which is full of problems and grey areas? Or, should we simply repeal it altogether for the moment?" In the end, we decided to choose the latter course of action.

It is beyond any doubt that this Regulation is full of grey areas. For example, what criteria is the EAC going to employ for vetting and approving emblems and names? Can the candidates on a certain list who belong to several different organizations add the emblems of their respective organizations to the ballot paper? Why a candidate who belongs to several different organizations is allowed to use one emblem only? In the absence of any political party laws now, how can we possibly ensure that people will not use the emblems of their organizations for the purpose of insinuations or confusing electors? Or, how are we going to prevent individual candidates from making use of the emblems printed on ballot papers to promote their personal interests? These are all questions which must be answered, but Members were not given any definite answers at the meetings scrutinizing the Regulation.

We do not intend to tamper with the autonomy of the EAC, but as Legislative Council Members, we are under obligation to ensure the effective enforcement of the Regulation after its passage. We are not prepared to pass the Regulation when we know very clearly that its effective implementation is likely to be affected by many factors yet unknown. Therefore, we cannot agree with Mr Justice WOO Kwok-hing that some Members have gone back on what they said.

Thank you, Madam President.

MRS SELINA CHOW (in Cantonese): Madam President, I shall be very brief, and I am going to speak in support of Mr Ronald ARCULLI's motion on behalf the Liberal Party.

I must stress that the autonomy of the EAC is indisputable and the Liberal Party has no intention whatsoever of tampering with its autonomy. But we do have some doubts about the arrangements it has proposed this time around. We think that the most important principle is that I mean, the Liberal Party simply does not object to the printing of political party emblems on ballot papers. But we must say that even after we have set down this broad principle, we will still have to work out how we can effect enforcement, or how we are going to draw up the regulations required. So, in fact, there is still a very long way to go.

We are of the view that the proposed arrangements under this Regulation may probably give rise to problems. That is why we are now facing a very difficult situation, because it will be most irresponsible of us if we still choose to pass this Regulation while knowing very clearly that it is plagued with problems. Insofar as the information for electors is concerned, we notice that the current arrangements do not in any way prevent the candidates from any political parties or organizations from using their emblems in their electioneering information, and they are free to print their emblems on all their electioneering materials. So, the only thing we need to discuss now is just the procedure to be followed by these candidates if they wish to print their emblems on ballot papers. Our opinion is that since this Regulation still contains some unsatisfactory areas, we should really try to perfect it before putting it into practice. Therefore, even though we do not think that this approach is good enough or satisfactory enough, we would still say that if we look at the two choices we have, the motion can show a greater sense of responsibility towards members of the public. As a result, the Liberal Party will support the motion moved by Ronald ARCULLI. Thank you, Madam President.

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

MR ANDREW WONG (in Cantonese): Madam President, as a Member with no political party affiliation, I think I should also say a few words. In the case of an independent candidate running in an election, will the use of an emblem or otherwise bring him any benefits, or disadvantages? It seems it all depends on the views of individual candidates, and this may well be a factor determining how he is going to vote on this issue.

For me, I have always adhered to the principle that all these personal considerations should not be taken into account. Instead, we should consider the whole thing from the perspective of whether or not the proposed arrangement is desirable. This proposed Regulation provides that independent candidates can also use their own emblems; this is more sensible than the practice adopted in Malaysia, where independent candidates are given a choice between a rooster and a bull only. That is why, in principle, I wholly support this Regulation. The Regulation is obviously marked by many defects, but I think that these are no more than minor defects only. Basically, I still think that this Regulation is workable, and any minor defects can be improved over time. Precisely because of this, I would say that if we now really repeal the Regulation, we will miss a very good opportunity, and we may have to wait four more years before we can start all over again I mean, unless the EAC can quickly draft another regulation to Members' satisfaction. But this looks altogether impossible.

That being the case, I fully agree with Dr YEUNG Sum that the EAC is an independent body which we managed to set up only after many years of struggle. And, for this reason, Members must adhere strictly to the principle of upholding its autonomy. So, even though they may have ulterior motives, they should still avoid doing anything that may cause any suspicion, and for this reason, even if they find this Regulation not satisfactory enough But I still think that we simply should not tamper with it all too easily, whether because of any personal reasons or otherwise. If I have any opinions, I will of course discuss them with Mr Justice WOO Kwok-hing, the EAC or the Government. For some issues, we should really leave them to the Government and the EAC. And, if there is any need to remove the minor defects, I am sure that we can always amend the Regulation very quickly. But it will take a long time to write up another regulation if we now choose to repeal the whole Regulation. Therefore, I cannot support the motion of Mr Ronald ARCULLI. Thank you, Madam President.

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

MISS EMILY LAU (in Cantonese): Madam President, I speak in support of Mr Ronald ARCULLI's motion. Mr Ronald ARCULLI has made clear the deliberations of the Subcommittee, so I do not repeat them here. But, Madam President, I must expressly state my stance on a number of points. In particular, I must express my views on such issues as the independence and operation of the EAC, or whether this Council should interfere and so on.

Obviously, we respect the independence of the EAC, but we are not a rubber-stamp. Whenever there are papers submitted to us, we have the duty to examine them, especially when many defects are found in them or when they are drafted in such a way that they appear to be cumbersome. We know that we will be held responsible for any problems that may arise in enforcement in future. Certainly, some may say that the Regulation was proposed by Justice WOO Kwok-hing so Justice WOO should be held responsible for it. But we are also held responsible for it. Therefore, I think what we need to discuss is how to strike a balance on this matter. I understand the reasons why Members respect so much the independence of the EAC and observe its way of going about things. This is good. A case in point is the delineation of geographical constituencies, an issue that we have not brought up for discussion. Madam President, as you know, the delineation of geographical constituencies is very political for it involves the interest of certain organizations, and so on. Some of these issues are very much a taboo to us and we will refrain from taking part in it. But insofar as the current issue is concerned, Members may know that the relevant papers are lengthy and complicated. Just now, Honourable colleagues also mentioned the time constraint on our scrutiny and that we were unable to finish it even in the last couple of days. Secretary IP also took part in the process. Even if we managed to go through the whole of it and proposed amendments, we would not have the time to scrutinize them either. The executive authorities made it clear that they were not going to provide any assistance, and the way that subsidiary legislation is enacted now allows very limited time for the scrutiny process. As Mr Ronald ARCULLI already sought to extend the scrutiny period at the last meeting, we cannot ask for a further extension this time. The only viable alternative is for the executive authorities, on behalf of Justice WOO, to propose the repeal of the Regulation and reintroduce it in future. If we are given sufficient time in future, I believe that Members are willing to work on it again. But of course, some Members may cling to their principles and may be

reluctant to do so even though there is the time for they think that this should not be done anyway. So, nothing can actually be done about them.

I believe that there is a divergence of views on the matter. I very much respect the independence of the EAC in principle. But if I am asked to respect it to such a degree that I must endorse all proposals of the EAC and purposely neglect the complexity and problems involved, and even bear the risk that problems may arise in enforcement, this is something that goes against my wish. Therefore, I hope Members can understand why we do this today. Personally, I very much regret that there has not been ample time for us to handle this matter. I believe that except for a few Members, such as Mr David CHU, who will raise objection — Miss CHOY So-yuk also expressed her support — a great majority of Members of this Council are supportive of this principle.

Madam President, I recall that Secretary Michael SUEN said in his speech on the policy address last year that the Administration will consider issues in relation to legislation on political party (that is, the regulation of political parties). I wonder if he will still go ahead with it now. I wonder if he will just shelve the plan because of certain remarks of the Chief Executive. But when it comes to the emblems of political parties, I believe that it is appropriate to study the matter in the context of a political party law. Just now Mr Ronald ARCULLI rightly said that we are now free to do many things. We can even send materials to voters at the Government's expense. So, if regulation is to be introduced in many aspects under this proposal, we will have many considerations to make. Under the circumstances, it is after all a good idea to thoroughly study the regulation of emblems in the context of a political party law.

In fact, emblems were not used in the many elections before. While I think the inclusion of emblems may be helpful in one way or another, I prefer to be a bit more conservative for I think it is fine not to use emblems in the election in September this year. I hope Secretary Michael SUEN or Justice WOO can table a more comprehensive piece of legislation expeditiously. Most importantly, this Council should be allowed sufficient time to scrutinize it. Except for those Members who consider that no amendment is required so they do not need the time, other Members do need a long period of time for deliberation. I hope the executive authorities can understand this and allow Members sufficient time to do their work. Therefore, with these remarks, I support the motion of Mr Ronald ARCULLI.

MR LEE WING-TAT (in Cantonese): Madam President, over the years I have participated in the process of scrutinizing subsidiary legislation relating to elections on a number of occasions. I feel that we have to be extra careful in the deliberations especially after the independent EAC is set up. It is because we have to bear in mind that when we enact laws, we must by all means have a very clear direction, that is, election itself involves the interests of political parties. This applies not only to the delineation of constituencies, but also to many rules and the registration of voters. Therefore, we should not disagree too much with the provisions made by the EAC unless we have grave doubts about them. However, after this Regulation was tabled at this Council, a Subcommittee was set up to scrutinize the provisions, and the Subcommittee has expressed lots of views. Madam President, please accept my apology for not attending all of the Subcommittee meetings as the Housing Authority has convened many special meetings lately, and I usually opted for the latter meetings. That is why I was unable to attend some of the Subcommittee's meetings, but I have read the minutes of the meetings afterwards.

Personally, I think that some of the points raised by the Subcommittee are valid, but I find that some concerns or misgivings are more theoretical than pragmatic. Certainly, it is possible for the two examples given by Mr Ronald ARCULLI to take place, especially the second one. I actually read about it in the newspaper. It is about whether there will be cases where some people or organizations do something during the registration process that the EAC will find it hard to handle. For instance, will it be possible that some people deliberately make fun of our party by creating an emblem featuring a three-legged pigeon from the one with two legs on our emblem? Theoretically, it is possible. Or is it equally possible for someone to create an emblem with three pigeons instead of one? Again, it is possible in theory. But firstly, even if this subsidiary legislation will come into operation in the forthcoming election in September 2000, we can see that the time for registration is very tight. In the meantime, as many political parties, organizations and political groups already have their own emblems, I do not think there is the possibility that such theoretical problems will materialize. Therefore, we can say that it is very unlikely for such a hypothetical scenario to take place.

Secondly, even if someone cause trouble after the enactment of this Regulation, deliberately creating some emblems to embarrass Justice WOO and see how he is going to rule on them, I do not think it will be very difficult to make a ruling for justice lies with the discerning public. I believe that the work

of Justice WOO in recent years has generally won the support of the public — despite occasional criticisms against some of his proposals. I remember that he was last criticized for the proposal that no members of a party which has fielded candidates in an election is allowed to contribute articles for publication in newspapers. The public and the media expressed many views on it. Eventually, he accepted the public opinion and made amendments to the legislation accordingly. Therefore, I do not think that Justice WOO of the EAC will do whatever he pleases and completely ignore the feedback of the public after he is vested with the powers. For example, it is reasonable enough that someone wishes to register an emblem. But if he disallowed its registration, the public will discuss the incident and so will the media. I do not believe that Justice WOO can turn a blind eye to these opinions and acts arbitrarily.

Therefore, I think it is a pity that this motion is proposed as such. We may have a lot of assumptions and hypothetical concerns, but even if those scenarios take place in reality, this subsidiary legislation provides for reasonable time and procedures to solve these problems. I just feel that it is a pity if we pass today's motion. Its passage will mean a precedent of this Council rejecting the proposal of the EAC, asking the EAC to do it all over again. Some colleagues suggested that we can think it over and then put forward the amended Regulation for deliberation. But I think we are unable to achieve that within the current term as time is running out. So, what about the next term? By then, will Justice WOO, after listening to our debate today, accept all our views? In fact, we have not given him much advice today. We would have just expressed our concerns and then voted down his proposal. The EAC should have no time to draw up the Regulation all over again. I do not know if any political party will have the time to draw up a Regulation on its own or come up with a separate one broadly based on the original Regulation. What should we do by then? Would we vote it down again after scrutiny? This is something that I am most concerned about. I believe that in making this decision, Honourable colleagues do not consider from their own interest or that of their parties. However, the public may wonder why this Council supported the establishment of the independent EAC on the one hand but rejected this proposal of the EAC on the other even though the Government considered it a viable proposal? Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Ronald ARCULLI, you may reply later on. Do you have a point of order?

MR RONALD ARCULLI: No, Madam President, I just wonder whether I am able to speak in a personal capacity rather than as Chairman of the Subcommittee.

PRESIDENT (in Cantonese): Mr Ronald ARCULLI, in the present case, since you are the mover of the motion, you may speak when it is time for your reply.

Secretary for Constitutional Affairs, do you wish to speak?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, after the first Legislative Council Election in 1998, the EAC received a lot of views. One of the suggestions is that the names and emblems of candidates or organizations to which the candidates belong should be allowed to be printed on the ballot paper in the Legislative Council Election. The EAC is of the view that this can make it easier for voters to identify the different candidates contesting the election, so the Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) Regulation was drawn up accordingly. The Regulation was gazetted on 10 December last year and tabled at the Legislative Council on 15 December last year for negative vetting. A Subcommittee on the subsidiary legislation relating to the 2000 Legislative Council Election was set up under the Legislative Council to scrutinize the Regulation in detail. Here, the EAC and I wish to thank members and the Chairman of the Subcommittee for their time and efforts, particularly in attending a succession of meetings last week.

At the meetings, the Subcommittee has time and again expressed support for the proposal to print the emblem and name of organization on the ballot paper in principle, but has reservations about some provisions of the Regulation drawn up by the EAC. In this connection, Members have already explained the details just now. Given that the EAC and the Subcommittee have not reached a consensus on the provisions of the Regulation, Mr Ronald ARCULLI, on behalf of the Subcommittee, has moved this motion today seeking to repeal the Regulation. The EAC and I very much regret this.

Madam President, if Mr Ronald ARCULLI's motion is passed by the Legislative Council today, it will be impossible for the proposal to print the emblem and name of organization on ballot paper to be implemented in the second Legislative Council Election in September this year. The reason for it, as clearly stated by Members, is that we do not have sufficient time. Yet, the EAC and I understand that most of the Members do support the proposal in principle and that they only have reservations about certain provisions of the Regulation. Therefore, I believe that after the second Legislative Council Election, the EAC will reconsider Members' views carefully so that these views can be incorporated and reflected in future elections.

In this connection, the Administration will study the issue of political party legislation. As I said in the debate on the motion of thanks on the policy address on 27 October last year, in order to facilitate further development of the political system of Hong Kong, we intend to examine, after the second Legislative Council Election, the desirability of a political party law in the light of the existing electoral systems and political situation. We will consider such issues as whether legislation is needed to establish a registration mechanism for political parties and to allow political parties to register their names and emblems. If a statutory registration mechanism can be put in place in future, the problems associated with the printing of the emblem and name of organization on the ballot paper, as Members highlighted just now, will in turn be resolved.

Madam President, I so submit.

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

MR RONALD ARCULLI: Madam President, I do not really want to repeat any of the arguments. Clearly, the position of the Democratic Party was in fact related to members of the Subcommittee on the meeting that we had on 13 January, because I had spoken to them ahead of time. And their position, in fairness to them, has always been consistent that they would rather have this Council not repeal unscrutinized regulations because they obviously took the view that the regulations, whatever the problems might be, could be overcome at a later stage.

What I had hoped that we would not bring into this discussion and debate today, but sadly it is in the public now, is the independence of the EAC. I do not think there is a single Member of the Legislative Council that I know of, ever since the formation of the EAC, who has ever challenged the independence of the EAC. We may have disagreed with some of the things that the EAC has done. We might have even criticized, either openly or privately, some of its decisions. But we have never challenged its independence. And I wish to make it quite clear to members of the public that this debate on this motion should in no way, and I repeat, in no way impinge upon or cast a slur on the independence of the EAC because it has been doing a very good job.

Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes.

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, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Mr Michael HO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr LAW Chi-kwong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr Jasper TSANG, Mr LAU Kong-wah, Miss Emily LAU, Mr TAM Yiu-chung, Mr David CHU, 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 motion.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the motion and four against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 16 were in favour of the motion and 11 against it. 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): Proposed resolution under Article 159 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

PROPOSED RESOLUTION UNDER ARTICLE 159 OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, I move the motion which has been printed on the Agenda. The objective of my motion is to seek the consent of this Council to forward the proposed amendments to Article 74 and Annex II to the Basic Law to the delegation of the Hong Kong Special Administrative Region (SAR) to the National People's Congress (NPC), for submission to the NPC.

Madam President, today is a historical moment for the SAR since its establishment more than two years ago, for this is the first time the legislature of the SAR activates the procedure to amend our mini-constitution — the Basic Law. Whether the Government agrees or not, whether Secretary Michael SUEN later on raises strong objection or indicates his agreement, this legal point of view would remain unchanged: The debate going on in this Chamber and the vote to be taken after it has formally activated the first procedure to amend the Basic Law.

Madam President, I believe you also made your ruling in accordance with Article 159 of the Basic Law to permit this motion of mine to be put before the Council. Article 159 of the Basic Law sets out clearly that this motion must obtain the consent of two thirds of all the Members of the Legislature Council to be considered carried. In other words, this Council has categorically recognized the amendment procedure put forward in this resolution.

Madam President, actually, there are two important motives behind the resolution moved by me today. First, it seeks to demonstrate that the people of Hong Kong are not pleased with the provisions set out under the Basic Law and to establish our right to move amendments to the Basic Law. Second, it seeks to restore the legislative right of Members of this Council to propose bills for

amendments and to determine a reasonable procedure for voting, with a view to enabling this Council to become a legislature with genuine powers.

Madam President, a country's constitution is the highest level of legislation regulating the conduct of its people, it should therefore reflect the collective wishes of the people as well. For this reason, I agree that any constitutional instrument drawn up in a democratic manner should not be amended arbitrarily, nor should it be amended frequently. However, if any person should oppose this resolution on account that the Basic Law has only been in operation for slightly more than two years, that it should then be given more time for implementation before any immature amendment proposals are put forward, I cannot help but say that he is indeed trying to deceive himself as well as others. The substance of my proposed amendment has in fact been in operation for quite a long period of time and, as the Government loves to say, "proven effective". That being the case, how could my amendment proposal be considered immature? How could people justify this comment of theirs? The so-called immaturity of my amendment proposal is nothing more than a pretext because they just could not think of any sound reasons to support their argument. On the other hand, the Basic Law which defines the rights and interests of the people of Hong Kong was not formulated or affirmed by way of any democratic procedures. Rather, it is imposed on the people of Hong Kong by the Government in Beijing.

The drafting of the Basic Law took a total of some five years, during which the draft provisions were twice presented to the Central Authorities and the local community for the so-called consultation. But that still could not alter the fact that the drafting of the Basic Law was by no means any democratic process. I hope that Mr LEE Wing-tat, member of the Basic Law Consultative Committee or Mr SZETO Wah, member of the Basic Law Drafting Committee could later on explain in detail to this Council how work was done then. Rather than being any constitutional instrument drawn up by the people of Hong Kong mastering their own fate, the Basic Law is a naked tool of autocracy made by the Beijing authorities to limit the rights and interests of the people of Hong Kong. I can raise numerous reasons in support of my argument that the Basic Law is not any product of democracy. Yet I could sum them up into three main points as follows. Firstly, the Drafting Committee was not formed in a democratic manner, nor was the selection of its members conducted in a democratic manner.

Secondly, the consultation process was not any genuine solicitation of opinions, since nothing was done to specifically solicit the opinions of the people of Hong Kong. Thirdly, the power to draw up the Basic Law was not vested in the people of Hong Kong but in the hands of the Central Authorities.

With regard to the composition of the Basic Law Drafting Committee, 36 out of the 59 members were mainland representatives, with Hong Kong residents making up a minority of 23. Of these 23 Hong Kong members, only Mr SZETO Wah and Mr Martin LEE came from the so-called pro-democracy camp, and the remaining 21 members were all "hand-picked" by the Beijing Government. Under such circumstances, how could the Drafting Committee represent the interests and wishes of the people of Hong Kong?

While the draft Basic Law was twice presented to the Beijing Administration and the local community for solicitation of opinions, the so-called consultation exercises were in fact "shows" performed for the Hong Kong public. In 1992, Governor Christopher PATTEN put forward his political reform package which was met with severe attack from the Central Authorities and the pro-Chinese Government opinions. During that period of time, it was accidentally disclosed that the Drafting Committee had put forward its finalized proposal for the future political development of Hong Kong without consulting the public, since the content of the proposal was in fact the result of the secret negotiations between the Chinese and British Governments. As a matter of fact, the so-called solicitation of opinions at that time were mere "shows". Take the first draft of the Basic Law as an example. Since the Drafting Committee had never taken into account the consequence of the implementation of the political structure, the "co-ordination" proposal put forward all of a sudden by Mr Louis CHA, Chairman of the Special Group Concerned with the Political Structure, was immediately made the "mainstream" proposal. Further still, the proposal that motions put forward by Members of the Legislative Council shall be determined by way of the separate voting system had never been raised in the two drafts of the Basic Law presented for consultation. It was only after the June 4th Massacre that the "bicameral model" suggested by Mr LO Tak-shing was suddenly adopted by the Drafting Committee as the ridiculous procedure for voting that this Council is required to follow.

As regards the final version of the Basic Law completed in April 1990, it was passed by the NPC in Beijing. This is proof positive that the 6 million people of Hong Kong do not have any say in this connection. We cannot put the Basic Law to a vote nor raise any questions about it. From this fact we can see very clearly whether we have any degree of autonomy, and whether the drafting of the Basic Law was conducted in a democratic manner.

It is precisely because of the fact that the drafting of the Basic Law was not conducted in a democratic manner that we need to put forward this motion to amend the provisions contained therein. As a matter of fact, today is not the first time we express our wish to amend the Basic Law. Many non-government bodies have been putting forward proposals to amend the Basic Law since its promulgation. If Honourable Members are not too forgetful, they should remember that in June 1997, the former Legislative Council passed in this Chamber a motion moved by the Honourable TSANG Kin-shing to amend the Basic Law. In the circumstances, how could one say that time is not ripe for amendments to be introduced?

However, to amend the Basic Law is as disheartening a process as the drafting of its provisions. To say nothing of how impossible it is for my resolution today to obtain the consent of two thirds of all the Members of this Council, even if my motion to amend the provisions of the Basic Law succeeded in winning Members' full support, it does not necessarily follow that the Basic Law will be amended. This is because the power to amend the Basic Law still rests in the hands of the NPC. The close to 7 million people in Hong Kong simply have no say whatsoever.

According to Article 159 of the Basic Law, any amendments to the Basic Law must be approved of by the NPC. However, given that not all of the over 3 000 Deputies to the NPC are elected by the people of Hong Kong, and that the 36 Hong Kong Deputies are elected by a coterie of some 400 people, we simply do not have any say in issues like our political structure and our rights as residents of Hong Kong. The Basic Law is the constitutional instrument of the SAR, yet the people of Hong Kong do not even have the right to propose amendments to it, and even amendments to provisions involving only the internal affairs of the SAR have to be proposed by the NPC. So, I just feel that rather than practising any "high degree of autonomy", all we have is "autonomy within a birdcage" which comes with all sorts of constraints!

What is more, even the existing procedure for proposing bills for amendments to the Basic Law is already complicated enough. In this connection, amendment bills from the SAR shall be submitted to the NPC by the delegation of the SAR to the NPC after obtaining the consent of two thirds of the Deputies of the SAR to the NPC, two thirds of all the Members of the Legislative Council, and the Chief Executive of the SAR. It is worth noticing that amending the Basic Law is a piece of cake to the authorities in Beijing ranging from the NPC Standing Committee to the State Council. They could all propose bills for amendments to the Basic Law on their own initiative, yet they are not required by any law to obtain the consent of any relevant authorities of the SAR beforehand.

Under Article 159 of the Basic Law, while the authorities in Beijing could always introduce amendments to the Basic Law as they so wish, but so doing would be extremely difficult for the people of Hong Kong. Put bluntly, Article 159 of the Basic Law is a hoax. On the face of it the people of Hong Kong seem to have a say, but in reality everything is practically under the control of the Beijing Administration.

My stance all along has been that the power of making amendments to the Basic Law must be vested in the people of Hong Kong. In particular, the right of Hong Kong to exercise a high degree of autonomy in accordance with the provisions of the Basic Law should by no means be stripped, we should have the right to decide for ourselves matters relating to our personal interests. However, the requirement that bills for amendments to the Basic Law must obtain the consent of three parties is a grave obstacle to amending the Basic Law. I must point out in particular that the Hong Kong Deputies to the NPC, the Chief Executive and even this Council presently are not elected by universal suffrage. As such, it is simply unreasonable that the Chief Executive alone or even the Hong Kong Deputies to the NPC can turn down any bills for amendments to the Basic Law.

At any rate, I believe the best thing we can do now is to find as much room for amendment as possible under the various constraints and limitations. It is for this reason that I have moved today this resolution to amend the Basic Law, with a view to obtaining the consent of two thirds of all the Members of this Council, as well as the consent of the Chief Executive and the Hong Kong Deputies to the NPC, to submit to the NPC bills for amendments to the Basic Law. But then again, this is most probably a dream only.

On the other hand, there have been views that since Article 159 of the Basic Law has not clearly provided for the procedure and mechanism for amending the Basic Law, it is therefore not appropriate to put forward any amendment proposals now. Some people even hold that the submission of such proposals does not necessarily follow that the mechanism for amending the Basic Law has been activated. I should like to respond to these views with two points.

First, as Honourable colleagues sitting in this Chamber and the Government are aware, my resolution was put forward for the first time in December 1998. At that time, the Honourable President also made a ruling to permit me to move the resolution. However, taking into consideration that discussions should first be made on the mechanism and procedure for amending the Basic Law, I subsequently withdrew the resolution on my own initiative and refer it to the Panel on Constitutional Affairs for discussion. Regrettably, Madam President, the Government is still unable to reach any conclusion although an entire year has passed since then. Instead, it is claiming that the situation is not ripe for this resolution. What does that mean? Does that mean the crux of the problem lies in me? We have given the Government ample time to tackle the question; however, being unable to complete its job, the Government has resorted to claiming that the time is not ripe. Do you agree with me that the Government is being too hegemonic? We have followed strictly every procedure set out under Article 159 of the Basic Law and done everything as required. But if the Government should insist on claiming that we have failed to comply with the necessary procedures, or that the situation is not ripe for our resolution, would it imply that the SAR Government is once again trying to be overbearing with us? As a matter of fact, the Government has hitherto been unable to tell us when the procedure and mechanism for amending the Basic Law could be finalized. Is the Government trying to defer action for as long as possible?

Madam President, as far as I understand it, if any region or country should have adopted its own constitution, it would always have in place a mechanism to amend the constitution. But what on earth is going on in Hong Kong? I really cannot find any country in such an odd situation as that of ours. It has been set out under the Basic Law that our way of life shall remain unchanged for 50 years, does it follow that we are not allowed to amend the Basic Law within these 50 years? Should that be the case, I would rather the Government say so to us plainly. That way, we could at least avoid wasting time and effort building

castles in the air. Indeed, the Government could tell us clearly that the Basic Law shall remain strictly unchanged for 50 years.

Madam President, I so submit.

Mr LEUNG Yiu-chung moved the following motion:

"That this Council consents to forwarding the following amendments to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China to the delegation of the Hong Kong Special Administrative Region to the National People's Congress, for submission to the National People's Congress —

"Article 1

Article 74 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China which provides that "Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced." shall be amended as: "Members of the Legislative Council of the Hong Kong Special Administrative Region may, individually or jointly, introduce bills in accordance with the provisions of this Law and legal procedures. The written consent of the Chief Executive shall be required before bills, the object or effect of which may, in the opinion of the President of the Council, be to dispose of or charge any part of the revenue or other public moneys of Hong Kong, are introduced individually or jointly by members of the Council."

Article 2

The last two paragraphs of Item II of Annex II of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China which provide that "The passage of bills introduced by the government shall require at least a simple majority vote of the members of the Legislative Council present." "The passage of motions, bills or

amendments to government bills introduced by individual members of the Legislative Council shall require a simple majority vote of each of the two groups of members present: members returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee." shall be amended as: "All questions put to the Legislative Council shall be decided by a majority of the votes of the Members present and voting." "The President of the Legislative Council shall, if the votes be equally divided, have a casting vote in addition to his original vote." ". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung, as set out on the Agenda, be passed.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, in response to Members' request at the meeting of the Legislative Council Panel on Constitutional Affairs the day before yesterday, and with your permission, I rise to speak on the nature of the resolution sponsored by Mr LEUNG before Members give their speeches on the same, so that Members can clearly understand the position of the Government.

I wish to state clearly from the outset the views of the Government on setting up a mechanism for amending the Basic Law. Under Article 48(2) of the Basic Law, the Chief Executive is responsible for the implementation of the Basic Law, and that includes the implementation of Article 159. Therefore, the Government confirms that there is the need and that it duty-bound to devise a sound mechanism to give effect to Article 159. The Government is actively working towards this objective and welcomes input and assistance from the Legislative Council Panel on Constitutional Affairs. Yet, we must admit that to amend the Basic Law is a matter of importance. So is the setting up of a mechanism for amending the Basic Law. Therefore, these matters of importance ought to be handled with prudence and care.

Mr LEUNG claimed today that this resolution is proposed in accordance with Article 159 of the Basic Law. In fact, the same was already proposed by Mr LEUNG as early as in November 1998, and the House Committee of the Legislative Council did discuss it seriously then. Many Members took the view

that clarification must be sought in respect of the legal effect of the resolution as well as the procedures involved. Therefore, it was decided that matters relating to the amendment mechanism be referred to the Panel on Constitutional Affairs for study first. The Panel on Constitutional Affairs then embarked on its work in this respect. In March last year, the Panel invited views from people from all walks of life, including experts and academics, on the mechanism for amending the Basic Law. In this connection, Members have further raised some important issues in relation to this topic. In response to the views and issues put forward by Members and the public, the Administration has reported our preliminary analysis to the Panel. Meanwhile, colleagues from the Department of Justice also reported to the Panel the preliminary findings of the study about the experience of other countries in respect of constitutional amendment. Moreover, the Administration has conducted in-depth studies on the steps and procedures required to put in place the amendment mechanism, and the Panel has been briefed about the findings of the studies. We have also prepared a rough estimate of the time required for those steps and procedures that are entirely within the ambit of the Hong Kong Special Administrative Region (SAR). Our studies show that we need to go through a detailed process in order to put in place an appropriate mechanism. It covers consultation with all sectors of the community, discussion with the Central Authorities to understand their views, considering the views collected, finalizing the Administration's proposals, drafting consultation documents, and perhaps we may need to draft and enact relevant domestic legislation as a final step.

There was a consensus among the Government, Members and all parties concerned that close liaison must be maintained and that the question of setting up a mechanism to revise or amend the Basic Law must be handled with prudence and care. Moreover, the Panel on Constitutional Affairs was informed that the Administration had started discussion with the Central Authorities and that the latter would be consulted on the issues raised by Members and the public. They include the many issues relating to the status of the Standing Committee of the National People's Congress (NPCSC), the State Council, local Deputies to the National People's Congress (local NPC Deputies) and the Basic Law Committee as well as other outstanding issues. The Central Authorities agreed to study these issues but would need some time in view of the complexity involved.

In retrospect, the Government has made certain headway in respect of the mechanism for amending the Basic Law in the past year, and we are now at the stage of consultation with the Central Authorities. We appreciate that Members wish to see the SAR Government come up with an amendment mechanism expeditiously. However, in view of the complexity of the matter and given that interaction among the Legislative Council, local NPC Deputies and the Chief Executive is involved, the Administration must have ample time to discuss the matter with the Central Authorities. On such issues raised by Members as whether the people of Hong Kong would be consulted before the NPCSC and the State Council propose their amendment, these cannot be resolved hastily by the Government or the SAR unilaterally. Instead, we must hold thorough discussions with the parties concerned.

Today, Mr LEUNG brought up again his resolution to amend the Basic Law, which involves a host of fundamental and complex issues. For instance, the legal affect of the resolution, if passed; the procedures of amending the Basic Law; the form of the amendment proposal and so on. Furthermore, does it mean that a Member or two may do the same by means of a resolution as such? This does not only initiate the amendment process, but also puts on the agenda a resolution to amend the Basic Law without wide consultation and studies beforehand, asking the Legislative Council to vote on it. Does it mean that the Legislative Council does not need to lay down in its Rules of Procedure provisions on the relevant arrangements, and that in respect of the local NPC Deputies, it is unnecessary for the NPCSC to provide guidelines on the arrangements? Will the form of a resolution, if adopted today, be accepted by the National People's Congress as the form of the amendment proposal? We still do not have the answers to these many questions. Should the Legislative Council hastily endorse the resolution without knowing clearly the implications of the resolution and the steps to take in future, it is certainly not an appropriate act on its part. At this stage when the parties concerned have yet agreed on an amendment mechanism, we are of the view that Mr LEUNG's resolution is only his personal proposal. From a constitutional point of view, this motion of Mr LEUNG today is immature and cannot be regarded as a proper way to initiate the process of amending the Basic Law. If, before the questions that I have stated above are resolved satisfactorily, a similar motion comes before the Legislative Council, the Administration will have to reiterate these arguments inevitably. I trust that Members will understand why the Government does so. I firmly believe that Members will surely think twice as to whether they should sponsor similar resolutions in future in the absence of an agreed mechanism. Yet, I will consider the views of Members in detail irrespective of the result of the vote of the Legislative Council on Mr LEUNG's resolution today. I will also reflect

them to the Central Authorities as and if necessary, so that the basis for the resolution of problems can be consolidated.

Madam President, this is the first part of my speech. I hope I can be given time to speak again on the substance of the issues raised by Mr LEUNG. Thank you, Madam President.

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

DR LEONG CHE-HUNG: Madam President, I rise to speak in support of the resolution, although my reason is perhaps somewhat different from my Honourable colleague, Mr LEUNG Yiu-chung.

The resolution before us today seeks two issues: Firstly, to amend the Basic Law and secondly, to amend the two Articles as listed. Let me start by saying that the Basic Law is our mini-constitution, and any suggestion to amend the constitution must be taken with great care. I am therefore grateful to Mr LEUNG Yiu-chung for bringing up the issue so that the principle, at least the principle, could be discussed in detail.

The first question must be "Can we or should we amend the Basic Law?" Madam President, it has always been my belief that law is a living entity. It changes and should change with the needs of society. As a living entity, it can and should be amended if necessary to suit or to be in line with society's belief and society's developments.

The second question must be "Are there provisions to amend this mini-constitution?" The answer must be: There are. It is stated clearly in Article 159 of the Basic Law. Now that we have been functioning under the Basic Law for some two and a half years, there is no reason why we cannot trigger off the amending mechanism.

Some Members will say that the Basic Law is a piece of document that was produced only after prolonged and painstaking discussion for years by the Basic Law Drafting Committee. We respect their efforts. Yet it must be in their wisdom that laws should reflect the needs of the people so that they, the Basic Law drafters, have included a provision for amendment.

Some Members argue that, and the Secretary for Constitutional Affairs has just mentioned that, the actual mechanism to amend the Basic Law has not yet been decided. But that is another matter and should not be a deterrent to discuss the need for amendment. Hopefully, today's resolution, if passed, could act as a catalyst for the Government in conjunction with this Council to come up with a workable mechanism as early as possible.

Madam President, let me say that I believe that the decision not to allow the Basic Law to be amended before it is put to use is a wise one, for changes for such an important document should never be sought for just because we want a change. Yet there is no reason to stifle changes after a law is implemented, when it is found with experience that certain sections are not clear, ambiguous to interpret, difficult to carry out or not reflecting the needs of society at large. What about the two Articles facing us in the resolution today? Are there any justifications to seek changes?

Let me start off with Article 74 of the Basic Law. This Article has plagued this Council since the days even of the Provisional Legislative Council, and although not openly admitting it, it has been a source of pain in the neck for many government bureaux and departments.

Madam President, Article 74 of the Basic Law, in essence, condemns Members from introducing Private Members' Bills if it affects the operation of the Government. Let us analyse why and when Members want to introduce Members' Bills. The answer is simple. When a Member is very sure and stands firm on a policy that he or she considers is in the best interests of the public, and when such a policy is either non-existent or is contrary to the existing government policy, and when the Government procrastinates to come forth with changes, or refuses to budge, a Member would introduce a Members' Bill, hopefully to bring his or her ideals to fruition. This has perhaps been the only ammunition that this elected body with the people's mandate could do to put ideals into reality, against the Administration that has no public mandate.

Members of the past councils have introduced well thought out Members' Bills that ultimately improved the policies for Hong Kong. Article 74 of the Basic Law, therefore, in essence, disables this legislature in the wrangle with an already overwhelming executive-led government.

As if the above is not crippling enough for this Council or, for this legislature, the Government extends the interpretation of Article 74 of the Basic Law to restrict Members even to make amendments to the government bills that may affect the Government's policy. Madam President, in short, by the Government's interpretation of Article 74 of the Basic Law, the role of this Council could be drastically reduced. In fact, what then becomes the function of this body?

Yes, we are by law and by name required to scrutinize bills before passing them into law, but what is the value of prolonged, painstaking scrutiny if Members are not even allowed to move amendments for improvement? Let me remind the Administration that this Council is strongly against this latter view. We have sought senior legal advice which confirms our view, contrary to that of the Government's. We have stood firm on our stand and on our interpretation, in drafting the Rules of Procedure of this Council.

Regrettably, this issue has not made the job of relevant senior government officials any easier. What will happen if such amendments moved by Members were to be passed? Under Article 74 of the Basic Law, the Chief Executive may not assent to the bill concerned. As a consequence, relevant bureaux may either come out in full force to lobby Members not to support the amendment, or take ownership of the amendment as if it is the Government's amendment to play safe.

Item II of Annex II to the Basic Law, which is the second issue to discuss, determines the requirement to pass motions, bills or amendments to government bills and is another issue which, again, not only stifles Members' power, but may also accidentally embarrass the Government. With the provision that the passage of anything introduced by Members must have the majority of each of the two groups of Members present, the number of issues put forward by Members that ultimately got past in this Council has been minimal. In short, the Government is assured to be the winner of the game. Ironically, the Government may accidentally shoot itself in the foot. To wit, the Motion of Thanks to the Chief Executive's second policy address met its "Waterloo" because of such limitation, all to the embarrassment of the Administration.

Madam President, as the Secretary for Constitution Affairs just mentioned, the Government opposes the resolution before us today because of the fact that "a mechanism for amending the Basic Law, which has to be agreed upon by various

parties concerned, is not yet in place". To me, this is unacceptable. The fact that such mechanism is lacking means that we have to move to establish a certain mechanism. Ignoring a pertinent issue amounts to burying our heads in the sand.

Madam President, I must urge Members to support the resolution for on it depends the proper role of this Council of which we are a part, and the power which any legislature should be invested.

Thank you.

MR LAU CHIN-SHEK (in Cantonese): Madam President, I rise to speak in support of the proposed resolution moved by Mr LEUNG Yiu-chung.

Just now Secretary Michael SUEN and Dr LEONG Che-hung have respectively stated different positions on the proposed resolution to amend our constitution. From another perspective, however, the resolution today is in fact very simple. The purpose of the proposed resolution is to enable the public to see whether we are seriously discharging our duties as legislators, whether we sincerely wish to achieve through this Council something practical for the public, and whether we hope that the Legislative Council could have the power to check the Administration. How we cast our votes later on, I believe, should be a rather concrete answer to all these questions.

As regards the introduction of Member's bills, I do not wish to spend too much time on it since Mr LEE Cheuk-yan would be discussing the issue in detail. In my opinion, the introduction of Member's bills is a constitutional right of ours as Members of this Council. However, the various restrictions imposed by the Basic Law have in effect "crippled" Members in this respect. This is running against the objective of this Council to function as a legislature with genuine powers and has deprived us of our legitimate right as elected Members.

I can recall that before 1997, not only had the pro-democracy camp Members introduced Member's bills that were opposed by the then Administration, Members of other parties and groups had also introduced Member's bills involving government policies. For example, Mrs Selina Chow had introduced a Member's bill on the regulations regarding the examination to be taken by medical students. The bill was eventually passed in the former

Legislative Council. Besides, the Honourable Mr CHENG Yiu-tong of the Federation of Trade Unions (FTU) had also wished to introduce a number of Member's bills on labour issues at that time.

Even in this current term of the Legislative Council, the FTU has also indicated its wish to introduce a number of Member's bills. However, so long as Article 74 of the Basic Law remains unchanged, the introduction of any Member's bills is but an empty talk!

With regard to the procedure for voting on motions moved by Honourable Members, as Mr LEUNG Yiu-chung has put it, to separate the Council into two groups for voting purposes is utterly "senseless" and "ridiculous". As a result of this separate voting requirement, the number of motions discussed and ultimately passed in this Council has been minimal, yet a considerable amount of resources have been wasted. What is more, many a time the motion debates were reduced to a farce in which the majority view was subordinate to the minority view.

As indicated in the information I have on hand, over the past year or more, a total of 33 motions which would otherwise have been passed were negated because of this separate voting procedure. The movers of these affected motions comprise Members from different parties and groups, including Mrs Miriam LAU, Mrs Selina CHOW, Mr Ronald ARCULLI and Mr HO Sai-chu from the Liberal Party, Mr Gary CHENG, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung from the DAB, Mr CHAN Wing-chan of the FTU, Mr Eric LI of the Breakfast Group and so on. Unless we wish only to put forward a motion but not to have it passed in this Council, we should not allow this separate voting requirement to remain.

Madam President, I so submit.

MISS MARGARET NG: Madam President, when the Honourable LEUNG Yiu-chung proposed the present resolution for the first time in 1998, my own position was that the better thing to do was to explore the legal meaning and significance of such a move before he did it. And he very kindly accepted the views of his fellow Members and withdrew the motion on that occasion.

Madam President, my view was not based on the belief that a mechanism, a fixed formality, is required by Article 159 of the Basic Law. It was simply a more prudent thing to do. Because if we were to look at Article 159 of the Basic Law itself, we would find that there is no formality required, and I read, Madam President:

"The power to propose bills for amendment to this Law shall be vested in the Standing Committee of the National People's Congress, the State Council and the Hong Kong Special Administrative Region. Amendment bills from the Hong Kong Special Administrative Region shall be submitted to the National People's Congress by the delegation of the Region to the National People's Congress after obtaining the consent of two-thirds of the deputies of the Region to the National People's Congress, two-thirds of all the members of the Legislative Council of the Region, and the Chief Executive of the Region."

So, as far as amendment bills from the Hong Kong Special Administrative Region (SAR) are concerned, there is no requirement or formality evident from Article 159 of the Basic Law itself.

Madam President, actually there is a discrepancy between the English text and the Chinese text of Article 159 of the Basic Law. Because from the English text, it may seem that there is a sort of priority that the initiative has to come from the delegation of the SAR to the National People's Congress (NPC). But if you read the Chinese text, it says nothing of the kind, and the Chinese text is the preferred text. And, Madam President, I will now read in Chinese the particular part:

"香港特別行政區的修改議案，須經香港特別行政區的全國人民代表大會代表三分之二多數、香港特別行政區立法會全體議員三分之二多數和香港特別行政區行政長官同意後，交由香港特別行政區出席全國人民代表大會的代表團向全國人民代表大會提出。"

Thus, it is when these prerequisites are met, the amendment bill may then be given to the NPC Deputies to move the motion. The real legal process for proposing bills for amendment actually is in the first part of this paragraph, and it is a process of the NPC, not a process of the SAR.

In other words, what we are dealing with today is not part of a legal procedure as such, but a fact which may be called a condition precedent. That is to say, before the SAR can bring an amendment bill, these facts must first exist. There are three facts which have to exist. One is that a resolution has been passed by two thirds majority in this Council. The second is that there is a two thirds majority support from the Deputies of the NPC of this Region, and the third, the consent of the Chief Executive. These three are precedent facts. In other words, facts which have to come into existence before a bill can be submitted.

Thus, in the context of Article 159 of the Basic Law, if this resolution is carried today, the fact is established. Then we would have to wait for the other conditions to be fulfilled before the legislative process for amendment can start. This process, although not part of the legal process, is part of the legal requirement of the Basic Law, if you like. It is establishing a condition precedent. And that is why this part, which we are dealing with today, has to be taken extremely seriously.

Madam President, had we started the debate on this proposal last year, I would have been very hesitant. But last year, since it was suggested that we first look into the significance of this debate, the Panel on Constitutional Affairs had been holding meetings to discuss this very matter, and now it is almost 12 months, almost a year. If we do not do anything, I think that we are giving up our initiative altogether.

Had I known the attitude of the Administration was not to make use of the discussion of the Panel on Constitutional Affairs as an occasion to expediently come up co-operatively with a process, I would not have suggested to Mr LEUNG Yiu-chung to wait. I now feel very apologetic to him because he has wasted nearly a year's time.

The Secretary for Constitutional Affairs refers to Article 48 of the Basic Law, that is, the provision under which the Chief Executive is supposed to have a duty to implement the Basic Law. I do not know if this is what is in his mind,

but if he thinks that the initiative for creating a process must come from the Chief Executive, I must say that this position is not warranted by Article 159 of the Basic Law. Under Article 159, all three parties are equal. It does not matter who starts the process. So if the Chief Executive were appropriating the initiative, and therefore treating the Legislative Council's proposal with contempt, this would be incompatible with the Basic Law.

Madam President, the Secretary for Constitutional Affairs said that he was at present in the process of discussing this with the Central Authorities. I wonder if this is an appropriate thing to do, because again, we are not talking about the amendment of the Basic Law as such, but the process for obtaining the consensus within the SAR. In other words, what is the process we should put in place in order to facilitate the consensus among these three parties? Surely, this is a matter for the SAR. It is for us to decide how we reach this consensus. So then this unnecessary and inappropriate consultation with the Central Authorities which has created this delay, I think, has to be reconsidered.

The Basic Law was promulgated in 1990. No law is ever perfect. Time changes. Need would, therefore, also change. Thus, a mechanism should have been put long in place so that in case there is a need, the amendment process could be invoked at once. And the SAR, of course, would be most interested in any necessary amendment to the Basic Law because we are governed in every way by the Basic Law.

Had such a process been in place, Madam President, the Standing Committee's Interpretation of Articles 22 and 24 of the Basic Law might not have happened. At least this urgent debate, when the question of the right of abode arose, as to whether the appropriate thing to do is to go by way of interpretation or amendment, would have received a more rational discussion. For example, if it is felt that Article 24 para 2(3), stipulating the qualifications for permanent residence, is not clear enough, or does not clearly manifest the original legislative intent of the Drafting Committee or the NPC, then the relevant provisions can be amended to make them clearer. Or, if it is thought that the circumstances have changed so that the original policy of giving the permanent residence status to so many people are no longer appropriate for the special circumstances of the SAR, then it can be amended. Instead we are told, because of the pressure of time, that amendment was not a viable route — at least, that was one of the reasons — and therefore, interpretation was the only possibility.

Madam President, this may be seen as the Administration profiting by its own wrong. And now by saying that we must not talk about amendment because there is no process in place, the Administration is seeking to perpetuate that wrong.

Finally, I agree with the content of the proposed resolution. I think that it comes as no surprise because we have discussed and debated the relevant articles, that is to say, Article 74 of the Basic Law and the split voting system, many times. I have heard the speech of my Honourable colleague, Dr LEONG Che-hung, with great attention. I agree with him entirely and I adopt his view on this point.

Hence, to sum up, Madam President, the split voting procedure is glaringly unfair. It is really the loaded dice sanctified. As to Article 74 of the Basic Law, it is an unnecessary crippling of the work of this Council. Whether from the view of process, from the view of initiative or from the view of content, I think that Mr LEUNG Yiu-chung's motion deserves support and I heartily support it. Thank you, Madam President.

MR AMBROSE LAU (in Cantonese): Madam President, as regards bills on amendment to the Basic Law, the views of the Hong Kong Progressive Alliance (HKPA) can be summed up by three points: Firstly, this is not the appropriate time for proposing amendment to the Basic Law; secondly, proposing bills on amendment to the Basic Law is an issue of enormous import and must be discussed with due care and attention; thirdly, it is not advisable for this Council to hastily propose amendment bills before working out the appropriate mechanism for implementation of Article 159 of the Basic Law.

Regarding the first point, it has been just over two years since the Basic Law came into operation. It is not appropriate to propose amendment to this constitutional law of Hong Kong in such a short time of operation. Many constitutional laws in the world do embody a high degree of stability and continuity and rash proposals for amendment are rarely made. The high stability and authority of the law is the solid foundation for the upholding the rule of law and maintenance of social stability.

Madam President, it took four years and eight months to draw up the Basic Law and it was subject to extensive consultation and amendment from the top to the bottom and vice versa. As it represents the combined painstaking efforts, wisdom and creativity of many people from Hong Kong and the Mainland, it is a constitutional document large and yet meticulous. It is highly commended and praised internationally and widely appraised as a legal document that is significant in history and exerts influence internationally. The Basic Law is not only the constitutional law of Hong Kong, but also a book of national laws; Hong Kong people as well as the mainlanders are required to abide by them. It is therefore very important to uphold the stability and authority of the Basic Law. Proposing amendment to the Basic Law in such a short time into operation not only implies a lack of due respect for the painstaking efforts, wisdom and creativity of the innumerable people involved in the consultation and drafting of the Basic Law, it is also diametrically opposed to the fact that the Basic Law is widely commended and recognized by the international community.

Madam President, amendment to the Basic Law is not impossible, but it is just inappropriate to make amendment in such a very short time into its operation in the first place. The HKPA is of the view that the Basic Law must be implemented for a certain period of time to see if there is a need for amendment and when the parties concerned have reached a consensus on the timing.

As to the second point, given the enormous import of bills on amendment to the Basic Law, it must be discussed with due care and attention. This concerns two aspects. First, pursuant to Article 159 of the Basic Law, amendment bills from the SAR shall be submitted to the NPC by the delegation of the Region to the NPC after obtaining the consent of two thirds of the Deputies of the Region to the NPC, two thirds of all the members of the Legislative Council of the Region, and the Chief Executive of the Region. Second, should the SAR activate the mechanism for amending the Basic Law, it will involve the interaction of the Hong Kong deputies to the NPC, the Legislative Council and the Chief Executive, touching upon the following issues: the priority of amendment proposals considered by the three parties; how the NPC Deputies of Hong Kong discharge the duties as stipulated in Article 159; how to ensure that amendment bills shall not contravene the state's existing fundamental guidelines and policies towards Hong Kong; the interaction of the Basic Law Committee and the above three parties and the effect of the comments of the Committee.

For the above reasons, the Legislative Council should not dismiss the interaction of the above three parties. All issues relating to amendment bills to the Basic Law from the SAR must be discussed and studied in detail by the parties concerned.

Madam President, since this is not the appropriate time for proposing amendment to the Basic Law and given the enormous import of this issue, which requires sufficient time for discussion and prudent handling, the HKPA opposes this motion. I so submit.

MISS CHRISTINE LOH: Madam President, since I agree entirely with Dr the Honourable LEONG Che-hung and the Honourable Miss Margaret NG, I will not repeat the arguments that they have already put forward in support of the Honourable LEUNG Yiu-chung's motion.

Perhaps I can respond directly to the points just made by the Honourable Ambrose LAU. He said that the Basic Law has only been operative for a very short period of time, and that it is therefore inappropriate to consider amending the Basic Law now. Well, that is not really much of an argument. If there is good cause to amend, it does not really matter whether something has been in existence for a long time or a short time.

Secondly, Mr LAU talked about there needs to be a consensus in the community, definitely with the Hong Kong Deputies to the National People's Congress (NPC), as well as members of the the Basic Law Committee on how to amend the Basic Law. Well, one of the problems that I think Mr LEUNG Yiu-chung and other members in the community who are interested to discuss amendment of the Basic Law have to face is that, it seems very difficult to try to excite the NPC deputies of Hong Kong as well as members of the Committee for the Basic Law to start looking at these issues.

So, what should we do? We have, I think, made it clear on many occasions that we are interested to talk about it. And I recall that some of our panels have actually considered inviting the NPC deputies of Hong Kong to the panel meetings to discuss these issues, but I believe that they did not really come to very much.

I think one of the things that I would ask Mr Ambrose LAU to consider is, how does he think the community can get into this issue when he himself so clearly demonstrates that they refuse to enter into any discussion? So therefore Mr LEUNG Yiu-chung is pushed into taking the action that he is taking now. Perhaps this is the first discussion in the legislature, and hopefully, it will stimulate and excite members of the community to now focus on what we have to do.

I would only say that, since Mr LEUNG Yiu-chung does not appear to have breached the Basic Law in any way by raising this motion in the legislature today, and since the substance of what he is proposing is what many of us, cross-party, have pointed out to be a problem, I do not see why, if we agree with the content of his motion, we should not offer him our support.

MR NG LEUNG-SING (in Cantonese): Madam President, any amendments to the Basic Law are certainly of immense constitutional significance. And, this resolution, which seeks to amend the power of Members to introduce bills and the system of voting by groups stipulated under the Basic Law, even hits right at the very core of our existing political structure. That is why we must treat this resolution cautiously and seriously.

First, let us look at the contents of this motion. Currently, under Article 74 of the Basic Law, Legislative Council Members are subject to restrictions in introducing bills relating to public expenditure, political structure or the operation of the Government, and the written consent of the Chief Executive shall be required before bills relating to government policies can be introduced. All these arrangements are meant to realize the principle of an executive-led administration, so as to ensure that the legislature can work in co-ordination with the Government. That way, it is hoped that we can bring forth a relationship of checks and balances marked by co-operation and efficiency and make joint efforts to promote social development and the well-being of the people. It is only two years into the implementation of the Basic Law. And, on the whole, it is noticed that the arrangements for Members' introduction of bills, coupled with the mechanism providing for the rulings of the Legislative Council President, have been able to contribute positively to the maintenance of political stability, the economic development of Hong Kong and the formulation of policies beneficial to the people. So, at this very stage, I can hardly see any need for changes. Madam President, the current arrangements for Members' introduction of bills are actually meant to tie in with other provisions of the Basic

Law. The Basic Law provides that the executive shall be vested with the power of formulating policies. That is why the consent of the Chief Executive must be required before any non-government sources are allowed to introduce any bills relating to government policies. If necessary, the consent of the Chief Executive must be obtained before such bills can be introduced. Besides, as pointed out in a previous debate on the relationship between the executive and the legislature, we must note that the executive is simply not guaranteed an adequate number of supporting votes in the Legislative Council. This is the reality under the whole political structure specified by the Basic Law. The Chief Executive is not backed up by any ruling party, and the civil servants form the backbone of the government machinery. Hence, to ensure effective governance and the smooth formulation and implementation of policies, there is indeed a need to put in place the current arrangements applicable to Members' introduction of bills. If not, the executive may well have to face an amazing variety of bills from Members and become totally disorientated, not knowing whether bills should really be introduced by the Policy Bureaux or by Members. In the end, this may destroy the balance within the political structure and the co-operation and efficiency that should mark the relationship between the executive and the legislature, thus leading to endless political conflicts and disputes. From this analysis, we can see that one cannot possibly make the political structure any more satisfactory simply by snatching powers from the executive. We must act with a sense of responsibility and consider the matter by looking at the overall political structure laid down in the Basic Law as well as the organic connections and balances among its component parts.

Madam President, in a way, the political systems of all countries and places are unique in themselves. There can never be any universally applicable model as such, for it all depends on the political and economic contexts and social traditions of the countries and places concerned. With regard to the method of formation, the Legislative Council of Hong Kong is returned by elections held in geographical constituencies, functional constituencies and the Election Committee. This is no doubt unique. But is it not true that the representative assemblies of other places are also unique in some other ways? In the United States, for example, the Congress is divided into the Senate and the House of Representatives, each possessing its own legislative powers. It can be said that such a political system is best suited to the federal system practised by a vast country with a huge population, because in such a country, there is a need to heed public opinions and to balance the interests of individual states. In another country, the United Kingdom, the Parliament is again divided into two Houses.

The House of Lords is made up of hereditary peers and life peers appointed by the Queen, and it is empowered to delay the passage of bills. Such a political system is very much the legacy of the United Kingdom's history and social traditions. If we now look at Hong Kong again, we will see that throughout its history, it has remained a city characterized by industrial, commercial and economic development, and it has relied largely on social stability and economic prosperity for its very survival and development. In Hong Kong, the grass-roots people, the middle classes, and even the industrial and commercial sectors and investors all have their common or different interests, and there is thus a need to strike a political balance among all of them. Also, it must be said that since Hong Kong is just a city, and since its political structure is thus bound to be small, the current arrangements and distribution of powers within the Legislative Council should be regarded as adequate already. Admittedly, Hong Kong is very much unlike the United States, which sees the need to balance the interests of its individual states, and it is also unlike the United Kingdom, which is influenced so much by its social and historical legacies — Hong Kong is just a city pivoting on its economic activities. But even so, should we not agree that there is still a need to consider how best to strike a balance among the interests of the grass-roots people, the middle classes, the industrial and commercial sectors and investors? This is really a question which merits our serious consideration. There is no single political system in this world which can possibly claim itself to be suitable for application in all places without any adjustment and adaptation. The parliamentary system in Hong Kong has operated for a very short time only, and so far, it has not led to any major problems which adversely affect our economy and livelihood. And, the system of voting by groups is also closely tied with our electoral system. So, there is simply no need for any rash changes, and such changes are bound to impair the consistency characterizing our entire parliamentary system. That is why I am against any amendments, and I am convinced that amendments will only lead to more amendments. That way, the endless stream of amendments based on sectoral interests will certainly produce very harmful effects on this legislature.

Madam President, this motion involves amendments to the Basic Law. The Constitutional Affairs Panel of this Council has actually conducted repeated discussions on the mechanism for amending the Basic Law, and many organizations and academics have already put forward their views. But we have so far been unable to establish any mechanism for the amendment of the Basic Law. So, even if this motion on amending the Basic Law is really passed, we still do not know what we should do next. In the absence of any clear legal

procedures, any rash attempts to initiate the work of amending the Basic Law will be both undesirable and irresponsible, not least because this may lead the local community and overseas places to cast doubts on our constitutional stability. Article 159 of the Basic Law already sets down a framework for amendment to the Basic Law itself. However, the actual implementation of the relevant provisions will still involve many complicated political and legal problems. For example, how are the Hong Kong Deputies to the NPC going to convene meetings and vote? And, for Chapter II of the Basic Law on the relationship between the Central Authorities and the Hong Kong Special Administrative Region, and for Annex II as well, should they be subject to the same amendment mechanism, or should they be handled separately?

All these issues warrant detailed and thorough examination, and that will in turn require both time and expert efforts. Besides, members of the public and different organizations have put forward many opinions. They think that the Basic law, the constitutional document of Hong Kong, should not be amended so very easily, and they also think that even if there is really any need for amendment, any actions must be preceded by extensive and in-depth consultation and discussions in the community. Therefore, I am of the view that the introduction of this motion is not supported by any urgent need, nor is it backed up by adequate social consensus and support. I am further convinced that this Council and most of its Members will adopt a very cautious and prudent attitude towards any motions of the like, which seek to amend the Basic Law. With these remarks, Madam President, I oppose the motion.

MR ANDREW CHENG (in Cantonese): Madam President, I will focus on the reply of the Government and the ruling given by the President when I introduced the Employment (Amendment) Bill 1999 in relation to wage reduction and layoffs on behalf of the Democratic Party. I hope that colleagues will support the motion moved by Mr LEUNG Yiu-chung on the basis of the in-depth discussions we made on this government policy.

The amendment proposed in Mr LEUNG Yiu-chung's motion seeks to amend the wordings of Article 74 of the Basic Law, that is, "Bills which do not relate to public expenditure or political structure or the operation of the Government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced" as "the written consent of

the Chief Executive shall be required before bills, the object or effect of which may, in the opinion of the President of the Legislative Council, be to dispose of or charge any part of the revenue or other public moneys of Hong Kong are introduced".

We think that a few issues are involved here. According to my painful experience on the last occasion, that is, the Government has emasculated the rights of Members to introduce bills on the policy argument, I think that there are three major problems with Article 74 of the Basic Law. Firstly, its legislative intent will easily be twisted by the Government; secondly, it will easily be infinitely expanded by the Government in the executive-led context; thirdly, the meaning of government policies will easily be twisted by the Government. I will elaborate these points one by one.

Why do I say that the legislative intent of Article 74 of the Basic Law will easily be twisted by the Government? When the Government responded to my Member's bill, it stated time and again that the purpose of the Basic Law is to maintain the continuity of the basic policies of Hong Kong. Therefore, an executive-led government must be maintained after the reunification. The Government went on to point out that the spirit of the Basic Law is to maintain the social and economic systems and the rule of law unchanged for 50 years, excluding the political system. One of the important principles of the Basic Law is "Hong Kong people ruling Hong Kong", and the ultimate selection of the Chief Executive and formation of the Legislative Council by election. Therefore, there has been a very big change compared to the colonial era. I think that the Government has misinterpreted the theme of continuity of the Basic Law in imposing the political system upon the general principle of continuity of the Basic Law. Furthermore, if according to the Government's interpretation the political system is included in the theme of continuity of the Sino-British Joint Declaration and the Basic Law, then the restrictions imposed on the introduction of bills by Members of the Legislative Council in accordance with Article 74 of the Basic Law should not be interpreted in the way like the Government has. Before the reunification, Legislative Council Members were subject to restrictions only on bills involving public moneys. Therefore, while the Government incorporates by force the political system into the general principle of continuity, it has greatly crippled the power of Legislative Council Members to introduce bills and this is self-contradictory. In the light of the Government's response, I think that Article 74 of the Basic Law will easily be twisted.

Secondly, I think that the Government will infinitely expand the executive-led concept according to Article 74 of the Basic Law easily. In the Government's reply, it cited the executive-led concept again and pointed out that the bill introduced by me would affect the executive-led role of the Government. However, the term "executive-led" cannot explain the objective and meaning of Article 74 of the Basic Law. In fact, we cannot find the term "executive-led" in the Basic Law and the Sino-British Joint Declaration. The powers conferred on the executive authorities under the Basic Law have been specified in the relevant articles, but we fail to find the term "executive-led". The Government has acted in an overbearing manner, infinitely expanded its powers, and brutally restricted the powers and functions of the legislature. Some provisions of the Basic Law have really given the executive a fairly important status, but we cannot deduce accordingly that the purpose of Article 74 of the Basic Law is to substantially restrict the powers of Legislative Council Members to introduce Members' bills. As I have just said, the former Government was also executive-led before the reunification but Legislative Council Members had introduced numerous Members' bills and some of them did managed to be passed. The purpose of the Basic Law and the Sino-British Joint Declaration is to give the legislature legislative rights and they must include the rights to introduce bills. Therefore, we trust that the restrictions prescribed in Article 74 of the Basic Law must apply to a limited scope, for otherwise it will unnecessarily restrict the powers of the Legislative Council. Unfortunately, the Government has distorted this legislative intent. When Members introduce Members' bills in future, I hope that the Government will not infinitely expand the executive-led concept again for these specious reasons and emasculate the rights of the Legislative Council to introduce bills.

Thirdly, government policies. Madam President, I really want to elaborate this point in greater detail. In my view, the Government resorts to sophistry in relation to the point about government policy, and this is particularly evident in its response to the Member's bill introduced by me. According to the Government, my Member's bill was related to government policy because it sought to amend the method of calculation of severance payment and long service payment. I think that the Government's argument mixed up government policies and the laws. The laws are unique and absolutely independent. When a policy is passed by way of legislation in the Legislative Council, it becomes part of our laws and is no longer a policy that can be arbitrarily changed by the

Directors, Secretaries or the Chief Executive. In accordance with Article 74 para 4 of the Basic Law, the Chief Executive has the right to decide government policies, but after a policy has become a law, even the Chief Executive does not have the right to amend it because the Government should also abide by the law. Therefore, at most, the Government can only state its position and introduce a bill for the Legislative Council to decide if it is necessary to make the relevant amendments. Government policies are different from laws.

The purpose of the Member's bill introduced by me was to make amendments to the Employment Ordinance, providing that in the event of layoff preceded by wage reduction, an employee may elect to calculate the severance and long service payments on basis of the mean wages before reduction in the 12-month period immediately preceding the date of dismissal. Therefore, the bill was related to an order under the existing Employment Ordinance rather than government policy. If the Administration mixes up government policies and general policies, and declares that "the existing government policy is that it is not necessary to amend the law in the light of how an employer handles matters such as wage reductions", it has upgraded the position of a bureau or department to a government policy as referred to in Article 74 of the Basic Law, and this is a very dangerous act. This is precisely the Government's interpretation of government policies. Thus, I do not think Legislative Council Members will still have the right to introduce bills in future. As the Government does not like Members to introduce bills, it has stated that any changes to the rights to introduce bills are related to government policies. If so, any bills introduced by any Member will be related to government policies. Madam President, your ruling has unfortunately approved of the Government's view

PRESIDENT (in Cantonese): Mr Andrew CHENG, I would like to remind you that you cannot discuss the ruling given by the President at a Legislative Council meeting. I remind you once again that, regarding the issue mentioned by you, I have given you a ruling in great detail and it has been read by all Members. I will definitely not affect your freedom of expression and I will also give you some more time. Please go on.

MR ANDREW CHENG (in Cantonese): Madam President, I have not mentioned your name just now and I have only mentioned your name when I discussed the Government's reply. However, I did not want to discuss about you. I only said that you had unfortunately given such a ruling limited by the Basic Law strait-jacket. I only want to talk about how your ruling and the Government's decision twisted the intent of the Basic Law, and the reasons why I think amendments should be made to the Basic Law.

I would like to discuss the words "relate to" because the motion has proposed to delete these words. I support this motion for a very simple reason. According to the Government's view and the President's ruling, if the implementation of a bill will not have material effects on public expenditure, the political system, government operation or government policies, it will not be regarded as a bill that "relates to" government policies. Therefore, if the policy reflected in a law is government policies, then the decisions made by government officials and the policies promulgated by the Legislative Council will be regarded as government policies.

I would also like to discuss my Member's bill again. In my bill, I referred to the Government's guideline for wage reduction and hoped to incorporate this guideline into the law. However, government officials thought that this was also an act related to government policies. If Legislative Council Members should think that certain guidelines and administrative measures of the Government are inadequate in future, and want to incorporate such administrative measures and guidelines into the law, they cannot do so by way of Members' bills. Actually, the Government has arbitrarily regarded inaction to incorporate certain measures and guidelines into the law as government policies. In other words, it has infinitely expanded the meaning of "relate to". What does legislating mean to Legislative Council Members? Do we really have the power to legislate?

Therefore, on the basis of the Government's viewpoint, even though there may be matters relating to material public interests in future, so long as government officials are unwilling to enact legislation, Members cannot exercise their due powers and introduce and draft bills on the measures we deemed reasonable for enactment. I think that the provision "relate to government policies" in the Basic Law warrants amendment.

Madam President, on the basis of the Government's argument that my Member's bill was related to government policies, I think that the Government regards Members as rubber-stamps and voting machines, and Members only have the rights to vote but not to introduce bills. Should this continue, Members may only be able to vote against some unreasonable bills and we may not have the rights to propose amendments. Even if we move amendments, they may be vetoed because they are related to government policies. Hong Kong people may then have an impression that Legislative Council Members only destroy but not establish, and we can only call the Legislative Council a voting council. Some people may also think that the Legislative Council is only a "garrulous" council that only engages in discussions and Members fail to introduce feasible bills in respect of unfair measures. In fact, this will also affect the people's willingness to engage in political discussions and participate in politics. No matter how many resources the Government injects into voter registration, they may be wasted because Hong Kong people will have an impression that Members are elected only for casting votes. Furthermore, as Members are required to vote in two groups, we very often fail to perform the functions people expected of the Legislative Council.

I will not discuss in detail the second point of the motion again because time is limited and many colleagues have already discussed this point. I mainly want to discuss government policies. Although the Government has spent large sums on voter registration, it only makes people feel that we are engaging in empty talks and we only have the rights to vote but not genuine powers. The Legislative Council has suddenly become a "garrulous" council. Therefore, in my view, Article 74 of the Basic Law has actually failed to do Members justice, and emasculated our legislative rights, so much so that we cannot represent the people's wills or air the discontent of the community.

With these remarks, Madam President, I support Mr LEUNG Yiu-chung's motion.

DR YEUNG SUM (in Cantonese): Madam President, since the reunification, two major changes have been introduced to the proceedings of the Legislative Council to tie in with the implementation of the Basic Law. One of these two changes is that all motions moved by Members, including motion debates, resolutions and amendments to bills have, to undergo the procedure of voting by groups, under which Members are divided into two groups for the purpose of

voting, and these motions can be carried only if they are agreed by a majority of each of the two groups of Members present. Another major change is that Members' power to introduce bills is now subjected to the restrictions imposed by Article 74 of the Basic Law. These restrictions include the two major conditions which specify that bills may be introduced only if they do not relate to the political structure or the operation of the Government. Besides, there is also the restriction that bills relating to government policies may be introduced only with the written consent of the Chief Executive.

To the Legislative Council, these two major changes are a "strait-jacket" which imposes great restrictions on its power to check the executive authorities, and which hinders the Legislative Council in its work of checking the executive authorities, especially in respect of legislative work including the introduction of legislative amendments and bills. We can see that many motion debates and amendments to bills were negatived just because of this arrangement, and so far, no Member has ever succeeded in introducing any Members' bill to this Council. What the legislature can do has thus also become less and less. As a result, members of the public are becoming increasingly dissatisfied and disappointed with the legislature because it has failed to live up to their expectations.

Ever since the inauguration of the first Legislative Council in 1998, more than 150 motion debates and amendments to motion debates have been moved in this Council. Of these 78 were negatived, which means that more than 50% of the motions and amendments to motions were negatived. And, given the system of voting by groups, 37 motions and amendments to motions were negatived because they were carried by one group of Members and negatived by the other. This is quite a substantial figure.

Had all these motions been put to vote under a simple majority voting system, they would have been passed, but under the separate voting mechanism, they were negatived. Instances of this kind of motions and amendments include many of those moved by Members belonging to the Democratic Party: Mr SIN Chung-kai's amendment to the motion on "Reforming the securities and futures market", Mr Michael HO's amendment to the motion on "Consultancy Report on Health Care Financing", Mr LEE Wing-tat's motion on "Anti-monopolization", and my motion on "Review of the Comprehensive Social Security Assistance Scheme".

The purpose of moving motion debates in the Legislative Council is to urge the Administration to respond to people's demands and enhance its public accountability in respect of government policies. However, since Members often fail to get their motions through, the Administration can always remain "indifferent", turning a deaf ear on the proposals of the Legislative Council. People may thus think that the Legislative Council can no longer play any positive role in promoting or introducing any changes to government policies, and this may lower the status of the Legislative Council in their mind.

Besides, with regard to legislative work, the hands of Legislative Council Members are also tied by the separate voting system. In the past year or so, Members of the Democratic Party moved a number of amendments with legislative effect to government bills, but all these amendments were not carried. During the Second Reading debate on the Legislative Council (Amendment) Bill 1999, Mr LEE Wing-tat moved an amendment to the effect that certain canvassing activities should be prohibited on the polling day. Twenty-nine Members voted in favour of the amendment and 28 Members voted against them. If this amendment was put to vote under the previous simple majority voting system, Mr LEE Wing-tat's amendment would have been carried, albeit by a narrow margin of just one vote. However, under the separate voting system, the entire amendment was negated because of the shortage of one vote in the functional constituency group, in which there were 15 votes against and 14 votes for the amendment.

Owing to the system of voting by two groups, even when a Member's amendment can get the support of a majority of all Members, it will still be very difficult for it get through. This has made the Administration increasing overbearing and dominant; in the case of a Member's amendment acceptable to the Administration, as long as it undertakes to move a similar amendment, it can then use its undertaking as a bargaining point in persuading other Members to vote against the amendment moved by the Member concerned. This can usually discourage the Member concerned, and he will thus withdraw his amendment.

For example, Mr Eric LI once tried to amend the Legislative (Amendment) Bill 1999, so that the Social Welfare Functional Constituency can be allowed to elect its representative to the Legislative Council on the basis of "one social worker, one vote". Mr LI's amendment had all along been strongly opposed by the Administration, but on the night before the Bill was put to the vote, the Administration indicated that it agreed to the amendment and requested Mr LI to

withdraw his amendment, promising to move the amendment on his behalf. But its proposal was ruled out of order by the President of the Legislative Council. The Administration then tried to persuade Members to vote against Mr Eric LI's amendment by saying that "the Administration promises to move a similar amendment at the next Legislative Council Session". All this clearly reflected on the executive hegemony of the Administration. As a result of such a delay, we have to wait another four years before the representative of the Social Welfare Functional Constituency can be elected on the basis of "one social worker, one vote".

Madam President, the primary role of the Legislative Council is to introduce amendments to legislation, and members of the public also count on us to do so. So, how can members of the public not help feeling disappointed with the Legislative Council when they learn of the incident I have mentioned? The separate voting system of the Legislative Council has severely hindered Members in their work of moving motions and amendments, and has also put the stopper on Members' suggestions and amendments, making it impossible for them to get through and thus curtailing Members' power to check the Government. Therefore, the Democratic Party thinks that it is necessary to amend the Basic Law and eliminate the separate voting mechanism.

Furthermore, the restriction imposed by Article 74 of the Basic Law on Members' right to introduce bills is another "strait-jacket" which has seriously impeded Members' power to check the Government.

Since the implementation of the restriction, not even one single Member's bill relating to public affairs has ever succeeded in getting its way to the full Council for scrutiny. So, even the introduction of Members' bill has been made very difficult.

Mr Andrew CHENG of the Democratic Party once tried to introduce amendments to the Employment Ordinance, but as he said repeatedly just now, his Member's Bill, which was moved with the intention of protecting workers' right in the event of pay-cuts and layoffs, was ruled out of order by the President of the Legislative Council owing to the obstacle laid down in Article 74 of the Basic Law.

I remember that before the reunification, the only restriction on introducing Members' bill was that bills having a charging effect was not allowed to be introduced. At that time, many Members of the then Legislative Council submitted Members' bills relating to policies affecting public interests, such as labour rights and the protection of human rights. These included Mr LEE Cheuk-yan's Bill on collective bargaining, the amendments introduced by other Members to existing legislation or the enactment of new legislation. During the 1996-97 Legislative Council Session, a total of eight Members' bills were submitted to the Legislative Council for scrutiny, and two of these bills were carried and enacted. One of these bills was the Interception of Communications Bill proposed by Mr James TO of the Democratic Party, which sought to safeguard the privacy of members of the public against government infringement.

Members' bills introduced by directly elected Members are mostly about matters of public interests, such as the protection of the rights of the public, including the rights of workers and public housing tenants. If Members' power to introduce bills is seriously impeded, then it will be very difficult for the Legislative Council to check the executive authorities.

Worse still, in an attempt to counter Members' power to introduce bills, the Administration has tried to infinitely expand the interpretation of Article 74 of the Basic Law relating to the restriction on bills involving the political structure or the operation of the Government. Members are not given even the smallest opportunity to move bills. This once again shows its executive hegemony.

With these remarks, Madam President, I support Mr LEUNG Yiu-chung's resolution on behalf of the Democratic Party.

MR LEE CHEUK-YAN (in Cantonese): Madam President, firstly, I would like to respond to the remark of the Secretary for Constitutional Affairs that Mr LEUNG Yiu-chung has rashly proposed this motion. Just as Miss Margaret NG has expounded fully the point that we have waited for one year, so I would not dwell on this today. The Secretary has also said that there is no mechanism for amending the Basic Law, but when the Chief Executive asked the NPC to

interpret the Basic Law, the Government managed to do so though there was no such a mechanism for that. At present, the Government manipulates all matters in Hong Kong. With the Government's permission, something can be done, but nothing can be done without its permission. Why can it not be done now? It is because the amendment to the Basic Law is not proposed by the Government, but Mr LEUNG Yiu-chung. If the Government wants to propose an amendment, it can be done, and it can be done even faster if it comes from the Central Authorities. This is a fact. Can the Secretary explain why the NPC could be asked to interpret the Basic Law even though there was no such a mechanism and why could a mechanism be found immediately? Why can this not be done this time around, when this is explicitly stated in the Basic Law?

Secondly, I would like to respond to the point about an executive-led government. Mr NG Leung-sing has also touched upon the point about executive-led government just now. I am very worried that something untrue may become true after it has been repeated again and again. Many people wondered if I have made a mistake. While everybody talks about an executive-led government, I am saying that it is untrue. It is because I have read a book written by Mr WANG Shuwen, a member of the Basic Law Drafting Committee (BLDC). He said that three models were proposed during the drafting of the Basic Law, namely, executive-led, legislative-led and mutual checks and balances. He said very clearly that the BLDC had rejected the first two models and finally selected the model of mutual checks and balances. Besides, Mr JI Pengfei, the most authoritative person on the Basic Law had never talked about an executive-led model but only the model of mutual checks and balances. I would like to ask Secretary Michael SUEN where he found citations of an executive-led model. Not only Mr NG Leung-sing has talked about an executive-led model, when the good Secretary and the Government of the Special Administrative Region (SAR) responded to the Members' bills, they have also stated very clearly that the SAR Government is executive-led according to the Basic Law. This is one of the constitutional reasons cited by the Government to suppress Legislative Council Members' rights to introduce bills. I really hope that the Secretary for Constitutional Affairs will tell us later where he found allusion to an executive-led government, and on the basis of which he has infinitely expanded it and distributed documents on an executive-led mode of governance in Hong Kong? Why did he not discuss mutual checks and balances? Mutual checks and balances has always been the official stance of the Government.

Thirdly, I would like to turn back to Members' bills or the content of this motion in relation to Article 74 of the Basic Law. I personally have rather strong feelings of a Member's bill. I recall that when I was freshly elected to the Legislative Council in March 1995, a reporter asked me about the first thing I would like to do after the election. I answered that the first thing was to make preparations for the introduction of a Member's bill on reforms to the maternity allowance and long service payment. Although I introduced the relevant Member's bill at that time, I finally did not vote because I knew that my bill would certainly not be passed. Yet, the rate of maternity allowance was at least changed from two thirds to four fifths. That happened in 1995 before the election of Members for the new term. I had joined the Council for half a year and the first thing I did was to exercise my right to introduce a Member's bill. I felt like a child or a martial arts learner who had found a secret book. Once I found that these skills could be used, I tried them out.

After I was re-elected in 1995, I introduced a bill to terminate the importation of labour scheme, compelling the Government to negotiate with the labour sector. Although I did not introduce this bill at the end, I knew that the Government had actively responded. Later, I introduced three Member's bills to make amendments to the legislation on the rights to collective bargaining, the prohibition of discrimination against trade unions and employee trade unions, and these bills were finally submitted to and passed by the then Legislative Council. There was mutual checks and balances between the executive and the legislature at that time and Legislative Council Members really had certain skills by which they could exchange views with senior officials and martial arts masters. After the reunification, there were incidents such as the legislation on the abolition of the rights to collective bargaining, but I do not want to reiterate them here. Let us turn back to 1998 when we intended to introduce a Member's bill. In fact, we had a feeling that Article 74 of the Basic Law would strike us like a stick and nullify our powers. Yet, I would like to know if the powers of the Council had been nullified. Therefore, we introduced a bill on the rights to collective bargaining and a bill to amend the Employment Ordinance relating to discrimination against the trade union's right to reinstatement. Finally, we found that Article 74 of the Basic Law had really nullified the powers of Members.

Article 74 of the Basic Law has put four major obstacles before us Members' bills may not relate to public expenditure, political structure and the operation of the Government because bills relating to these issues cannot be introduced. The fourth obstacle is government policies. Article 74 of the Basic Law specifies that the written consent of the Chief Executive shall be required before bills relating to government policies are introduced. As Mr CHENG has said, the Government and the President had made a response and given a ruling on the Member's bill introduced by Mr Andrew CHENG under Article 74 of the Basic Law, therefore, I am not going to discuss in detail the two Members' bills I have recently introduced. However, the result is crystal clear. The President of the Legislative Council ruled that my Member's bill was related to expenditure and government policies. Once a bill is related to expenditure, the President may rule that it cannot be introduced even before consulting the Chief Executive. But I would like to remind all Members that a bill relating to expenditure could be introduced in the Legislative Council before the reunification in 1997. At that time, only bills relating to "public money" could not be introduced. There is a difference between a bill "relating to public money" and a bill "relating to public expenditure". A bill "relating to public money" has a wider scope while a bill "relating to public expenditure" has a narrower scope. In other words, if a bill is regarded as directly or indirectly increasing government expenditure, the President will rule that it cannot be introduced. However, in the past, a bill relating to public money could be related to "new and distinct" expenditure. However, this concept has now disappeared and the scope of a bill "relating to public expenditure" is now obviously narrower than it was in 1997. The obstacle of government policies has made us wreck our brains. What kind of bills is not related to government policies? The Government has also said that a bill relating to policies being made is also a bill relating to government policies. The President has been rather lax as she said that a bill relating to policies being made is not regarded as a bill relating to government policies. I am not going to comment on the President's ruling again, for I am only giving an example to illustrate this point. *(Laughter)*

As regards the Member's bill introduced by Mr LEUNG Yiu-chung, we know that all Members' bills relating to government policies require the written consent of the Chief Executive. So long as the written consent of the Chief Executive is given, such a bill can be introduced. Therefore, Mr LEUNG

Yiu-chung approached the Chief Executive to see if he would give consent to a bill making 31 December a holiday. The Chief Executive replied very briefly but clearly that bills defeating government policies could not be introduced. The Chief Executive is more rigid than the Basic Law as the Basic Law only states that the written consent of the Chief Executive shall be required before bills relating to government policies are introduced. But the Chief Executive says that he will only give consent to a bill that complies with government policies. Conversely, the Chief Executive will not give consent to bills defeating government policies. What room does that leave us to introduce bills? Article 74 of the Basic Law has reduced the rights of Legislative Council Members to introduce Members' bills to zero, how can we introduce bills? If a bill complies with government policies, the Government will introduce it, why does it have to wait for a Member to introduce such a bill? If the rights of Legislative Council Members to introduce Members' bills are reduced to zero, Members obviously do not have the rights to introduce Members' bills.

In the past, I used the term "emasculate" just used by Mr Andrew CHENG but I do not want to use the term today because the term seems to imply that I have practised according to the Sunflower Valuable Book of the hero in *Swordsmen II*. However, I do not want to forget myself today. Yet, we have actually been deprived of our rights to introduce Members' bills. How can we monitor government administration? If Members and the Government have divergent views on policies, Members can no longer introduce Members' bills to change the administrative objectives of the Government because we no longer have such rights.

I call upon Legislative Council Members to support the motion introduced by Mr LEUNG Yiu-chung to amend the Basic Law because it is a resolution that will reinstate the powers of Members. Do Members have a feeling that whenever we want to exercise our powers to amend the Government's administrative objectives, we will feel dizzy and collapse at once? It is because we can no longer exercise our powers. Drawing an analogy between this and a cowboy movie, we can no longer pull our guns. If I quote Dr LEONG Che-hung's remark just now, we no longer have ammunition. Do Members not treasure our rights? What do the public elect us for? The public has elected us to monitor the Government's administration. When the Government's administration goes against the will of the public, do we need to change the Government's administration? Do we need to rely on Members' bills to change

the Government's administration? Are we willing to have our powers nullified? Borrowing the term used by Mr Andrew CHENG, are we willing to have our rights emasculated? Now, it is a very simple decision before us. Do we wish to reinstate our rights, at least the rights we had before 1997 so that we can change the Government's administration by introducing Members' bills and be accountable to our electors?

I earnestly hope that Members of the Hong Kong Federation of Trade Unions will again "split up at a ratio of 7:3 or 6:4" when they vote because Article 74 of the Basic Law has restricted our rights to introduce Members' bills and the rights of Members of the labour sector to fight for workers' interests. Miss CHAN Yuen-han has asked to exercise her rights to introduce Members' bills twice. The first time is related to foreign labour while the second is related to the right to reinstatement. If we really want to introduce Members' bills and change the labour legislation, we can only do so by making amendments to the Basic Law. If we do not support this motion to amend the Basic Law, how could we seek to introduce Members' bills? We all understand that we cannot exercise our powers even though we want to do so. Therefore, I really hope that when Members from the labour sector consider this motion, they will consider this from the angle of workers' interests. If we manage to fight for the rights to introduce Members' rights, it is very important to all wage earners in Hong Kong who want changes to be made to the labour legislation. In particular, labour legislation is very often related to public money because this is the equilibrium point for employers and employees. As an equilibrium is not achieved at present, I hope that Members will support this motion that fights for the rights to introduce Members' bills.

Lastly, I will not elaborate on the issue of voting in groups because all of us are victims. I would like to ask Members to ponder over one point. Do we want to reinstate our powers when we fight for a change in policies or does every one of us want to have only a mouth and a brain but no hands to pull a gun or call the shots? If so, we will gradually become Members in a vegetative state. Thank you, Madam President.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, to the Central Authorities and the SAR Government, the Basic Law has three vital Magic Weapons or talismans. To Council Members with popular support or those who wish to reflect public opinion, the Basic Law has three vital

"Incantations of the Golden Hoop" or the magic spells. These magic spells are extremely sacred and inviolable because they will maintain the autocratic and hegemonic administration of the SAR Government. To the Government and its many royalists, casual amendment of the Basic Law is definitely prohibited.

The first magic spell is Article 74 of the Basic Law. I shall call it the most deadly form of castration, as it restricts the powers of Council Members to introduce bills. The most ridiculous thing on earth is, the Members of the Legislative Council are unable to draw up legislation by themselves. Today, we are unable to introduce bills related to political structure or the operation of the Government, as well as bills related to government policies. Members are unable to introduce bills simply because their rights of moving Members' bills were taken away. This is certainly the most deadly form of castration the Basic Law has imposed on the powers of the Legislative Council.

The second magic spell is the Annex II to the Basic Law, which stipulates the voting procedure for bills and motions. I shall call this procedure or system the greatest invention of anti-democracy. One of the tenets of democracy is to make the minority abide by majority decisions through a specific mechanism. On the contrary, the existing voting procedure is able to make the majority of the Legislative Council abide by minority decisions. Surprisingly, this kind of preposterous and irrational voting procedure has become the mini-constitution of Hong Kong, the fundamental law dictating the fate of Hong Kong. Therefore, it is the greatest invention in the anti-democracy system.

The third magic spell is the electoral system for the Legislative Council and the Chief Executive as stipulated in the Basic Law. On the one hand, it allows the selection of the Chief Executive by universal suffrage to be put off indefinitely. On the other hand, by means of all kinds of anti-democracy electoral systems, weird and peculiar forms of elections, it cuts and dismembers the legislature, divides and rules it, controls and slaughters it, and ultimately prevents a majority party from emerging in the Legislative Council. So the executive-led and hegemonic Government can carry on doing whatever it likes. I therefore call this magic spell the phoniest democracy the Basic Law has ever given to the people of Hong Kong.

Madam President, as the Basic Law has already provided the three talismans to the Central Authorities and the SAR Government, as well as the three magic spells which I have mentioned earlier, namely, the most deadly form

of castration of the powers of the Legislative Council; the greatest invention in the anti-democracy system to make the majority abide by minority decisions in voting procedures; and the phoney democracy preventing the emergence of a majority party; these three magic spells are virtually the weapons of administrative autocracy. They will definitely not amend the Basic Law and they will definitely prohibit any legislator to do so (including Mr LEUNG Yiu-chung), so much so that they will bar any procedure which might possibly activate any procedure for amendment to the Basic Law. They will try their best to stall the procedure of discussing any amendment. As a result, the Government has to negative the motion moved by Mr LEUNG Yiu-chung today because it is in the fundamental interest of the Government to exercise administrative autocracy, and it will not be an autocratic government had the motion not been negated. However, the wisest veto on earth is procrastination, while the wisest procrastination is to raise a series of paradoxical questions to muddle up the water. Eventually, it creates a chaotic situation where rights and wrongs are on both hither and thither sides.

Mr Michael SUEN proposed 13 steps for amending the Basic Law a few days ago; it was virtually a consultation comprising 13 questions on how to amend the Basic Law. There were 13 questions in the front and 13 questions at the back as if they have no ends and there were problems within problems. It was really too difficult for Council Members to finish the whole thing off because filibustering was used. Filibustering is too good enough to drag, bore and choke today's motion to death. Eventually the motion will be completely wiped out. In fact, the Government has been postponing the issue again and again for almost one year. Meanwhile, we also find out that as the Government was dragging the whole thing up, it was able to assume the fastest speed in seeking the Standing Committee of the National People's Congress (NPC) to interpret the relevant provisions of the Basic Law at the same time, resulting in the *de facto* amendment of Articles 22 and 24 of the Basic Law. "To interpret the Basic Law is really as easy as falling off a log, but to propose any amendment to it is as difficult as climbing up to heaven." It is really as difficult as climbing up to heaven when we intend to propose any amendment to the Basic Law. Since the Government is able to use the NPC interpretation procedure to do whatever it likes, then why does the Government have to rack its brain to materialize the amendment? Why tolerate the bold actions of Council Members in requesting amendments to the Basic Law?

Everybody knows that Mr Michael SUEN is a master of filibustering. In the recent "scrapping" of the two Municipal Councils, he single-handedly dragged the voting for one hour with his eloquence. Now, he is employing filibustering to drag the motion on amending the Basic Law for one whole year. I once joked with him and said that Mr Michael SUEN probably intended to drag the issue by not drawing up any procedure to amend the Basic Law until his retirement, so how could it be possible for him to see the actual amendment of the Basic Law? Nevertheless, the question is why the amending of the Basic Law is so dreadful to the SAR Government? It is because once the floodgate of amending the Basic Law is opened, a domino effect will be triggered off as the public, political parties and people longing for democracy would request a series of amendments to the Basic Law as well as the speeding up of the pace of democratization. For example, it will cause the Legislative Council to request a reinstatement of the Members' rights to introduce bills, and a restoration of the voting mechanism whereby the minority should abide by the majority decisions as the legislature so rightly deserves. It will also generate a new wave of democratic movement in the public, which may lead to a new direction and force to press for the amendment of the Basic Law for the sake of democratization. Ultimately, it will cause a great impact on the three talismans of today's administrative autocracy, and it will remove the three magical spells on the legislature which is established on the basis of public opinion, which are precisely the last things the Government of today wishes to see. Who or which government will take the initiative to rid themselves of the autocratic power which enables them to do whatever they like?

Today, I can no longer tolerate the hegemonic administration of this Government. Secretary Michael SUEN said that the motion moved by Mr LEUNG Yiu-chung was immature. However, I can tell him that both our discontent and our tolerance have reached their limits, and we fully support the motion moved by Mr LEUNG Yiu-chung today; because it will dilute the hegemonic administration should it be carried today. Should the motion fail to be carried today, it can still be a forceful starting point to consolidate the forces of democracy, and it will become the first step of returning the reins of government to the people. I have been fighting for democracy in Hong Kong for the past 20 years, from a young man to a middle-age man now; but I do not want to fight for a meagre democracy like this when I become an old man. Yet democracy is so far away that not even a trace can be seen.

Democracy in Hong Kong today is very deplorable. Twenty years have gone by, but the determination of the Hong Kong people to fight for democracy is so appallingly weak and the door of democracy is still so tightly shut on them,

but we should not give up since we have already started the struggle for democracy. Now that democracy is awake, the people of Hong Kong awake to it should not turn back on the road to democracy. The Basic Law is fettering the will power of the people, in the end, it will be persistently challenged and lashed by this will power. It will be lashed today, even though failure is so likely. Besides, people fighting all their lives for democracy will never admit defeat as long as the fight goes on.

My dear friends, all Honourable Members in this Chamber, regardless of the different ways that we are elected into this Council, I think all of us share the same wish that this Council will be able to convey the public opinion through the mechanism of a Council. Mr Jasper TSANG was right, after all, when he asked "Which member returned by popular election is willing to take great pains to get elected just for criticizing and scolding the Government a few words?" This cannot be the case. When a political party participates in an election, it should provide voters with a platform and a sense of determination. Should the platform and determination fail to materialize in a democratic system, what is the point of running a political party? But more importantly, the people have placed their hopes on us. Each ballot carries the hopes of the people on Council Members to fulfill their platforms. If any Member is not going to support Mr LEUNG Yiu-chung today, it is a covert denial of one's own platform, and a denial of the mechanism which can make one's own platform come true. That should not be the case. We should support the motion moved by Mr LEUNG Yiu-chung today, because he is just asking for the reinstatement of something which used to belong to us, something we used to have in this Council in the days of colonial rule. After the reunification, we have lost too many things, including the meagre democracy we used to have in the colonial era. How can we not fight for these with all our body and soul?

Therefore, the Democratic Party supports Mr LEUNG Yiu-chung without any reservation, because he is doing the right thing today, the thing that democrats should have done. Today — allow me to quote Miss Emily LAU — the monster-revealing mirror is unfolded. Votes of members will decide whether you are a royalist, or someone who can really reflect the determinations and aspirations of the people for democracy. The voting results today also serve to reveal and inspire. The Democratic Party is willing to be a political party which vows to struggle for the cause of democracy. We support the motion moved by Mr LEUNG Yiu-chung. Thank you, Madam President.

MR TAM YIU-CHUNG (in Cantonese): Madam President, the Basic Law is a constitutional instrument which fully realizes the principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". I should like to point out that "a high degree of autonomy" is not the same as "full autonomy". It is either out of some misunderstanding or out of one's personal wish to develop self-rule that anybody would consider having a high degree of autonomy as being fully autonomous. The drafting of the Basic Law commenced on 1 July 1985 when the Basic Law Drafting Committee was formally established and completed officially at the ninth plenary session of the Drafting Committee held on 17 February 1990, taking a total of four years and eight months. During this period, consultative work was conducted for some four years and a half to solicit opinions. Each and every article of the Basic Law was worked out after long and extensive consultation, not only reflecting fully the demands of the people of Hong Kong but also safeguarding their rights and interests in a practical manner. There have been views held by some people that the drafting of the Basic Law was not conducted in a democratic manner, and that the Basic Law was not any product of democracy but that of the Beijing authorities. These are but nonsense comments made without regard to facts.

Some people consider the provision set out under Article 74 of the Basic Law for Members of this Council to introduce a Member's bill too rigid. Being nostalgic for the colonial rule, these people hold that the practice of the British Hong Kong Legislative Council should be adopted, so that only those proposed motions ruled by the President as having a charging effect would be required to obtain written consent from the Chief Executive before introduction. However, this view has overlooked the undeniable fact that the former Legislative Council during the rule of the British Hong Kong Administration was just an advisory body with no genuine legislative power. The proof of this point is established on the basis of the Letters Patent and the Royal Instructions.

Within the constitutional framework provided for by the Basic Law, the legislature and the executive authorities will each have its own roles to play. The powers and functions of the executive authorities are prescribed under Article 62 of the Basic Law, and those of the legislature under Article 73. As such, the executive authorities and the legislature should co-ordinate with each other, as well as exercising mutual checks and balances. For this reason, Article 74 of the Basic Law stipulates that the written consent of the Chief Executive shall be required before bills relating to government policies are introduced by Members of the Legislative Council. This is one of the ways whereby the executive authorities and the legislature could exercise checks and balances on each other and at the same time discharge their respective

responsibilities. That way, the continuity and stability of government policies could be ensured.

With regard to the separate voting system referred to in the second part of the motion today, this was in fact the mainstream view developed from the various models of political structure put forward by the different sector of the community during the draft Basic Law consultation period. The adoption of the separate voting system is to ensure that the various sectors of the community could all have a balanced role to play in the legislative process. In this connection, the composition of the Legislative Council in the first and second terms include Members returned by functional constituencies and those returned by geographical constituencies through direct election and by the Election Committee. As regards the Legislative Council in the third term, it shall be composed of Members returned by functional constituencies and those returned by geographical constituencies through direct election. The objective of the separate voting system is to ensure that motions put forward by Members are reflective of the consensus reached among the various sectors of the community, capable of catering to the respective interests of the different sectors, and supported by the vast majority of the Members in this Council.

Madam President, any changes to our political system are closely related to the rights and interests of the people of Hong Kong. The draft Basic Law was twice presented to the Central Authorities and the public for consultation. And it was because of the opinions widely solicited and absorbed from the people of Hong Kong that we could formulate the present constitutional instrument, which is the cornerstone of the prosperity and stability of Hong Kong. One of the principles underlying the drafting of the Basic Law is that the political structure of the Hong Kong Special Administrative Region must look after the interests of the different sectors of society. While the part of the existing political structure proven to be effective will be maintained, a democratic system that suits Hong Kong's reality should be introduced in a gradual and orderly manner. It is obvious that the motion today, which has proposed to amend certain provisions under the Basic Law without any prior consultation with the community, is immature, irresponsible, and disrespectful to the views of the people of Hong Kong. As a member of the then Basic Law Drafting Committee, I must raise my objection to the motion today. In addition, Members from the Democratic Alliance for the Betterment of Hong Kong are also opposed to the proposed resolution.

MR DAVID CHU (in Cantonese): Madam President, three parties, namely the Standing Committee of the National People's Congress (NPCSC), the State Council and the Government of the Hong Kong Special Administrative Region, have the right to propose amendments to the Basic Law. If we lightly propose an amendment to the Basic Law, and the NPCSC and the State Council do the same lightly, would Hong Kong people like this?

Having heard Members make strong criticisms and express their views against the Basic Law today, I would like to remind them that every Legislative Council Member has made a declaration to uphold the Basic Law. I would also like to remind them that the "godfathers" of some Members, Britain and the United States, have made formal declarations in support of the Basic Law. Thank you, Madam President.

MISS CYD HO (in Cantonese): Madam President, I am only going to make one point. Is this a suitable time to propose an amendment to the Basic Law and hold the relevant discussions? Many Members have said that a constitution should be stable, implemented and discreetly and rigorously considered. We should implement this constitution for a fairly long time before proposing amendments to it. I understand that the formulation of the Basic Law took a fairly long time but if we compare the number of people participating in the formulation of the Basic Law with the population of Hong Kong, the former is actually not a large number. Besides, there are indeed "imperfections" in the Basic Law. As the Chief Secretary for Administration has said, "one country, two systems" is unprecedented in history, so if we merely rely on the Basic Law to realize the principle of "one country, two systems", there are many problems for which we cannot find any previous experience that can inspire us. This "mini-constitution" has been implemented for two years since its promulgation and we find that there are many provisions that need to be amended. There is definitely a trap there which Members may have fallen into it and they may have even been hurt, why are they still saying that it should be implemented for a longer time?

Madam President, let me give a few examples. Firstly, Article 24 on the right of abode in Hong Kong. I would like to say that I support family reunion. But, technically speaking, if some of us think that this provision is not explicit enough, then it should be amended to disallow family reunion. However, as the Government has been unwilling to activate the mechanism for amendment, this

has resulted in many proceedings and the NPC was even asked to interpret the Basic Law. Whether the interpretation of the Basic Law by the NPC complies with the constitution is still open to question, and it affects the confidence of the international community in the rule of law in Hong Kong. Why should this be done?

Madam President, the second example is related to elections and we will soon have to face it. The first paragraph of Annex I states that "the Chief Executive shall be elected by a broadly representative Election Committee in accordance with this Law and appointed by the Central People's Government". The second paragraph of Annex II states that "Except in the case of the first Legislative Council, the above-mentioned Election Committee refers to the one provided for in Annex I of this Law". The Election Committee will be formed in mid-2000. After its formation and before the election of the next Chief Executive in 2002, these 800 members have been elected. Will they use their rights to vote to affect the administration by the Chief Executive? How can we monitor the conflict of interests between the Chief Executive and these 800 members? There are actually many problems with this. As these problems had not been carefully considered when the Basic Law was drafted, we have to face such problems. Why can we not hold the relevant discussions now?

Mr LEUNG Yiu-chung has moved this resolution asking for amendments to the Basic Law. We did not have the resources to consult every member of the community beforehand or hold extensive discussions, but the Government has the resources. Yet, the Government holds a "destructive rather than constructive" attitude and it has put forward 13 conditions for amendments to the Basic Law. Has the Government taken the initiative to look for solutions to these problems? The SAR Government is most resourceful in terms of manpower and materials and can communicate with the Central Government. Why does it only tell us that there are many obstacles but not actively take the initiative to collect information or work out specific plans for us to hold discussions and start the relevant work for amendments to the Basic Law together?

Madam President, I would also like to respond to the points made by the Secretary for Constitutional Affairs when he spoke for the first time today. In his speech, he said that the motion was not a mature and appropriate method to start making amendments to the Basic Law. This is really an old problem and the Government has also resorted to the old methods. The old problem is that

whenever the public wants to share the Government's powers and when the legislature seeks to exercise checks and balances on the executive authorities, we will find that the old excuses like "immature" and "untimely" and "the people's will is unclear" are thus employed to stall the attempts. However, the Secretary has also said that he would listen to our views carefully and reflect them to the Central Authorities. If so, that means our discussions are interactive. The debates we held in the Legislative Council and our discussions in the Panels can affect all actions that will be taken by the Secretary subsequently. Nevertheless, to do or not to do, it is entirely the Secretary's decision. After the Secretary has listened to the supportive and opposing views of so many people, I hope that he will really take practical actions such as to communicate with the Central Government. The Secretary has just said that he would feel like being forced to repeat his arguments without adding anything new when a Member proposes a similar motion in future. I hope that the Secretary would not do so. I also do not believe that after such discussions, the community and other people will not put forward new ideas. Yet, the executive authorities can definitely not "impede the movement of the earth". Thank you, Madam President.

MR JAMES TIEN (in Cantonese): Madam President, the motion moved by Mr LEUNG Yiu-chung today basically seeks to amend the Basic Law, a point which many colleagues have discussed. We think that at the drafting stage and the consultation stage, the Basic Law Consultative Committee stage, of the Basic Law, many people expressed their views and the industrial and business sectors and the professional sectors also expressed their views. Many of these views were finally adopted but nobody was fully satisfied. Now, we are acting according to the Basic Law. Those who are not satisfied keep saying that a review is needed while those who are satisfied say that as the Basic Law is formulated after a lengthy review, why is it necessary to conduct a review at once as it has only been implemented for slightly more than two years?

Those who are not satisfied say that many provisions are unsatisfactory, but what are they dissatisfied with after all? Originally, the Liberal Party has drawn up an official speech for me but I am very glad that I have finally heard the remarks of Mr Andrew CHENG and Mr LEE Cheuk-yan on which I can really express my views. I originally thought that Mr LEUNG Yiu-chung would make the point but he did not. He spoke for 15 minutes but he was only reviewing history. He discussed about the Central Government and the situation at that time, but he did not touch upon the crucial problem. The

crucial problem is that if our political structure and the operation of the Government is not based on Article 74 of the Basic Law, what happened one month before the British Hong Kong Administration left Hong Kong would happen again. The former Governor, Mr Chris PATTEN, belonged to the Conservative Party in Britain but he acted like a Labour Party member in Hong Kong. He consented all the Members' bills relating to the right to collective bargaining, severance pay and maternity leave. Mr LEUNG Yiu-chung said that it is a historical moment today but I think that the time when a lot of labour legislation was passed in the past better fits that description.

Members from the labour sector think that labour legislation is good for the general public. Is this true? Every year, a lot of labour legislation is made and the industrial and business sectors have to observe them. At present, many factories have moved away from Hong Kong and the labour sector is saying that the heartless employers have earned enough and so they left Hong Kong. But conversely, why did factories move away? So long as they cannot run business here, they will not take part in changing the political system. They have moved to other places favourable to the business they run, not only China and the Pearl River Delta, but also such places as Burma, Vietnam and Indonesia. The specific issue we should discuss today is that if the Democratic Party really wants to discuss democracy and the Democratic Alliance for the Betterment of Hong Kong (DAB) really wants to discuss matters about the DAB, if there is another party called the "Labour Party", the situation will be different because the "Labour Party" can introduce Members' bills. The general public is most concerned about their livelihood now. If there is more and more labour legislation and Members' bills are amended every day, would this be beneficial to the people? On the face of it, there will be instant effects but they may not have any work 10 to 20 years later and their children will not have jobs. They simply could not look into their future.

I also agree that most people are employees; there are more than 3 million employees, and employers are a minority. If an employer has one vote and an employee also has one vote, the employer will certainly lose. The so-called voting in groups proposed by the Basic Law Drafting Committee was proposed at a time when the industrial and business sectors had never thought that labour legislation would retrogress as a result of the enactment of a Member's bill. Many factory owners have told me that the maternity leave now is four weeks before and six weeks after delivery. Is it necessary to take 10 weeks' leave? Is it not fine in many countries that do not have such provisions? Yet, we

employers cannot introduce a Member's bill to change four weeks before and six weeks after delivery into three weeks before and six weeks after delivery though we think that there is little problem with this provision presently. According to the industrial and business sectors, if we do not agree to the proposals of these Members' bills, the Labour Advisory Board (LAB) will at the most hold a discussion, and if we make a concession after the discussion, we will support the Government. However, after Members from the labour sector have discussed the matter with the LAB, they will put the matter away and introduce a Member's bill in this Council again. I agree that amendments should be proposed for discussion. Yet, we can see that all the amendments proposed by the Democratic Party acting very much like a "Labour Party" got adequate votes and were passed before the reunification in 1997. So what?

Our discussion today does not centre on whether the Government is overbearing and whether those who support the Government are royalists and those who support Mr LEUNG Yiu-chung are democrats. In fact, while trade unions support Mr LEUNG Yiu-chung, those who support the Government want the continued prosperity of Hong Kong and they want to stimulate economic development. Actually, this is where the difference lies. Miss Margaret NG is a legal expert and she discussed about laws, but I discussed something else, that is, economic affairs. Therefore, I would not understand what she said and she would not understand what I said. Anyway, in our discussions on the resolution relating to the amendments to the Basic Law today, be they on the separate voting arrangement or the operation of the Government or the political structure, we think that the Government should try its best to strike a balance between the industrial and business sectors and the labour sector. That is why the task is so toilsome. However, after the industrial and business sectors have approved of the legislation, it will not move a motion seeking an amendment, but the labour sector would ask for a wholesale amendment.

Let us take a look at all Members' bills. I do not mind what Dr YEUNG Sum has just said. He said that the social service sector should have one person, one vote or one social worker, one vote. I believe that regardless of the method of election, Mr LAW Chi-kwong will still be elected. How many Hong Kong people will worry about this? If we take this as an example to illustrate the right to introduce Members' bills, I think the public will not be quite concerned about or interested in finding out whether it is one social worker, one vote; one social group, one vote or one organization, one vote. However, remarks about labour interests must be agreeable to the hearer. While Members support the rights to

amend government policies, they are basically fighting for more labour welfare. However, in the long run, is more labour welfare really good for workers? This I cannot agree. The Liberal Party thinks that it is most important for us to maintain long-term economic development because it affects our economic performance. For instance, the Government has proposed the Admission of Talents Scheme, but Members from the labour sector think that this should not be done because these professionals will snatch the rice bowls of Hong Kong people. Yet, without these talents, will Hong Kong people have work? Given the lack of talents in Hong Kong, factory operators can establish offices in Shanghai and it is not essential for them to run business in Hong Kong. Moreover, Hong Kong will lose the posts of these talents. Nevertheless, the general public will find that the remarks of trade unions are more pleasant to the ears while what we said are more indirect. They do not understand why the importation of talents will give employers business opportunities so that employers can employ some Hong Kong people with a lower level of skill. They think that such remarks are not agreeable. In their view, without the importation of talents, Hong Kong people can engage in the computer software industries and a large number of people can be employed. Yet, the reality is not like this.

We think that the resolution moved by Mr LEUNG Yiu-chung today is not purely a political question, nor is it related to the relationship between the executive and the legislature. If it is merely related to the relationship between the executive and the legislature, all of the 60 Legislative Council Members will say that why is it not good for us, Members of the Legislative Council, to have more powers? Why do we not support having more powers to check the Government? This is the view of the Council, but from the point of view of industrial and business operations, even though we get the right to amend government policies today, will we exercise it? Even if I have the right to amendment, will we represent the industrial and business sectors in making amendments to labour welfare? I will not exercise the right and I certainly think that Members from the labour sector should not ask for amendments to legislation formulated to protect members of the trade unions. The amendments have also been discussed by the LAB, for example, whether trade union members made redundant will enjoy the right to reinstatement. Mr Andrew CHENG has also touched upon long service payment under the Employment Ordinance. Mr LEE Cheuk-yan has also touched upon the passage of legislation such as the one relating to the right to collective bargaining in the past. We think that a balance should be struck among all these. After a balance has

been struck, that means the Government has already fought for labour interests. If we want to fight for some more labour interests, the Government will know that many people in the industrial and business sectors will not even be able to stay in business. If they cannot stay in business and go bankrupt, they will be turned from employers into employees. If all of them become employees, how can they find jobs?

Madam President, for the reasons I have given from an economic point of view, we cannot support Mr LEUNG Yiu-chung's resolution regarding the deletion of the relevant provisions of the Basic Law. Thank you, Madam President.

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

MR ALBERT HO (in Cantonese): Madam President, I would only respond to the remarks made by a few colleagues just now.

I would like to respond to Mr James TIEN's remarks first because he has just finished his speech. I am not going to cover many remarks made by Mr James TIEN because he has just harped on some old tunes played ad nauseam in the past. For instance, democracy would drive away some capitalists and all elected Members would certainly be ideological Members like those in the "Labour Party", and they would certainly not do capitalists any good. If capitalists fail to make profits, the poor will not have food and they will be starved to death. I do not want to debate this again and I would not take this opportunity to teach Mr James TIEN the "ABC" of democracy. However, I have a feeling that it is only suitable for Mr James TIEN to continue to be a capitalist in a backward place, and it seems not at all suitable for him to be the citizen of a really advanced and open society, needless to say to be an elected Member.

Mr TAM Yiu-chung has said that the democrats cherished the memory of the British Hong Kong Administration era. In his words, we cherished the memory of the colonial era. In fact, his ideas and values are even more "colonial" than the colonial government. Mr TAM Yiu-chung kept emphasizing that we should strike a balance between the interests of members of the community, including the rich and the poor, and we can only reach a

consensus in the community and ensure social stability after the adoption of various procedures and methods to attain balance. He has actually reiterated the colonial ways. The colonial government liked to say that social progress should not be too fast because it involved the interests of many parties. The interests of the minority are sometimes very important, and the functional constituencies at the early stage were designed to balance the interests of all parties. The appointment system has been maintained for so long because we want to strike a balance between the interests of all sectors. With an appointment system, professionals can join the Council and balance the interests of all sectors. These concepts fail to keep abreast of the times and the concepts of democracy and advancement that the community should have. Mr TAM also said that if we should make amendments to Article 74 of the Basic Law, we would be reverting to the British Hong Kong Administration era when there was a colonial structure. He also said we simply do not understand what actually is an advisory structure. If so, the Basic Law has deprived us of an advisory structure, a very effective power during the old colonial era. In other words, this Council is worse than the Council during the colonial era, it has almost declined into a Council in a vegetative state as Mr LEE Cheuk-yan has said, and a Council that is very often forced to affix stamps. What values are these? Does this reflect that some Members felt sorry about the autocratic and conservative values of the colonial era?

Mr NG Leung-sing has also said that once amendments are made to the Basic Law, many people will ask for amendments and this will lead to endless arguments about interests. I do not know why Mr NG should think about interests. What does Mr NG associate with interests? Are they personal interests? Has he deduced that all Members sitting here will only think of personal interests or the insular interests of some functional constituencies or the groups they represent? What is wrong if we keep fighting for improvements in public interests and the interests of the community? In an open society, arguments can precisely give expression to the diversification and vitality of the community, and it can reflect that, among various differences and through repeated experiences, the community can discover the view that stands the tests best and matches long-term social interests most. Is this good enough? Is it best for there to be only one voice in our community, from top down?

Mr NG has emphasized the executive-led concept again and again. In fact, this is another colonial concept and a term the colonial government likes to use most. Why do people cherish the memory of the values and ideas of the

colonial government era? Actually, many people who uphold authoritarianism always like to use efficiency and highly efficient administration as their most important trump card. Although the Government is efficient, it cannot guarantee that it will not make mistakes when it is moving forward at high speed in an efficient manner. Is this good? Is it safe to drive fast and move forward at high speed without taking some time to identify the right direction? As we all know, when the Council debates a democratic mechanism, we have to take a lot of time to clarify what is right or wrong and the values the community should have. In doing so, the community will be clear about the direction it should follow and whether the consensus we finally reach has gone through a debate process and careful consideration, a consensus that will ultimately reduce the chances of our making mistakes. This will be the most efficient government. So long as we can guarantee such efficiency, we can proceed in the right direction and make more reasonable decisions.

Mr David CHU has said that we asked for amendments to the Basic Law while we uphold the Basic Law. He seems to regard our support of the Basic Law as contradictory to our request for amendments to the Basic Law. In other words, the two are antagonistic to each other. If so, does every amendment made by the Chinese Government to the Basic Law indicate that it is subjecting the Basic Law to indignities? Five material amendments have been made to the Constitution of China, has China trampled on the Constitution of China every time? I hope that Mr CHU will gain a clear idea of this simple concept.

Lastly, Mr Ambrose LAU said that it is too hasty for us to do so because the Basic Law should be stable and authoritative. However, my colleagues have just said that the Basic Law is only suppressive and it disables this Council from exercising its due function of checking the executive authorities. We also fail to make the executive authorities accountable to us in an effective way in accordance with the Sino-British Joint Declaration and the Basic Law. Yet, we cannot do so now because we do not have sufficient counterbalancing power. Today, many mechanisms have made us fail to perform our functions effectively and suitably. This is the suppressive nature of the Basic Law.

In addition, I have a feeling that authority has now turned into an insult. After the reunification, there is a retrogression and many rights that used to be enjoyed by the people This is a relative concept. Many things in the colonial era could be repealed because some of them are completely unreasonable. We should continue to fight for progress. After the

reunification, we have not made any progress but are even retrogressing. The obstacles put in place by the Basic Law are actually insulting and the authority of the Basic Law has not been brought into full operation at all. Therefore, we should amend the Basic Law quickly. A fairly long period has already passed and we have waited for too long.

The Government is still talking about a mechanism. I do not intend to repeat the remarks made by some colleagues. However, the mechanism to be discussed is actually procrastination. The Government only wants to endlessly procrastinate on the issue. A very important issue is that, as a colleague has just said, the procedures for amending the Basic Law have been stated explicitly in Article 159, so what mechanism is required? Is this mechanism meant to create new obstacles? Frankly speaking, even though there are such procedures, they are the internal business of this Council, does it have anything to do with the Government? Article 159 has stated very clearly that the consent of two thirds of all the members of the Legislative Council is required. Does it have anything to do with the Government? Why do we have to wait for the Government to put forward a mechanism for discussion?

Therefore, Madam President, to sum up, Article 74 of the Basic Law as it stands makes the right of Members to introduce bills nominal. It is actually hypocritical and deceptive to say that Members have the right to introduce bills. Is there any issue that is not related to government policies? If an issue relating to government policies is consented to by the Chief Executive, why does the Chief Executive not introduce a bill but let Members do so? We had moved many amendments in the past but the Government told us not to do so because they involved Article 74 and it also asked us to let government officials do so. Therefore, if Article 74 continues to deceive the outside world and continues to state hypocritically that Members of the Council still have the right to introduce bills, we cannot tolerate this any more. The arrangement that obliges Members elected by different methods to vote separately is actually using the contradictions in the Council to fetter, obstruct and even obliterate the powers and possibility of the approval of any motions by this Council. This is similarly unacceptable.

I can only emphasize once again that the way we vote today indicates whether we are willing to let this Council keep up with the parliamentary assemblies in some advanced and liberal places. Every Member should perform his function in a dignified and suitable manner. If we want to do so, we should support Mr LEUNG Yiu-chung's motion. Thank you, Madam President.

MISS EMILY LAU (in Cantonese): Madam President, I rise to speak in support of Mr LEUNG Yiu-chung's resolution. In his resolution, Mr LEUNG asks this Council to consent to forwarding the amendments to the delegation of the Hong Kong Special Administrative Region (HKSAR) to the NPC for submission to the NPC in Beijing. I believe Mr LEUNG will definitely agree with the Frontier's long-standing position that any amendments to our mini-constitution must be done through referendum. I would like to raise this point here again to state clearly that this is the position held by the Frontier.

Actually, the Frontier advocates universal enactment of our own constitution. We hope the public can be given a chance to participate in enacting the constitution of their own. Members of the Frontier also hope that the public can be given full opportunities to take part in amending the Basic Law.

Madam President, just now, a number of Members have made reference to a number of meetings held by the Panel on Constitutional Affairs, which was chaired by Mr Andrew WONG last year. At that time, many academics and experts attended the meetings to give their views. I believe Secretary Michael SUEN and his staff would remember that a great majority of those who attended the meetings had raised the proposal of conducting referendum as they were of the view that amending the Basic Law was a very important matter. Therefore, the public should definitely be given a chance to express their aspirations through a proper channel. Actually, in his subsequent reply, the Secretary repeatedly mentioned that he needed to carefully consider the matter for it concerned the aspirations of many people. As we all agree with the importance of referendum, I find it impossible to agree with Mr TAM Yiu-chung who remarked that those who insisted that the Basic Law was not drafted in a democratic manner were indeed levelling irresponsible criticisms. If we really make an attempt to ask members of the public, I believe many of them will say that they did not take part in the drafting process. From this angle, I consider the Basic Law absolutely undemocratic.

Actually, Mr LEUNG Yiu-chung has only made a modest demand in his motion. What he asked for is merely to restore the power enjoyed by this Council in the colonial era. But still some people hold that this is too much. The fact that Mr TAM Yiu-chung made the remark that the Council served as an advisory structure in the colonial era implies that the present Council is more than an advisory organ in terms of its functions. However, this Council is at present even worse than an advisory organ for even an advisory organ enjoys the

power to introduce bills, whereas this power is now subject to restriction under Article 74 of the Basic Law. I just cannot understand why Mr TAM spoke in such a contradictory manner. His contradictory remarks really beat me. He talked about "a high degree of autonomy", the same thing we are talking about at the moment. The Basic Law has also set down the way to embody "a high degree of autonomy" and that is to select the Chief Executive by universal suffrage on a one-person-one-vote basis. No one has asked for independence. Nevertheless, I noted that Mr TAM Yiu-chung did not mention the "executive-led" concept. Madam President, many Members remarked that an executive-led government simply does not exist. It only existed during the colonial period. However, the Secretary cited all these as his arguments. My colleague, Mr LEE Cheuk-yan, once asked this question: Who is most familiar with the Basic Law? It must be Mr JI Pengfei. Madam President, if we can look at what Mr JI Pengfei said, (or perhaps the Secretary should take a look too) we can definitely recall it clearly. The Appendix to the Basic Law has clearly spelt out that, in addressing the Third Session of the Seventh NPC on 28 March 1990 (please refer to p. 67 of the Basic Law), Mr JI Pengfei, Chairman of the Basic Law Drafting Committee, mentioned that the executive authorities and the legislature in the SAR "should regulate each other as well as co-ordinate their activities". There was no reference to the "executive-led" concept. Mr TAM Yiu-chung has correctly raised this point just now. I hope the Secretary can elaborate whether Mr JI Pengfei had been right or not. If such a concept really exists, where is it embodied? In any case, Madam President, even there is a need to regulate, Article 74 and Annex II of the Basic Law have been used for this purpose already. At least, one should not turn something non-existent into something that exists. If it is necessary to follow the practice in the colonial period, one should state it clearly, instead of saying that this is mentioned in the Basic Law, even though no such reference is made in the Sino-British Joint Declaration. I hope the Secretary can clarify this later.

I would also like to imitate Mr Albert HO in responding to the speeches delivered by some Members. I particularly share the points made by Dr LEONG Che-hung and Miss Margaret NG. However, I will not repeat what they said for this resolution has been discussed at such a great length. All of us are very tired already. Mr NG Leung-sing's speech is now flashing across my mind. I once worked closely with Mr NG in the Public Accounts Committee. However, I find it impossible to agree to his arguments today because his remarks carried an implication of fanning the flames over the dispute. Madam President, the first point he raised is that these people have the intention of

seizing the power to formulate policies. This is definitely so but this is not "yin mou" (conspiracy). Instead, this is (as what Mao Zedong said) — "yang mou". Of course, we want to gain such power. We had such power when the advisory structure was in place, but why does such power no longer exist?

Madam President, what Mr NG said later was even more frightening for he said it was like "seizing" power from the executive. I think Mr NG was really trying to raise the matter to a higher plane of principle and two-line struggle in saying something like that. I can definitely not agree with him. We really want to gain the power to formulate policies. I remember Mr Jasper TSANG once said that we are not obliged to support the Government. Why must we support the Government while we have no say in policy formulation? I do not know whether he has the intention to snatch power too. Perhaps he should explain later. Nevertheless, I would like to ask Mr NG Leung-sing not to describe the situation in this way. Madam President, should the situation be interpreted like what he said, it would really scare President JIANG Zemen — Such a small Legislative Council even dares to seize power! I am afraid it is inappropriate for Mr NG to have made such a serious remark!

Mr David CHU also made a speech though Members may not be able to understand fully what he said because of the dialect in which he spoke (but Members can go through the relevant tape again). Concerning a statement made by him just now, Madam President, I had wanted to raise my hand upon hearing it. Finally, I decided not to do so because I did not want to hold Members up. But now I have to bring the matter up. "Why do we still have disputes for even the godfathers of some Members have praised the Basic Law?" said Mr CHU to such effect. Madam President, let us refer to Rule 41(4) of the Rules of Procedure. I am sure you would be aware that "it shall be out of order to use offensive and insulting language about Members of the Council". I have no intention to argue on this point, but I want to point out that he was actually referring to the United States and Britain. I consider it not at all appropriate for him to say something like that. Why did he refer Britain or the United States as the godfathers of certain colleagues in this Council? I hope I have got the message wrong, but I should have made no mistake. Mr CHU might have made some mistakes in his pronunciation. I believe many colleagues have "missed something very interesting" for having failed to fully understand what he said. However, I think he had gone overboard in saying something like that.

Mr Albert HO has actually spoken at some length in responding to the views put forward by Mr James TIEN. According to Mr James TIEN (Mr TIEN was not in the Chamber while Mr Albert HO gave his response), businessmen will definitely lose in a "one-person-one-vote" election. Is he wrong in saying that? Let us look at those businessmen living in the richest nation in the world and see how powerful they are. They are all living under a "one-person-one-vote" regime; yet they do not appear to be losers. Madam President, I agree with Mr Albert HO that it was extremely boring whenever these issues were brought to the discussion table. I fully understand that you may feel very painful too. Nevertheless, we have suffered the pain for more than 10 years. Just as Mr Albert HO pointed out, some Members simply repeated all their hackneyed and stereotyped arguments again by saying workers would become so and so when debating this matter. I am not a representative of trade unions. People from trade unions naturally understood what Members from the labour sector said in their speeches just now. By the same token, lawyers naturally understand what Members representing the legal profession say. Although I do not represent trade unions or lawyers, I fully understand what they say. I did raise objections to matters raised by trade unions, but I deeply understand we need support from the masses. Therefore, please do not put the masses into different categories or strata. Members should represent the public interests here. It is really extremely regrettable that Mr TIEN said something like that.

Madam President, I will now turn to the Government after commenting on the speeches given by several Members. The resolution moved by Mr LEUNG Yiu-chung has actually been held up more than a year. Like Miss Margaret NG, I deeply feel we owe Mr LEUNG an apology. This is because when Mr LEUNG put forward this proposal at the very beginning, many Members and I suggested, out of sincerity, not to go ahead with it immediately for we could first discuss with the Government in meetings to examine the relevant situation. The matter was since held up, but we have been unable to achieve anything so far. The Government did hold several meetings with us. As Mr CHEUNG Man-kwong said earlier, the Government has proposed 13 steps at the very beginning (that is, May last year) but then reduced them to 11 in June. However, it will take more than two years for these procedures to be completed. I think the Secretary needs to explain to us later as to whether or not the first procedure has begun. In the interim, we have lost more than a year's time. Madam President, the Secretary indicated to us in July last year that the Government had started its discussion with the Hong Kong and Macao Affairs Office, saying that

a meeting had been held with the Office in the latter part of May last year and the Office indicated that it needed to take some time to consider the matter. This is what happened in May last year. Now it is already January. What progress has been made?

Madam President, apart from the timing, certain matters done by the Secretary also "warrant further discussion". We did bring up some issues and received a reply from the Secretary. I do not remember whether it was the Secretary or the Deputy Secretary who made the following remarks in a meeting held on 17 May last year, "As for such issues concerning the request raised by some Members of the Legislative Council as to whether it is necessary for the Standing Committee of the NPC and the State Council to, in proposing amendments, consult the Hong Kong SAR and how consultation, if necessary, should be conducted". The reply given was that they agreed that any motion for amending the Basic Law was an issue of significance and should be dealt with prudently. They further said that they noted in the two meetings held by the Panel on Constitutional Affairs in March that a number of people had stressed the need to conduct extensive consultation (concerning the proposal to conduct a referendum) and that it was essential to discuss this proposal with the Central Authorities. While they made it clear that those were their preliminary views, they were still not courageous enough to display an attitude indicating the need to conduct consultation. They only said that such views were noted and they needed to, most importantly, discuss with the Central Authorities. Madam President, I just cannot help asking this question: Does it mean that if the Central Authorities disallow us from holding consultation (that is, if the State Council or the NPCSC refuses to give the people of Hong Kong a chance to be consulted), the SAR Government will have to act accordingly?

Another question I want to raise concerns the Basic Law Committee. Is it essential for the Committee to conduct consultation if it wishes to put forward its view? The Secretary replied that no provision had been laid down in the Basic Law stipulating the need to conduct consultation. Therefore, they needed to understand how the Central Authorities looked at the matter. Madam President, once again he dared not make his position clear! I noted recently that the Caritas had completed an opinion poll consulting secondary students on the scope of work of the Chief Executive and the qualities he should possess. The students expressed that they hoped the Chief Executive could, on behalf of members of the public in Hong Kong, have a dialogue with the Central Authorities and reflect their aspirations. After going through the responses

given by the Secretary to these questions, I find that the Secretary dared not add his own opinion even though he knew it very well the general public considered it necessary to conduct consultation on amendment to the Basic Law. He has only written down the need to consult the Central Authorities. I would like to ask the Secretary to answer this question: Does it mean that the SAR Government will not conduct consultation if the Central Authorities (that is, if the State Council or the NPCSC makes the point that no consultation should be conducted among the people of Hong Kong) refuses to give us permission to do so?

Madam President, in the same document, there is another issue which is related to you for it involves the NPC and it is necessary to know how the NPC will deal with the issue: Is it necessary for the NPC to lay down their own rules of procedure and what should the rules contain? According to the response given, there was a need to clarify with the relevant authorities to see if it is necessary to deal with the matter or to consult Hong Kong Deputies to the NPC to see whether or not they are prepared to lay down rules of procedure on their own. Madam President, this is what happened in May last year. I believe you know more than I do. Will Deputies to the NPC or the Secretary tell us whether the NPC has been consulted to see if it is prepared to deal with these matters? If these matters have been dealt with, please give us a full account. We owe Mr LEUNG Yiu-chung an apology for we have held up the matter more than a year and have wasted his time without producing any result! If the relevant work has been done, would the Secretary inform this Council the results of consulting the Hong Kong Deputies and Beijing?

Finally, I would like to raise an issue pertaining to the social worker profession, the one raised by Dr YEUNG Sum earlier. Candidates of the social worker sector are returned by an "one-person-one-vote" election. A few months ago, the Secretary stood here in this Chamber and undertook to table an amendment to this Council. I hope he can take the opportunity this evening to tell Members clearly when the amendment will be tabled to this Council.

With these remarks, I support the motion.

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

Mr JASPER TSANG (in Cantonese): Madam President, many Honourable colleagues made a comparison between this Council and the pre-handover Legislative Council in their speeches. They pointed out that the then Legislative Council, under the former British Hong Kong Government, was given a lot of power, which this Council is lacking. According to these Members, the legislature in Hong Kong should be entitled to such power, which the legislature has been enjoying since it was first set up. As such, they questioned — though I have failed to hear clearly that several Members pointed it out specifically — the remarks made by Mr TAM Yiu-chung that "the Legislative Council was previously an advisory organ" was constitutionally wrong. Although I did not hear someone say this in such an unequivocal manner, a few Members did point out that we are even worse than an "advisory organ" for this Council even lacks the power that an "advisory organ" has.

I would like to suggest another perspective to look at the matter. Whether an organ is "advisory" shall depend on its status conferred by the constitution. Just now, Mr TAM Yiu-chung has already pointed out that the constitutional instruments governing Hong Kong at that time were the "Letters Patent" and the "Royal Instructions", which clearly spelt out the relevant details. Apart from that, we cannot say the Legislative Council no longer enjoys the power to introduce bills or the former Legislative Council enjoyed a higher status at that time by judging solely from the power given to it by the former Government. We still have to look at the overall relationship between the executive and the legislature and the kind of relationship under which power was bestowed to the former Legislative Council.

In the past, the British Government enjoyed the final power with respect to the enactment of laws in Hong Kong. Apart from enacting legislation for Hong Kong, the British Government could also veto and rescind laws in Hong Kong. The Governor symbolized the highest authority in governing Hong Kong on behalf of the British Government. Not only so, the so-called advisory function of the then Legislative Council was guaranteed by way of its composition. Prior to the '90s, most seats in the Legislative Council were, for a long period of time, appointed by the Governor. Even up to the '90s, most seats were still held by appointed Members and *ex officio* Members.

It was only until the '90s that changes began to take place but problems emerged soon after. The Governor, Mr Chris PATTEN, raised this very first question when he met with representatives of the Democratic Alliance for the

Betterment of Hong Kong (DAB) soon after he took office, "I was told that we have an executive-led government here. But how can we say this government is executive-led if we cannot guarantee passage of the Government's budget?". The year was 1992 and appointed seats still existed at that time. But even for appointed members, they were reluctant to tell the Government that they would support the Government in doing anything. Therefore, even for the passage of the budget, the Government had to do a lot of bargaining. How to resolve the relationship between the executive and the legislature thus became an important issue. This had subsequently become a key issue when Governor PATTEN put forward his well-known "political reform" package. Issues pertaining to the number of seats and how candidates should be elected were, on the contrary, last on the list. At that time, the Governor did propose a solution for resolving the relationship between the executive and the legislature. We should all know that the package proposed by him in his first policy address for resolving the relationship between the executive and the legislature was finally not implemented. The matter was thus held up as no one considered the solution feasible at that time. Members should not forget that the 1994 "PATTEN package", by far the most important political reform package, would not have been passed without the help of *ex officio* Members from the Government. In what way was the so-called power of introducing bills, moving amendments and vetoing exercised? Just now, some of my colleagues said such power existed in names only. But was it also good in appearance only?

All these appointed seats disappeared in 1995, with all seats in this Council turning into elected seats, giving rise to the so-called totally out-of-control situation as described by Mr James TIEN. At that time, the Government could still object to bills passed by this Council. Governor PATTEN, being head of the Government, could also raise objection. Did he have the veto power? The answer is absolutely affirmative for he could refuse to sign bills. In the course of debating bills, particularly Members' bills, the Government could raise objection but enjoy no voting right in this Council — that was similar to the current practice for the Government did not have any seats or votes. Even if a bill was passed, the Government still had a fatal weapon for the Governor could, by virtue of the constitution, refuse to sign to give consent. As a result, the head of the Government at that time did not need to face the perpetual problems now faced by Hong Kong society as a result of the passage of a bill into law. He did not take such a step simply because he did not need to do so. There was no need for him to exercise his vetoing power too.

Now let us look back at what really happened in the last two years before the handover. When did the power cherished so much by a number of Members and considered to be indispensable for a legislature to really perform its functions really come into full play? The answer is the last two years before the handover as the political environment during that period was extraordinary. I do not want to talk at length about what happened in these two years. I only want to give Members an opportunity to comment on whether the decisions made by the then British Government were in the interests of Hong Kong in the long run and the well-being of the people of Hong Kong in handling everything? Honourable colleagues, it was against that background that such power was exercised by Members of the then Legislative Council. Actually, we can now see that many restrictions have been imposed under Article 74 of the Basic Law. But at the same time, we should be aware that this Council has not really started functioning until now. What is this Council like? A Council with no official seats.

Just now, an Honourable colleague remarked that we should follow the examples of all those liberal parliaments set up in advanced countries across the world. May that Member tell us which advanced parliament has absolutely no official seat? How can we follow its example? I do not consider the current practice ideal for the purpose of regulating. In other words, in order to regulate, the Government has to restrict the power of this Council in introducing bills as the Government has no right to vote and no seat in this Council. I do not think it a good way to regulate, though it is after all one way to do so. Just now, a Member read out a remark made by Chairman JI Pengfei that the executive authorities and the legislature "should regulate each other as well as co-ordinate their activities". This is the current mechanism. Members of this Council will be subject to a more stringent restriction in moving bills because the Government has no seat in the Council. This is not ideal — I would call it a dilemma — but to make changes, improvement and a breakthrough, we cannot solely rely on Article 74. Neither can we solve the problem by going back to the past, the way it was before the handover. This is because we cannot use what happened in the last two years before the handover as a yardstick for the situation then was not ideal too.

On the contrary, we cannot say that regulation has failed in the existing relationship between the executive authorities and the legislature and that the Government can do absolutely "anything" it wants. Even for highly controversial ordinances related to government revenues, not all of them were

passed by this Council according to the wishes of the Government. For some of its proposals related to revenue, the Government even intended to withdraw them before they were formally tabled. This is because the Government knew very well that they would definitely be voted down as Members of this Council would raise strong objection. Proposals which were finally tabled were also defeated by Members who cast a negative vote. In my opinion, it seems — let us quote what Miss Emily LAU said — a bit too serious for someone to say that this Council cannot play the regulatory role at all. Is it true that this Council is absolutely powerless in playing a regulatory role? If so, as just pointed out by a Member, Members actually felt humiliated before members of the public who elected them into this Council for they were not able to play their role after being elected. The function of this Council is to play a regulatory role in monitoring the administration of the Government. It would be better for this Council not to do anything should it fail to play its role satisfactorily.

Actually, the present situation is not like that though it is not too satisfactory. We cannot say we deem it necessary for Article 74 to operate in this manner forever or for the Government to administer in this way or we consider the relationship between the executive authorities and the legislature most satisfactory. I only want to point out that the existing Basic Law was designed as an integrated whole. Members who dislike it or consider it improper have the absolute right to raise their opinions. As the Basic Law was designed in this manner, if we only focus on one point without considering the rest of it, it will be like merely amending the part related to the restriction imposed on the legislature's power by expanding such power — this is because some of my colleagues, in the capacity of Members of this Council, have expressed their hope of expanding the power of this Council — before an in-depth exploration into the relationship between the executive authorities and the legislature has been conducted. How will the whole country look at this issue? I think this is not a responsible way to handle the matter. This is my response to the opinions expressed by some Members just now. Let me reiterate that the DAB objects to this motion today.

Mr ANDREW WONG (in Cantonese): Madam President, first of all, I would like to pay tribute to Mr LEUNG Yiu-chung. This motion, signed by us jointly, was first proposed in 1998. Mr LEUNG finally withdrew the motion for he agreed that a mechanism should be set up first to enable the matter to be handled in a responsible manner. The President also made a ruling at that time to give

permission for the motion to be moved. The issue pertaining to the mechanism was subsequently forwarded to the Panel on Constitutional Affairs, chaired by me, for deliberation. It is most regrettable that the matter has since been held up one year but still we have been unable to produce any result.

I consider the mechanism very important. However, we must not forget the whole issue just because the mechanism is not yet in place. I hope I can convince Mr Jasper TSANG that we can still find many "imperfections" in many provisions of the Basic Law — I think Members will find it easier to accept for me to use the term "imperfections" to describe it — it is therefore necessary to make amendment. It does not really matter whether or not Members agree with certain content because they can look at the matter in different ways. Members who disagree with the amendment are welcome to raise their objection. I will of course support the motion now formally moved by Mr LEUNG for I have signed it already. Actually, I would have given my support if the motion had been formally moved instead of being handed to the Panel on Constitutional Affairs for deliberation on the mechanism issue. This is because I fully agree with the amendments moved in the resolution with respect to Article 74 and Item II of Annex II to the Basic Law.

We will need to deal with the mechanism should the resolution be passed. But in that case, we will have to work under a tighter timetable and greater pressure. The fragmentary mechanism currently operating under the Basic Law in Hong Kong will have to undergo changes as well. Actually, it is not true that there is no mechanism. We do have a mechanism at the moment. It is only that we do not know how to explore and operate the mechanism, thus we can only say that the relevant mechanism has not been drawn up yet. The matter was subsequently held up because the Government was unwilling to commit to drawing it up.

Personally, I think all things can be worked out at the end as long as we can work in collaboration. If we hold that certain provisions should be amended, we can make proposal to do it. We can also discuss with the Central Authorities to see how we should handle the matter.

Madam President, I think we are now dealing with two separate issues here. The first one concerns the content of the resolution itself, which mainly involves Article 74 and the last two paragraphs of Item II of Annex II to the Basic Law. In this respect, I fully agree with the remarks made by Dr LEONG Che-

hung earlier in the debate. I do not want to repeat the arguments which have been put forward by a number of Members before. There is something I want to add in spite of the fact that both Dr LEONG Che-hung and other Members have mentioned that before. I want to say something more important from my personal point of view. First, it is stated in Item II of Annex II to the Basic Law that Members shall be divided into two groups for the purpose of voting on motions introduced by individual Members. I think this mechanism is unique in the world. I can tell Members that I have been teaching political science for 30 years. I have never seen anything like that before. I think this is like dividing a council into two parts, for the purpose of regulating one another: one is more extreme, close to public opinions, probably more reckless; the other one is more conservative and careful. Under this mechanism, a legislative council is divided into two houses, the Upper House and the Lower House, which are essentially two separate parts. Members from each part can communicate with one another for decision-making. But it is another matter as to whether the two Houses will hold joint discussions. Nevertheless, the setting up of this mechanism can at least hold up issues or make the whole matter public to let public opinion make judgment so that the entire community can make a decision. This approach is more reasonable and more in line with public opinion. This approach is also correct for things will not be dealt with in a reckless matter. Nevertheless, under the unicameral system adopted by this Council, I think it is absolutely ridiculous for Members to be divided into two groups for the purpose of voting. Mr LO Tak-shing did try to seek my consent with respect to this matter. I was not in Hong Kong but he said Andrew WONG supported this system too. Upon my return, I clarified that I did not support it for I only supported the setting up of a bicameral system. I could not support a system of having two Houses in one council or polyandry under one roof for this is not proper. Members have failed to raise this point in their speeches just now. Nevertheless, if Members consider it right to divide Members into two groups, they should act honestly by setting up a bicameral system. This is because it is possible for a council to be divided into two halves. Each half can put in place an appointment system or be returned by functional constituency elections as long as there is definition of powers and responsibilities.

The second point I want to discuss in relation to the motion is its proposal to, owing to certain interpretations contained in the document, replace the previous voting formula of deciding by a majority of the votes of the Members present without taking into account those who abstain with a majority of the votes of the Members present. I consider this change dramatic and radical. Of

course, all councils can make their own decisions in respect of their voting method. However, this is greatly different from what we have before. I hope Members can agree however wise they think Members of the Drafting Committee had been, they were actually not very wise in thinking in that way. Perhaps Members have not considered the matter very carefully. This is because this system basically allows a Member to defeat motions introduced by another Member by way of abstaining from voting. This point is very important. Members who have read ROBERT's Rule of Order would have noted that it has particularly drawn our attention to the fact that abstention is a right enjoyed by Members. We cannot force a Member to vote. In addition, it is sometimes necessary for Members to abstain from voting because of conflicts of interests. However, a Member should not treat abstention the same as objection just because he is present at a meeting. This is totally unacceptable. No Member has mentioned this point earlier in the debate. I consider this point very important too.

Third, the restriction imposed under Article 74 of the Basic Law is greatly different from what was imposed under the old regime. Previously, the restriction was limited to motions involving public moneys only. Members should be well familiar with that mechanism. The current provision, however, imposes restriction on motions in several aspects. Members may realize that it includes such aspects as political structure, the operation of the Government and public expenditure. However, the President is empowered to rule on motions involving government policies. If she considers that a motion involves the three aspects mentioned above, she will make a ruling to prohibit the relevant Member from introducing it. As for motions involving government policies, she is required to seek consent from the policy group only. I am not going to comment on whether or not such a regime is stricter than before. Of course, I do not consider it right to tighten up, but this is not the thrust of my speech. The thrust of my speech is to point out that we should know how the term "bills" is to be interpreted as far as Article 74 is concerned. In this respect, the opinions held by this Council and the Government are divided. This shows how carelessly the Basic Law has been drafted. So far, we are still unable to tell which is right. We can still find a lot of problems with respect to the interpretation of Article 48(10) of the Basic Law. The present circumstances have indicated that it is necessary to make changes to the Basic Law. If Members decide to support introducing changes after conducting rational discussion, it is only reasonable for us to ask for amendments to the Basic Law.

The fourth point I am going to talk about concerns the first part of the motion. Just now, Mr TAM Yiu-chung mentioned that the Legislative Council was formerly an advisory organ. Mr Jasper TSANG has also given a most incisive and vivid description with respect to this point. I would only need to point out that this has been a long-standing position adopted by the Xinhua News Agency because we have exchanged our ideas on this matter numerous times before. I want to make it clear that the Letters Patent for Hong Kong spelt out in 1843 that the Governor of Hong Kong shall be responsible for enacting laws and shall consult the Legislative Council in the course of doing so. However, in 1937, the Letters Patent was amended. As a result, the Legislative Council shall be consulted and give consent for the purpose of enacting laws. This was a significant change for it implied that, under a British regime, the Governor, acting as the representative of the Queen, shall work with the Legislative Council to play the role of a legislature. In other words, the legislature was not the Legislative Council. Neither was the Governor a legislature. The Governor was not allowed to enact legislation unilaterally. However, he could do so in collaboration with the Legislative Council. Of course, if the Governor refused to sign a private bill introduced by a Member which had already been passed, Members should respect this constitutional tradition as this was part of the constitution. For these reasons, the former Legislative Council was actually a legislature, not an advisory organ. As far as this point is concerned, I will definitely disagree with the views held by those Members, even if this means I will have to fight a long battle in the court. What Members said just now sounds very pleasing. But actually, I consider what they said completely misleading. I am now going to present Members with a more academic analysis.

Let us briefly discuss the nature of the motion. In delivering his speech at the beginning, the Secretary Michael SUEN only touched upon the nature of the motion though he said the content will be dealt with later. Therefore, I hope the Secretary can respond to the relevant content of what he said just now. As far as the nature is concerned, I must praise Miss Margaret NG. Although I cannot agree with her completely, I fully share what she said. Nevertheless, we have some fundamental differences and I shall clarify why there are such differences. I think Article 159 para 2, in respect of moving a bill for amendment to the Basic Law in the SAR, has provided that the moving of an amendment bill shall be agreed by three parties, with consent from each party constituting a fact which we must accept. By analogy, consents from the second party and the third party also constitute a fact. However, Miss NG

added that though the giving of consent by a certain party constitutes a fact, it does not mean that the legislative process has begun. I am afraid I cannot agree with her on this point. Today, if two thirds of Members of this Council give consent to this motion, this will mean that we will have activated a legislative process, or a process for amending the Basic Law. Pursuant to Article 159 para 2, the remaining two parties must respond within a reasonable timeframe to indicate approval or disapproval. They cannot hold up the matter indefinitely. This is how I see it as Article 159 para 2 has not laid down any specification with respect to procedures. But in spite of that, the SAR Government will still need to seek consent from three parties if it wants to amend the Basic Law as is required by Article 159. Any of these parties can in fact take the initiative to propose an amendment. The proposal will not merely become an agreed fact for once the fact is established, the remaining two parties will have to respond under Article 159 para 2. The SAR Government is obliged to set out whether it is subject to rules of order too. We do have rules of order at the moment. According to the ruling made by our wise President, the resolution moved by Mr LEUNG Yiu-chung is considered to be one moved under Article 159 of the Basic Law and therefore needs to be passed by two thirds of Members, instead of being considered as a bill proposed by Members which shall be voted upon by two groups of Members. I feel very relieved for I completely share the President's view. The legislative procedure has already started. We can make remedy if we later find that the procedure is incomplete. In this respect, I cannot agree with Miss Margaret NG for she thinks that only the fact has been established. The fact that she behaved in such a modest manner may have something to do with her profession as a lawyer for a lawyer will not make too much commitment or give a definite answer.

Nevertheless, I have to point out that we may give rise to political problems if we hastily pass the motion before a mechanism has been put in place. Yet I hope Members will not drag their feet for fearing that the absence of relevant procedures and mechanism may cause political problems and thus decide not to give their support to the motion at the end, considering it inappropriate even though they previously considered it worth supporting. We must not "refrain from eating because of having hiccups" just because Article 159, a "major law", is already in place while "minor laws" related to procedures have not been enacted. In doing so, we will only starve ourselves to death.

I heard someone say the Basic Law is not to be amended. If we base our discussion on the argument that the Basic Law is not to be amended, Article 159

should then be abolished. This will further prove that the Basic Law can be amended. Those who really think that the Basic Law must not be amended are only cheating themselves and others.

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

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

MR LEE WING-TAT (in Cantonese): Madam President, first of all, I would like to thank Mr LEUNG Yiu-chung for moving this motion to give us a chance to debate the issue. I would now like to respond to several points raised by Mr Jasper TSANG. According to Mr TSANG, some colleagues consider the existing legislature completely lack of power to regulate. I cannot entirely share his view from this angle because if 31 Members can form a coalition to raise objection whenever the Finance Committee introduces a motion, the Government will be paralyzed and will then be unable to dispose of public moneys. The question as to whether this Council enjoys more or less power to regulate than before is, in my opinion, worth debating. There has been no change in our ability to vet the Government's budget and applications for resource allocation. There has also been no change in the way questions are put to general motions, government policies are regulated and panels are formed for taking follow-up action. However, the motion moved by Mr LEUNG Yiu-chung is focused on whether or not Members should enjoy greater power in the course of enacting legislation and this is something we cannot evade. It will actually be meaningless for us to talk about responsibilities and powers in general terms. Compared to the past, this Council indeed enjoys less power if we talk about the enactment and amendment of legislation. This is indisputable.

First, the process of amending legislation. This Council and the Government are divided over the scope and power to make amendment. Insofar as the introduction of private bills is concerned, it is even needless for us to debate. Mr Jasper TSANG should admit that we enjoy less power in this area.

It is yet another matter for someone to say that an elected council will find it harder to exercise its power if this Council fails to adopt a fully-elected system whereas an executive-led government will find it harder to operate if this system is adopted. The view put forward by Mr TSANG is rather complicated. He

holds the view that an executive-led government will find it easier to implement its policies and pass its bills in a smoother manner when faced with a less powerful elected council. But this is yet another separate issue. Judging from this point, this system is "abnormal". We have repeatedly debated the point that the Government has no right to vote in this Council. Nevertheless, it is difficult to trace whether this is because the Drafting Committee has failed to make consideration in a holistic manner in devising the system or because it is acceptable to the Drafting Committee for the system to be operated in this manner.

I think Mr TSANG must admit that, in criticizing some Honourable colleagues for "focusing on one point while neglecting others", he needs to ask one more question and that is, how the Government will look at the matter and deal with it if the motion moved by his colleagues is "able to take care of everything instead of focusing on one point". The question raised by Mr LEUNG Yiu-chung last year is extremely confined. In other words, he only "focused on one point". But it has already taken the Government one whole year to make a "no progress" response. In spite of having taken one year's time for "focusing on one point", there is still no progress. If we expand this issue and look at it from a holistic angle (actually I do not object to doing so) as suggested by Mr TSANG, how long will the Government take to discuss and scrutinize the matter? It is not only a question concerning Members' powers. We should also consider whether such powers are exercised in a reasonable and rational manner. Mr TSANG often said: "I give you power but you should not act indiscriminately". Although he did not state it directly in his speech delivered earlier, he implied that colleagues of this Council had failed to make careful consideration in moving Member's bills. He did not explicitly use such wordings as "irresponsible". He only said such powers have been exercised by Members without giving due consideration. Even if we accept this viewpoint, in what manner shall we conduct a review? Will the Government agree that we should carry out the review? Will the Government be willing to conduct the review with us? The answers should all be in the negative.

Mr LEUNG's request for "focusing on one point while neglecting others" has been held up for one year. Even if Mr TSANG recently advocated the implementation of the ministerial system with great enthusiasm, the Chief Executive just responded briefly last Thursday that the plan had been "abolished". The Chief Executive will not review what is in Mr TSANG's mind, including how to increase elected seats and boost powers to introduce bills, how to improve

the relationship between the executive authorities and the legislature, whether or not the ministerial system shall be implemented, as well as how to devise a system to enable the legislature to exercise its powers in a more rational and responsible manner. For these reasons, Mr TSANG should not criticize Mr LEUNG for "focusing on one point while neglecting others" for it has already taken Mr LEUNG such a long time in doing so. I believe Mr LEUNG would have been seriously wounded if he had focused on something bigger. Perhaps we would have been seriously wounded too and this is going to be impractical. It seems that we are crying out in begging to a wall without receiving any responses. I do not think the incumbent government will consider even if we cry out in a very reasonable manner, just as the demand made by Mr TSANG is very reasonable too. I am afraid we should not expect anything pleasing from what Mr SUEN will give us in response later. Judging from this angle, how can Mr TSANG criticize Mr LEUNG for "focusing on one point while neglecting others"? It seems that I am trying to defend Mr LEUNG today, but what other options do we have when we notice that a block demand made by many colleagues will soon be vetoed?

Will Mr TSANG consider convincing the Chief Executive to accept his proposal of reviewing the issue from a holistic angle? If this is possible, I might vote against Mr LEUNG's demand because I agree that arrangements for the political structure should be made on a comprehensive basis. It will not be a proper arrangement if a Legislative Council vested with powers fails to exercise its power properly. We should all be aware that powers and responsibilities should be balanced.

Second, we can refer to the practice of parliamentary assemblies in other places if we are going to talk about checks and balances. Under the British system, the Parliament is the supreme body while the party leader of the ruling party should be the Prime Minister. In the United States, members of the Congress are given many powers in introducing motions. However, the vast majority of motions, regardless of them being introduced in the form of legislation or in other manners, will abort in the middle of a year. As a result, we will find it impossible to move the motions at the end of the day or only simple discussions are allowed. In fact, this is not unique to the parliamentary assembly in Hong Kong. We can find in various parliamentary assemblies all over the world that a Member intending to introduce a motion or bill may eventually be barred from doing so or debating a motion or bill which has been moved or conducting a debate because the chairman of a relevant select

committee decided not to hold the debate because of the priorities of business. Although the vast majority of motions will abort, members of parliamentary assemblies will still enjoy some power. Of course, the majority members and chairmen of a ruling party or committee will enjoy even greater power. From this, we can see that Members are given such power. However, I do not agree that the exercise of such power will lead to disaster or an uncontrollable situation as described by Mr TSANG.

While a comparatively large number of Member's bills were introduced during the period from 1995 to 1997, I do not think they were introduced on an absolutely unreasonable or irrational basis. Of course, the three motions introduced by Mr LEE Cheuk-yan and Mr LAU Chin-shek with respect to labour are probably so far the most controversial. At present, even the Hong Kong Federation of Trade Unions (FTU) or the Democratic Alliance for the Betterment of Hong Kong (DAB) raises no objection to collective bargaining though both parties agree that the bills were drafted in an unsatisfactory manner. Furthermore, even the FTU and the DAB have been expressing dissatisfaction with the drafting work for a number of years, yet they have so far failed to come up with better proposals. From a certain angle, they have both failed to meet the requirement made by Mr TSANG for "holding political party members responsible". This is because in order to be "responsible", when a bill introduced is found to be unsatisfactory, one should replace it with something better. Therefore, I think we should ask the two parties to propose something better. For instance, regarding a bill introduced by Miss Christine LOH in relation to the protection of the harbour, I do not think it is unreasonable. I believe many Members will share my view too. According to Mr TSANG, when the Government and this Council have a divergence in views, more Members' bills will translate into more constraints on the Government. I agree to this point of view, but will it lead to adverse consequences? I do not think the situation will run out of control for the result will turn out to be good.

The main problem is probably caused by the fact that individual political parties or Members have, over a long period of time, not been given a chance to introduce Members' bills. Since I joined this Council, that is from 1991 to 1995, not too many Members considered doing something like that as most motions would eventually be negated. It was only until 1995 that such motions might stand a chance of being passed. Since then, Members began to consider whether they should introduce Members' bills when they did not agree with the Government. Judging from the result of the motion, I think my

colleagues have been acting responsibly in moving the motion. I cannot agree with Mr TSANG that the possession of such power, added to this the context of an elected council, will make the situation run out of control. I can absolutely not agree to this viewpoint.

I still want to raise a point regarding how we should operate and make arrangements in future. The Secretary Michael SUEN also agreed with my analysis in other meetings that the situation will be hard to control if the Government with power but no vote runs into conflict with the Legislative Council which has the votes but not the power. Last year, the conflict was intensified because of several incidents. Recently, the Panel on Manpower vetoed some proposals made by the Government without any clues beforehand. Although we have now put forth these issues for discussion, will the Government consider making improvement? I do not think the Government has the sincerity to change its current practice. The Chief Executive indicated, in the Question and Answer Session last Thursday, that he had no intention to make any changes, other than enhanced communication and provision of more information, to improve the relationship between both parties. Some officials stated that they needed to "beg Members for votes". This is not the way to solve the institutional contradictions — Mr SUEN also nodded his head. If this is really the case, how will the Government handle the matter? There is very little that this Council can do. We need to seek the Government's consent before the views and policies we put forward can eventually be implemented. The less initiative the Government takes, the longer the problem will linger on. Consequently, more bombs will explode. Policy Secretaries and officials responsible for applying to this Council for funding or lobbying this Council for the passage of motions will also become increasingly frustrated. As government officials, they should not "beg for votes" in such a manner I consider inappropriate. Sometimes, I found it hard to bear too. Why should they, like maids or servants, serve Member of the Legislative Council? I think we should not let it happen. Why do they need to telephone Members and invite them to come back to cast their votes? To put it in simple language, it can be said that they "have lost the integrity required of an official". To put it in absolute terms, they "have lost their personality". Actually, I do not think the officials want to do something like that. It is only that they are forced to do so under the system. When the Government or the Chief Executive wishes to push through a motion, Secretaries will need to use whatever means to facilitate the passage of the motion under this system. If this system keeps on developing like this, the contradiction will only grow bigger and bigger. Part of this apple is already rotten, and if we let it continue to rot, we would refuse to eat it when it becomes so very much disgusting.

Madam President, the crux of the whole issue lies in the fact that the Government has all the power to take the initiative to solve problems. If it can take the initiative and if Mr SUEN can persuade the Chief Executive to change his mind to accede to our views by conducting a comprehensive review of the relevant arrangements, we will have the best way out.

Thank you, Madam President.

MR RONALD ARCULLI: Madam President, I had not actually intended to speak on tonight's debate, but seeing so many colleagues in full flight, I could not resist the temptation. I will try and be as brief as possible.

I think to some extent, the bringing up of the motion by the Honourable LEUNG Yiu-chung is perhaps the result of a long period of frustration that not only he has, but also other Members of this Council have, faced regarding our working relationship with the Administration or with the executive authorities. And I remember saying that when the differences first arose and there was even discussion about the possibility of the matter being resolved in our courts, even if the Government of the Special Administrative Region (SAR) were to win the case, it would win the battle but would lose the war. Because you basically cannot have a working relationship with the Legislative Council that is at loggerheads with the Administration, which has no votes here.

But coming back to the issue of tonight, I think that the debate should be on a somewhat broader basis. And so far as I can discern, and I stand subject to correction, there is only one part of the Basic Law that contemplates an amendment solely, and I emphasize, solely within what I call the domestic jurisdiction of Hong Kong. And that is Item III of Annex II to the Basic Law, which deals basically with the method of forming the Legislative Council after 2007, as well as the voting procedures under Item II of Annex II to the Basic Law. Whatever we decide, it has got to be two thirds of the majority of this Council plus the consent of the Chief Executive, and thereafter, it would be reported to the Standing Committee of the National People's Congress (NPC) for the record.

Let us compare that with the method of selection of the Chief Executive. Likewise, there is in fact the possibility of change after 2007. But whatever we decide again, we have to have two thirds majority of this Council, plus the

consent of the Chief Executive, but it should be reported to the Standing Committee of the NPC for approval. Now there is a difference there. So far as I can tell, that is the only part that we can amend without looking at Article 159 of the Basic Law.

Article 159 of the Basic Law is a very interesting article, and I would like to remind those Members who are still here — I cannot remember who exactly was in the delegation, but certainly Miss Emily LAU was, and Mr James TO was — when we went on a delegation to the United States Congress as well as the State Legislature in 1994, and I was the leader of that delegation. I remember talking about the United States' constitution and the steps to go through an amendment. The response that I got from our counterparts in Washington was that their forefathers had the wisdom — and that is the word they used — to ensure that there would be no frivolous changes or changes to their constitution even though there might be a large minority support. In fact, the constitution was built to actually impede changes unless it was the will of the nation.

If you look at Article 159 of the Basic Law, some of us may think that it might have taken on the wisdom of the American model, leaving aside our feelings for the government of the day in China, be it today or tomorrow. But if you look at the hurdles or the procedures and steps that one has to take in order to achieve a change of the Basic Law, perhaps one might appreciate what a constitution really means.

I think the motion tonight really deals with two aspects of our constitution. One aspect is to do with Article 74 of the Basic Law, and that would be a constitutional change. But in terms of changing the voting procedures, if it was not the year 2000, but was after 2007 and this Council decided to do certain things regarding the voting procedures or the formation of the Council, and the Chief Executive approved, that would be it. We enact local laws. We amend Annex II to the Basic Law, and that would be the end of that.

One of the reasons, as far as I can tell, is really that, whilst all of us may still have different views as to how we came about with this Basic Law and how it came about that certain paragraphs were in or not in, and whatever the merits of it were. I would pick a frivolous example. A number of us, myself not included I hasten to add, was unhappy with the right of abode situation regarding the Court of Final Appeal (CFA), and in fact some of us have called the CFA "the Court of Semi-final Appeal". Now, if one of us was persuaded by some

people in Hong Kong to actually do a name change in Article 158 of the Basic Law and call it "the Court of Semi-final Appeal", that would be a very, very serious matter.

I have difficulties in reconciling the procedures, the steps and the time. I tend to agree with Mr Andrew WONG that once a resolution is passed by this Council, or indeed by two thirds of the Hong Kong deputies to the NPC, or indeed if the Chief Executive writes a letter to say, "Listen, as far as Article X is concerned, I now will move for a change", I think the process has started. The problem of that is that whilst the process has started, and even though there might be a reasonable time for the other two parts to respond, there might be a lot of argument to say that, "Right, we need extensive public consultation", and that could take a long time. But in the meantime, we do have uncertainty in terms of the parts of the constitution that are, or the part that is, sought to be changed.

For myself, I find it very difficult to see that. We go through that process with these three elements, of the three parts of consent that we need, each doing their own thing without regard for what the other feels. I am quite sure that Mr LEUNG Yiu-chung will probably find it very difficult to persuade two thirds of the Hong Kong deputies to the NPC to back up his amendment, or indeed any amendment, to the Basic Law, or perhaps to write to the Chief Executive and say, "Look, would you go along with my amendment?".

But on the part of the Government, I would have thought that if the government of the day or if the Chief Executive of the day says, "I do not like Member X's amendment or the NPC deputies' amendment", he or she should come out and say, "I do not support this", and that would be the end of the discussion.

Unfortunately, of course, we do not have that, but we have this litany of reasons as to why things should or should not be done at this stage. I have mixed feelings about the amendment because I can see that it is very attractive for this Council to revert back to the old habits, some of which were good, but some of which were bad. Of course, when we have a little bit more power unto ourselves, that would be good. Part of the reason for moving this motion, I am sure, is the frustration that Members are feeling about the actual interpretation or the view held by the Government, which I hope is not intractable and that the Government will perhaps reconsider it and about what to do with Article 74 of

the Basic Law after tonight's debate. Obviously, we have to look at it in the context of other parts of the Basic Law, including for instance Article 48(10). But these are matters that I hope this Council, with all good will, together with the Government can sit down and have a look at them again, or maybe our Committee on Rules of Procedure can have a look at them again to see whether there is in fact another way round this problem, rather than to have the frustration that has been ventilated here tonight.

For myself, and indeed for the Liberal Party, the amendment to any part of the Basic Law — it does not matter whether it gives the Legislative Council more power or less power or anything — for example, to Article 107 in terms of the balanced budget or to any other articles, it is indeed a very, very serious matter. I suspect that the architects of Article 159 of the Basic Law must have had that in mind, and frankly, it is not a bad thing. But if there is in fact a consensus under Article 159 that the Basic Law or any parts of it should be amended, I am quite sure that it can be done.

Thank you.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Constitutional Affairs, you are permitted to speak for a second time.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, earlier on I already stated the position of the Administration on the nature of the resolution. Having listened carefully to the speeches of Members, I think I have to reiterate the position of the Administration, and that is, Mr LEUNG's sponsorship of this resolution today is constitutionally immature, inappropriate and unacceptable to us. Now, I will explain the views of the Administration on the substance of the resolution.

The Basic Law of the Hong Kong Special Administrative Region is a constitutional law which established a new constitutional framework for us. By reading carefully the provisions therein on the relationship between the executive authorities and the legislature, it is not difficult to see that the entire framework is sensibly well-balanced.

Under the Basic Law, the executive authorities and the legislature serve different functions, and there is a clear division of responsibilities between them. While they exercise checks and balances on each other, they are also complementary to each other. Article 62 of the Basic Law conferred on the executive authorities the powers and duties to formulate and implement policies, draw up and introduce budgets and final accounts, draft and introduce bills and motions, and so on; whereas Article 73 of the Basic Law conferred on the legislature the powers and functions to examine and approve budgets introduced by the Government, approve taxation and public expenditure, enact, amend or repeal laws, and so on. In other words, the Basic Law conferred on the executive authorities the executive powers to formulate policies and introduce bills in order to give effect to government policies, while the Legislative Council holds the legislative powers to examine and approve government proposals. At the same time, Article 64 of the Basic Law provided that the Government shall implement laws passed by the Legislative Council and already in force. Therefore, the division of responsibilities between the executive authorities and the legislature is clear and explicit. They exercise checks and balances on each other and at the same time, they are also complementary to each other.

Therefore, while Article 74 of the Basic Law allowed Members of the Legislative Council to introduce bills on their own initiative, it also made provisions in this connection. To ensure that the executive authorities and the legislature can operate and co-ordinate with each other in an orderly manner, checks and balances are very important. Imagine that the Legislative Council has the power to introduce any bill with the only exception of bills with a charging effect, and it, at the same time, has the power to examine and approve these bills. Then, is this consistent with the provision in the Basic Law which provided that the executive authorities shall formulate policies and introduce bills? What is the division of responsibilities between the executive authorities and the legislature? Will the equilibrium featuring a counterbalancing and yet complementary relationship between the two be upset?

I now turn to Mr LEUNG's proposed amendment to Annex II to the Basic Law. In fact, item III of Annex II to the Basic Law has already provided for the relevant arrangements on the voting procedures of the Legislative Council after 2007. If there is a need to amend the provisions of Annex II, such amendments must be made with the endorsement of a two-third majority of all the Members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the NPCSC. Given that such a process is already provided for in the Basic Law, we think it is inappropriate to hastily pass any amendment in respect of the voting procedures of the Legislative Council as stated in Annex II today.

Madam President, be it the mechanism for amending the Basic Law, or specific amendments to the constitutional framework and *modus operandi* as provided for under the Basic Law, they are all matters of enormous import. For the reasons and considerations that stated in my first speech and above, the Administration opposes the resolution of Mr LEUNG Yiu-chung today.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, you may now reply.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, first of all, I wish to thank the 20 Honourable Members who have spoken on the motion, of these, 13 or 14 of them have spoken in favour of the motion and only six or seven have spoken against it. It is unfortunate that so few of those who are against the motion have spoken. Therefore, the voice of opposition seems to be relatively small and that is a pity. However, a very fruitful debate has emerged out of this motion and there are quite a number of arguments which merit further studies and discussions.

I wish to respond to the arguments put forward by Mr Andrew WONG and Miss Margaret NG in particular. No matter what the views may be or whether or not the motion has activated the mechanism of amending the Basic Law, in the opinion of the Legal Adviser of the Legislative Council, if the motion is passed by a two-third majority, the Secretariat will submit the contents of this motion to the local Deputies to the National People's Congress and to the Chief Executive. Whether the Secretary for Constitutional Affairs likes it or not, the fact is that

this Council is in the process of constitutional amendment. It matters not whether the Secretary says that we are politically mature enough or not, we have activated this process. As a matter of fact, the reason why I have moved this motion today is that I wish to tell the people of Hong Kong that we have the power to amend the Basic Law and this is the procedure to do it. And that is the most valuable and meaningful thing about it.

Those Honourable Members who oppose the motion have raised a few arguments. Mr Ambrose LAU has often raised these points as well, and that is, any amendment to the Basic Law is untimely, improper and we must be prudent when dealing with issues of enormous import. The "159 mechanism" is not mature enough. Madam President, the problem is that these opposing views are lacking in substance, they do not have any content and they are just some views which are correct no matter where they are put. They fail to address the motion proposed by me today.

We all know that the motion has two parts and these are addressed respectively to bills moved by Honourable Members and the voting arrangement. If it is said that it is not the appropriate time to propose a motion on that, Mr LAU has not said when the most appropriate time is. He has not said when is the most appropriate time, whether it be one year, two years or three years from now, or as the Secretary has put it, the matter should be dealt with after 2007. He has given no answer on that. Likewise, Mr NG Leung-sing has not mentioned when is the most appropriate time.

Next, on the argument that we should exercise great prudence in matters of enormous import. I wish to ask Mr Ambrose LAU and Mr NG Leung-sing that over the past year, have they discussed it with other members of the panel, made their views and requirements known? The views put forward by Mr TAM Yiu-chung and Mr Jasper TSANG are similarly lacking in substance. They are of the view that we should exercise prudence when dealing with matters of enormous import. I would like to ask them, apart from tonight, have they discussed this issue with us specifically and prudently? As a matter of fact, they are not discussing this issue prudently tonight, they are just putting forward some abstract and hollow views and they are talking nonsense. What they have said fails to address the contents of the motion. I think this kind of debate is a disrespect to the debate itself, and it is improper and unfair.

As for the "159 mechanism", many Honourable Members have said earlier that this is not something which we have raised only today. In this respect, Mr Andrew WONG, Miss Margaret NG and Miss Emily LAU do not have to apologize to me for this, for it is not our problem. If I am to withdraw this motion, the most important reason is that it is out of my respect for the Council and for the Government. If the Government says there has to be a mechanism for amending the Basic Law, I will certainly look into this mechanism and procedure. Unfortunately, the Government has done virtually nothing on that over the past year. It is not that I am unwilling to listen to the views of the Government, but what has the Government told us? The 13 questions mentioned by the Government are not proposed by the Government itself, but they are given to the Government by us. Then what in fact has the Government done? In my opinion, the "159 mechanism" does not exist at all. I should not be held responsible for this. Why do Members not criticize the Government but put the blame on me instead? I have been blamed for moving this motion at an inappropriate time because there is no sound mechanism for it. Then why should Honourable Members not lash out at the Government for failing to set up this mechanism? Why do they not criticize the NPC Deputies for not setting up this mechanism when they were formulating the Basic Law? Why do they not criticize the Basic Law Drafting Committee for not formulating an amendment mechanism when they were drafting the Basic Law? Why do Honourable Members not discuss these issues? Therefore, a debate like this is not fair at all, and such arguments are totally unreasonable.

Madam President, Mr James TIEN has said that I have not mentioned the contents of the two parts of the motion when I spoke for the first time. He was right. I made no mention of these parts because the contents of my motion do not involve any new things. Madam President, over the many years past when we were under a colonial administration, I did not hear any Honourable Members sitting here, that is to say if they were members of the Council at that time, putting forward any opposing views or different opinions. Did these Members make their opposition views known? Did they ever make any opposition? As I have never heard of these opposing views, I feel that there is no need for me to make any detailed explanations. On the other hand, I heard some Honourable Members saying indirectly or in private that they were victims of the new system. Given that we are all victims of the new system, and there was no opposition under the past system, then what is wrong with it?

Some people say that I am nostalgic for the advisory structure in the colonial past. Actually, I am not. Nor am I nostalgic for the colonial rule. Nobody would have thought this way. I think the problem lies when the system is actually in operation, we will not be completely stripped of our powers, and we may move a motion. And that is very important for a parliamentary assembly. If members of an assembly do not have the power to move motions, then what kind of an assembly will it become? Mr LEE Cheuk-yan mentioned earlier that the Council is in a vegetative state. I think that is an apt analogy to make. For a Council like this seems to be deprived of the ability to think. Would we be happy to be members with no brains, that we cannot put forward public opinions to this Council for deliberation and passage? I think we do not want to do that. In this year and under some circumstances, we have indeed kept government policies in check on a number of occasions, but these are unexpected and they do not happen very often. It is not possible to do this all the time. This only happens haphazardly. There is no mechanism in operation. What we are hoping for and asking is a sound mechanism which permits all Members to have the right to move motions. Therefore, if people say that we are nostalgic about the advisory structure of the colonial past, they must have not listened carefully to the speeches of other Honourable Members and what we are hoping for is the right for Members to move motions in this Council.

Just now many Honourable colleagues have mentioned a problem, and that is, our existing voting arrangement is the most absurd thing in this world. Mr Andrew WONG said earlier that there is no such system in the whole world and it is peculiar to Hong Kong. Mr NG Leung-sing has said that every country in this world has its own unique features and they have their own systems. I agree to that. But notwithstanding the differences among democratic countries, there are things in common between them, and that is, the democratic element. It is common among all democratic countries in spite of their differences. We should not dwell on the differences and neglect the commonalties. We should look at things clearly.

In this Council, what element of democracy can we find in terms of the procedures of returning the Members, their composition and the voting mechanism? Just imagine out of the 60 seats we have, there are only 20 that are returned by direct elections, all the others are returned by some weird and abnormal ways. We have more restraints than this. Members are divided into two groups to vote and what would you say to that when Members are restrained in such a manner? I recall Miss Maria TAM once said that the mechanism to divide Members into two groups when voting was an ideal one, for that would take care of the views of the minority. In a fair society, no matter there are

views held by the minority or the majority, I think a fair election system should be able to return people to a representative assembly where they can air their views. Why is this mechanism used to suppress us?

Just now the Secretary mentioned the checks and balances between the executive and the legislature. He was wrong, and he should be corrected. There are no "checks and balances" between the executive and the legislature, there are only "restraints" imposed by the executive on the legislature. There are no "checks and balances" but "restraints", so much that we cannot move and do anything we want. Madam President, I hope all Honourable colleagues will realize one thing, and that is, we are all tied up, as it were. It is bad enough. But the worst thing is that there are people who are willing to be tied up and do not want to save themselves by trying to loosen their fetters. I think that is the saddest thing of it all.

Many Honourable Members have said earlier that during the one-and-a-half years of the new Session of this Council, many people have tried to express their views by trying to propose their own motions, but they have failed. Mr TAM Yiu-chung may say that this will balance the interests of all sides, if this is really the case, I really hope that Mr TAM will go and talk to his colleagues in the FIU that they must not propose motions any more. For what they propose will only be in the interest of the working class, and they will certainly be unable to balance the interests of all classes. Are they not slapping in their own face? We are supposed to speak for the interests of the classes or the voters we represent, otherwise they will not have voted for us in the first place. We would not be necessary if we are meant to balance the interests of all classes, for that is precisely the thing which the Government says that it is doing. There will be no need for us to speak and Council meetings may be adjourned after the government officials have spoken. In the opinion of Mr TAM Yiu-chung, this Council should be a rubber-stamp and nothing else. We must do what the Government wants us to do and there will not be a Council where the voice of the people is truly heard.

Therefore, those Honourable Members who hold this view should not stand for the direct elections in September 2000. It would be an insult to the voters if they stand for the elections. It is because they do not represent the views of the voters. They are only posing as representatives of the people and fighting for the interest of the people, but in fact they are not and they will not do it.

Madam President, my purpose of moving this motion to amend the Basic Law is to use this opportunity to affirm that the Basic Law can be amended. It does not matter whether the motion is passed or negatived, though the latter is more likely to be the outcome. Whether the Secretary likes it or not, and as Mr CHEUNG Man-kwong has said earlier, this aspiration to amend the Basic Law and the future actions which go with it, shall continue. It will not stop and what we have today is only a precedent which breaks the taboo of amending the Basic Law. We will continue to move motions to amend the Basic Law no matter what the outcome will be.

The Secretary and many Honourable Members have stressed the integrity of the Basic Law and that it cannot be amended by bits and pieces. That actually is a case of a coin having two sides and people may look at the matter from a different perspective. If I propose to amend the entire Basic Law, there will certainly be people who say that I am too ambitious. Since so many things have to be amended, that would certainly take at least eight to 10 years. Then these people may suggest that I had better not amend the Basic Law. Now I propose to amend only one or two articles of the Basic Law and they are saying that I am seeking to amend the bits and pieces and that I fail to take the Basic Law as an integrated whole. In any case, they would object to it. Why do they not tell me that the Basic Law is not to be changed for 50 years, as the late DENG Xiaoping would have put it. Then things will be clear as crystal and there is no need to talk ingeniously any more.

Although I have rightly guessed the outcome of this motion, I still hope that Honourable Members will not fetter themselves and they should strive to get the power to move motions in this Council. They should abandon that division system whereby votes are cast by two groups of Members as it is a laughing stock in the international community. The system has the effect of making the views of the minority prevail over those of the majority. We should go back to a system of simple majority.

Madam President, I hope that the Secretary will not be obstinate and stick to a wrong course. The facts today tell us that the mechanism to amend the Basic Law has been activated. The Secretary should stop saying that we are politically immature. In fact, it is the Administration which is not mature, for it has not respected our views. If it is mature enough, our views should be respected and that a sound procedure and mechanism for amending the Basic Law would have been put in place.

Madam President, I so submit.

PRESIDENT (in Cantonese): Before I put the question to you, I wish to remind Members that Article 159 of the Basic Law of Hong Kong Special Administrative Region of the People's Republic of China stipulates that the passage of this motion by the Council requires the consent of two thirds of all the Members of the Council.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung, 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)

Mr LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung 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 check their votes. If there are no queries, I declare that voting shall now stop, and the result will be displayed.

Miss Cyd HO, Mr Albert HO, Mr Michael HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Fred LI, Miss Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Miss Christine LOH, Dr LEONG Che-hung, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr David CHU, Mr HO Sai-chu, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr MA Fung-kuok, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Gary CHENG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

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

THE PRESIDENT announced that there were 57 Members present, 20 were in favour of the motion and 36 against it. Since the question was not agreed by a two-third majority of all the Members of the Council, she therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): 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 debate. I will not repeat the details of the recommendations here and I believe Members are well aware of the time limits for their own speeches. Should Members speak in excess of the time limits, I am obliged to stop them.

First motion: Enhancing the functions of District Councils.

ENHANCING THE FUNCTIONS OF DISTRICT COUNCILS

PROF NG CHING-FAI (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

On 1 December last year, a debate was held in this Council in relation to the reorganization of municipal services. At that time, I voted in favour of changing the three-tier political structure to a two-tier one. My reason was, in view of the practical situation of Hong Kong, a two-tier structure can avoid overlapping of functions and help enhance efficiency and accountability. However, in order to achieve this objective, we must meet the prerequisite criterion by making a timely adjustment to the functions of District Councils and enhancing their advisory and monitoring role in district affairs. In doing so, it will not only enable resources to be utilized in a more cost-effective manner at the district level, but also nurture regional political talents, and enhance public participation in community affairs. This is conducive to the further development of the democratic system in Hong Kong.

The District Councils, albeit being an advisory framework, are an integral component of local policy-making. Their main role is to advise the Government on district affairs. It is a pity that the District Councils are unable to give full play to their advisory role at the moment. Moreover, this role has failed to gain due attention. As far as I know, the District Councils were, very often not given sufficient information and time for holding discussion, making it very difficult for them to consult residents living in their respective districts. Sometimes, government departments failed to take corresponding follow-up action in response to the views submitted by District Council members in meetings.

Madam President, actually District Council members are well familiar with the conditions of their respective districts and the people living there. The Government should indeed take the advisory role of District Councils seriously by mapping out procedures and arrangements for consulting the District Councils, including setting appropriate consultation periods, delegating more senior officials to attend their meetings and following up opinions submitted by them.

At this point, someone may say that the District Councils will attach great importance to their own local interests. As a result, when it comes to such issues as constructing refuse collection points, liquefied petroleum gas refuelling stations and rehabilitation centres, facilities regarded by the general public as offensive, the 18 District Councils will only take care of their own business. If we only talk about showing respect for the District Councils, how are we going to reconcile the contradictions? I suppose there are grounds for such concern. Such problems are referred to as the NIMBY (not in my backyard) syndrome in

the West, meaning that although this is something good, I am not going to deal with it. The Government therefore needs to devise a mechanism to decide how best policies objected by the District Councils can be dealt with, with a view to striking a balance between the overall interests of the community and local interests of the 18 districts. Of course, in upholding a reasonable central policy, the Government must give detailed explanation to the District Councils concerned. I also believe that, in the event of any major disputes, this Council will not look on with folded arms.

In my opinion, the Government should expand the District Councils' functions, in addition to taking their advisory role seriously. The District Councils can co-ordinate district activities for the purpose of promoting community building. With funding provided by relevant government departments, committees and statutory bodies, they can carry out, for instance, civic education activities with funding from the Civic Education Committee, and undertake such work as education on environmental protection, enhancement of fire-prevention awareness, home safety protection, improvement to building management, and promotion of old district redevelopment, in order to strengthen regional support for central policies for this is actually conducive to government administration.

Secondly, as regards improvements to community environment, the District Councils can make recommendations, participate in policy-making and monitor the progress of projects. District Council members are, comparatively speaking, more familiar with the environment and sanitary conditions of their own districts. They should therefore be able to reflect problems in time. What is more, the District Councils can provide the Government with information for reference in respect of the management and planning of their respective districts.

As to community facilities, the District Councils are well aware of the personal needs of residents. They should be allowed to participate in policy-making and monitoring with respect to the management of municipal facilities, such as the management, construction, repairs and opening hours of community centres, community halls, parks, libraries, municipal complexes and so on. The Government should allow the District Councils to utilize land in the light of local needs and give them a certain degree of flexibility in providing services. There is also an advantage in doing so. The District Councils can draw on the experience of one another and further enhance the local quality of service by referring to the experiences of other districts.

Finally, both the recreation and sports organizations and the District Councils are now responsible for organizing cultural, recreational and sports activities. What they do is, to a certain extent, overlapping and resources are not utilized in the most effective manner. It is believed that resources can be utilized more effectively if the District Councils can take charge of the role in co-ordinating cultural, recreational and sports activities. The Government might as well give consideration to this.

Madam President, we should provide the District Councils with additional funding if we agree that their functions should be expanded. Under the existing system, the District Councils can only apply to the Government for funding for the purpose of launching or sponsoring community participation work, and implementing small-scale environmental improvement programmes. With an upper limit of only \$600,000 for each programme, the work of the District Councils is subject to considerable constraints. Following "the scrapping of the two Municipal Councils", rates originally given to the two Councils will be handed over to the government coffers. The Government should, therefore, provide the District Councils with more financial resources to enable them to, according to their own priorities, improve district environment and organize various activities in order to enhance community involvement.

In providing funding for the District Councils, the Government should take into account the ratio of population or the unique circumstances of each district, instead of insisting on standardizing the amount of allocation for a broad-brush approach will not be able to meet the different needs of various districts.

To enable District Council members to be fully equipped to play their role as representatives of public opinion, the Government should also consider increasing its support for them. For example, accountable allowances for District Council members should be slightly increased so that they will be able to set up their own offices and employ a full-time personal assistant with a view to enhancing the services they provide for the public and raising the District Councils' quality of service.

On the other hand, the District Councils should provide channels such as public consultation and opinion polls to get the public directly involved in district affairs. There will be no harm for the Government to be more flexible in boosting the number of co-opted members too. Of course, members should not have their term extended after one year if they fail to meet the required standard. Providing the public with more channels for involvement can boost the credibility of the District Councils. Madam President, while rights goes with responsibilities, those who supervise are also subject to supervision. So in proposing an expansion in the functions and powers of District Council members, the District Councils should exercise effective supervision over the conduct and integrity of District Council members to prevent any abuse of power or wastage of public funds. The District Councils can consider setting performance targets, raising their transparency and allowing district residents to oversee the work of the District Councils.

One of the main points of the political reforms carried out in numerous countries in Europe and the United States over the last 10-odd years is to establish "community ownership". Through community involvement, residents of various districts are encouraged to get involved in resolving district problems, thereby enhancing their sense of ownership. In other words, social cohesion and solidarity are boosted through involvement. This is especially of great realistic significance to Hong Kong which has just entered a new era of "Hong Kong people ruling Hong Kong". Madam President, we will have higher expectations on District Council members who have their functions expanded. We hope that, in addition to observing public needs and monitoring government administration, they can help the Government formulate policies conducive to the well-being of the public. This will in turn favour the implementation of macro-policies by the Government. In the meantime, district leaders will become all-rounders in social activities through participation in the work of the District Councils in actual terms, building communities, improving the community environment, creating a community culture, getting involved in the process of decision-making and learning the operation of the democratic system. In other words, the District Councils, if effectively run, can create more favourable conditions for Members of the Legislative Council to be returned by universal suffrage and reinforce democratization with respect to our political system.

With these remarks, Madam President, I urge Honourable Members to support my motion.

Prof NG Ching-fai moved the following motion: (Translation)

"That, as the two Municipal Councils have been dissolved and it is necessary to allow the 18 District Councils to take on more powers and responsibilities at the district level, this Council urges the Government to ensure that it attaches importance to the District Councils' consultative role, and to expand the District Councils' functions and provide them with additional funding and corresponding powers in deciding on the district affairs relating to community building, improvements to the local environment, provision and management of community facilities, organization of cultural and recreational activities, and so on, so as to nurture political talents, promote civic awareness and strengthen social solidarity."

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 Prof NG Ching-fai's motion, as printed on the Agenda, be passed.

We now proceed to the debate.

MR HOWARD YOUNG (in Cantonese): Mr Deputy, since their establishment in early '80s, District Councils (formerly known as district boards) have mainly taken on a consultative role. According to the Basic Law, the SAR may establish district organizations which are not organs of political power. Their powers and functions and the method for their formation shall be prescribed by law.

Upon the enactment of the Basic Law, the tier which consisted of the Urban Council and Regional Council still existed. It was generally considered that the district organizations which are not organs of political power as stipulated in the Basic Law referred to this tier. After the dissolution of the two Provisional Municipal Councils, only the District Councils are qualified to be called district organizations. However, District Councils can only discuss public affairs, as they have no real power to make decisions. This seems to be not keeping pace with the increasing demand of the general public.

Following the dissolution of the two Municipal Councils on 1 January this year, the newly established government departments took over the functions and responsibilities originally within the purview of the two Provisional Municipal Councils. However, there are many district affairs that do not necessarily require participation or co-ordination from the central administration of the SAR Government. If the powers and responsibilities of the District Councils are expanded, with some powers being devolved to the 18 District Councils in Hong Kong, not only can district organizations have more say, they can also solve problems at the district level more flexibly and promptly. The Liberal Party supports this.

Regarding the expansion of the scope of their functions, I think it should mainly base on the duties of the former Municipal Councils in such areas as recreation environment, hygiene and so on. It is not appropriate to devolve powers in respect of territory-wide matters based on more standardized criteria, such as the licensing of food premises, liquor licences and so on.

Another advantage of the devolution is the improvement of the efficiency of public services, which enables public resources to be monitored more effectively, and thus indirectly achieving enhanced productivity.

To devolve some decision-making powers on public policies to local assemblies with elected members is conducive to establishing in Hong Kong a political system with balanced powers and responsibilities. If mistakes were made in the policy-making process or in implementation, members of local assemblies should pay the price of being deserted by their constituents in the next election. If brilliant and effective decisions were made in a decisive manner, the livelihood of the people can be improved on the one hand, while government resources can be utilized more effectively on the other. Subsequently, it can avoid the situation in the past when we only got half the result with twice the efforts due to unclear division of powers and responsibilities and a confusion of roles under a far too cumbersome system.

The Government should increase the funding to District Councils so that each District Council will have adequate resources to improve the local environment, to establish, manage and maintain various community facilities, and to provide a greater variety of cultural, recreational and community activities in the light of the needs of their localities.

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

DR RAYMOND HO (in Cantonese): Mr Deputy, in the old three-tier representative government of Hong Kong, the district boards had always played a consultative role at the district level. With the dissolution of the two Municipal Councils at the end of last year, the election of the new District Council members at the end of November and the appointment of District Council members, the functions of District Councils have once again attracted the attention of members of the community.

After the dissolution of the two Municipal Councils, many people consider it necessary for the Government to enhance the role of the District Councils. Actually, it is a most natural development. Some matters which were discussed in the Municipal Councils will be submitted to the District Councils for consultation. Therefore, the District Councils will be playing a more prominent role. In view of this, the Government should allocate more resources to the District Councils and provide them with additional funding to carry out public works in the districts, make improvements to the local environment and promote cultural and recreational activities in the districts, and so on.

An enhancement of the role of the District Councils brings about the question of their powers and responsibilities. Article 97 under section 5 of the Basic Law on district organizations states that "District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation." Apart from the fundamental principles laid down by the Basic Law, we should also take into account other factors. For instance, while the functions of District Councils as district organizations are limited to their respective districts, they can also express views on territory-wide affairs as consultative organizations. Therefore, in my view, in expanding the powers and responsibilities of the District Councils, the focus should be on their consultative role rather than on their role as district organizations to be vested with powers.

After the dissolution of the two Municipal Councils, some are of the view that the District Councils can play a larger role in the area of municipal environmental hygiene and the hygiene of food establishments. In my view, the District Councils can give views on the environmental hygiene of their respective districts and Hong Kong in general, as well as exercise limited consequential powers of decision-making. They can enhance co-operation with the newly

established Leisure and Cultural Services Department and Food and Environmental Hygiene Department, so that real improvements can be made to the relevant areas. However, it is inappropriate for the District Councils as consultative district organizations to assume all the past functions of the two Municipal Councils in this respect.

Mr Deputy, in my view, the most important thing at this stage is not to change the functions of the District Councils. Rather, it is more important for the SAR Government to attach importance to the District Councils' consultative role, in order to achieve the aim of wide public consultation and increase direct communication with the people. I so submit. Thank you.

MR WONG YUNG-KAN (in Cantonese): Mr Deputy, before I speak I need to declare an interest. I am an incumbent member of the Tai Po District Council. Since 1991, I have been an elected member of the Tai Po District Board (now renamed District Council) and I have some knowledge about the operation of the district boards. Since the former British-Hong Kong Government first introduced the system of representative government, the functions of district boards have remained unchanged. Their views were rarely heeded. Occasionally, the Government might give us some face and adopted our suggestions, but for most of the time the Government just attached little importance to us.

Since their inception, district boards (now renamed District Councils) have been defined as consultative bodies. Article 97 of the Basic Law states that "District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation." The District Councils Ordinance also provides that District Councils may advise the Government on matters affecting the livelihood of the people and on the provision and use of public facilities and services within the district.

In reorganizing municipal services, the Government promised to expand the functions of District Councils. Now, as the two Municipal Councils have been "scrapped", the Government should honour its promises made at that time. There are a Chairman and a Vice Chairman in each District Council, who may

become members of the District Management Committees. They may take part in co-ordinating services and determining priority of programmes in their districts. District Councils are consulted by the Food and Environmental Hygiene Department and the Leisure and Cultural Services Department on environmental hygiene services and programmes and facilities on leisure and cultural services within the district. The two Departments will also brief District Council members periodically on the said issues. Hence, District Councils are able to participate in monitoring the service standards. Government funding for District Councils has been increased to facilitate environmental improvement and the provision of more leisure and cultural services within each district. Thus it appears that the functions of District Councils have been expanded apparently. However, whether they can remove the tarnished image of talking-without-performing depends on the determination of the Government to respect the consultative role of the District Councils.

District board members were dissatisfied with the Government because they had the feeling that the Government often played tricks on them. When something of importance cropped up and consultation was required, the Government would turn to the district boards so as to avoid being accused of making decisions behind closed doors. Otherwise, the Government would just ignore the suggestions made by district boards and the people. At those times when the Government did consult the district boards on matters of importance, the views of district boards were not particularly valued. As time went by, district board members felt disheartened.

For example, in the district board which I used to be a member, members have been making requests to the Government for the building of a town hall in Tai Po since 1988. More than 10 years have passed and the plan for the town hall is still unfulfilled. During the interim period, the population of Tai Po has increased from just over 30 000 to 270 000. When I was elected member of the Tai Po District Board in 1991, the then Tai Po District Board decided to follow up once more the building of a town hall there with the Government, and decided then that the Government should set aside land for the purpose. The former Regional Council agreed in 1995 to put the building of a new Tai Po Civic Centre at the top of the priority list. In 1996, the Government agreed to set aside land for the Civic Centre. The project was delayed because the original design could not fully utilize the plot ratio. I hope the relevant department can fulfil the earlier promise as soon as possible so that residents in Tai Po can enjoy the services of the new Civic Centre and the new central library there.

Mr Deputy, I should like to stress one point. If the Government does not respect the District Councils as a consultative body or the suggestions of their members, it would not be helpful to the operation of the District Councils however much their functions are enhanced. The enhancement can at most provide more chances for members to speak, without enhancing the justifications for the existence of the District Councils. I hope District Council members can be practical and realistic. I hope they will try their best to do their bit well for a better tomorrow in the districts they serve.

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

MR LAU WONG-FAT (in Cantonese): Mr Deputy, as the most basic tier of representative government, the District Councils (formerly known as the district boards) have existed in Hong Kong for 18 years. Throughout these 18 years, Hong Kong has experienced significant changes in various areas. As an integral part of the three-tier system, the District Councils have already operated in a mature and smooth manner a long time ago. They are, judging from all angles, capable of taking on more powers and responsibilities and playing a greater role. This is particularly so as the Government has recently succeeded in "scrapping the Municipal Councils", thereby replacing the three-tier system with a two-tier one. Apart from the highest elected representative assembly — the Legislative Council — the District Councils are the only assemblies which can reflect the aspirations of the grass roots. It goes without saying that their functions and powers should be given a new positioning to cope with the changes in circumstances.

The Chief Executive, Mr TUNG Chee-hwa, promulgated certain changes to the District Councils in his policy address last year. These include providing them with additional funding and allowing District Council Chairmen and Vice Chairmen to join the District Management Committees. Heading in the right direction, these measures will help promote the work of the District Councils. This is something we should welcome and support. Nevertheless, I think we can exert a greater force and speed up our pace in making improvements.

I greatly support Prof NG Ching-fai in moving this motion to "enhance the functions of District Councils". I believe the contents of the motion reflect the general aspirations of District Council members as well. Proposals relating to the provision of corresponding powers in deciding on affairs relating to

community building, improvements to the local environment, provision and management of community facilities, organization of cultural and recreational activities and so on should be timely and practicable. Upgrading powers and responsibilities in this area will not only fill the vacuum created as a result of the "scrapping of the Municipal Councils", which subsequently denied municipal services professional management by a democratic council, but also boost the sense of mission and responsibility of District Council members. This will also help them tremendously in developing their careers in public affairs in future.

Mr Deputy, the next item I want to talk about is the advisory role of the District Councils. The representativeness of the District Councils is indisputable for they are able to reflect the aspirations of the grass-roots people. However, whether the District Councils will be able to play their advisory role satisfactorily will, to a great extent, hinge upon the Government's attitude towards them. In other words, is the Government really sincere in consulting the District Councils? Does the Government really take the views of the District Councils seriously? I have been working for the District Councils since their establishment. I have the impression that the Government often chose to, on a selective basis, consult the District Councils on certain issues and listen to their views. The District Councils were extremely passive and there was nothing they could do to make the Government consult them or listen to their views. If this phenomenon remains unchanged, the image of the District Councils and the morale of District Council members will be undermined, making it difficult for the District Councils to carry out their work.

I think it is necessary for the Government to lay down a specific guideline providing that the relevant authorities must first consult the District Councils on all affairs involving major territory-wide issues or policies and those affecting the livelihood of people living in various districts, as well as listening to the views of the District Councils seriously. At the same time, I propose that the District Councils should be given more power to take the initiative to conduct discussion. For instance, the 18 District Councils can, through joint conferences, take the initiative to ask the Government to consult the District Councils on certain matters. In doing so, the District Councils will certainly take on a new look, both in terms of its operation and functions.

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

DR TANG SIU-TONG (in Cantonese): Mr Deputy, first of all, let me declare an interest. I am a member of the Yuen Long District Council. Last month, in my speech in this Council in opposition to the Provision of Municipal Services (Reorganization) Bill, I said that to improve municipal services by way of "scrapping" the two Municipal Councils was but a gamble in which the right of the people to participate in municipal affairs was at stake. The Government would surely object to my words and then it promised to enhance the functions of the District Councils to improve municipal services. However, so far the Government has been paying lip service only. Now let us forget about the issue of reduced honoraria for the members of the first term of the District Councils. Is the Government trying to think adding \$5,000 to the accountable administrative allowance for each District Council member would achieve enhancement of the functions of District Councils?

In the "scrapping" of the two Municipal Councils, the Government has acted extremely swiftly. However, it appears to be at a loss in enhancing the functions of the District Councils. This gives people the impression that the Government is cheating or turning the District Councils into its advantage. I am worried that the Government is using the additional subsidy as a decoy to lead people outside the District Councils into believing that the functions of District Councils have indeed been enhanced. But the fact is the Government is still clinging tightly to municipal services. If another unfortunate incident such as the avian flu crisis breaks out, the Government may say this time that the District Councils have to be dismantled for their poor performance, which is the same ploy it has used to "scrap" the two Municipal Councils before.

Doubtless the District Councils are vested with certain powers. At present, minor works projects or activities related to people's livelihood have to seek funding approval with the Finance Committee (FC) under the District Councils. The problem is that the FC is only empowered in name to allocate funds and determine the use to which they are put. In practice, it is only a "paper tiger". This does not mean the District Council members are being slovenly in their work or do not exercise their power to scrutinize funding applications. Rather it is the Government which has been controlling the operation of the FC behind the scenes. Furthermore, only a paltry amount of funding is given to the District Councils. One can say that a small dish like this is unappetizing but not yet small enough to be thrown away. As regards items involving public expenditure, District Councils can only hold extensive discussions about funding matters and submit the results of discussion to the Government for reference. It is still up to the Government to decide whether or not to accept the results.

The fact remains that policies on municipal services in Hong Kong are never monitored by the district boards, or District Councils as they are now called. Take the Yuen Long District to which I belong as an example. As representative of the people in the district, the Yuen Long District Board or District Council is entitled to put on its agenda items for municipal building programmes, issuance of licences, and management of restaurants and markets and so on, but the decisions made are not binding on the Government. In other words, the Government just notifies, not consults, the Yuen Long District Board or District Council, for which participation in the decision-making process regarding municipal services are simply out of bounds.

After the two Municipal Councils have been "scrapped", the District Councils have now become the most important groups that can reflect public opinion at the very front line. Despite that, I would not venture to expect the Government to allow District Councils to possess, as the two Municipal Councils did, the ability to mobilize scores of thousands of government employees and expend over \$10 billion public funds. I do hope, however, the Government can enhance the accountability of the District Councils and their participation in the decision-making process regarding municipal services and municipal management work such as work pertaining to the composition of the Municipal Services Appeals Board, liquor licences, hawkers licences and the development of cultural and recreational activities. Expanding the functions of the District Councils in these areas is, I think, a basic requirement for maintaining decent municipal services after the two Municipal Councils have been "scrapped".

I hope the Government will understand that municipal services are different from other general macro-policies of the Government. To do well in municipal services, one must mobilize both the general public and the district groups to participate. Centralizing power unnecessarily can only increase the risk of blunders resulting from the will of imprudent officials. Another drawback for power centralization is that District Council members will soon be disheartened if they find District Councils are given the responsibilities but not the power to discharge them, or the opportunity to represent public opinion but not the resources to fulfil the hopes of the public. Thus, many political talents aspiring to serve the people will be wasted. This can only be counter-productive to encouraging participation by the general public or the professionals in municipal services or in training Hong Kong people to rule Hong Kong.

Mr Deputy, I so submit.

MR FRED LI (in Cantonese): Mr Deputy, on the wording of Prof NG Ching-fai's motion and the situation mentioned by him, I think there is no cause for us to raise any objections. However, I wish to share with Prof NG my feelings of being a member of the district board for nine years. Although I lost in the elections this time, I have been very concerned about the work of the district boards. Mr WONG Yung-kan said that for more than a decade the Tai Po District Board had been fighting for a town hall. Leaving aside the fact that there are only 270 000 people there as opposed to some 600 000 people in Kwun Tong, residents in Kwun Tong have been fighting for a town hall for almost two decades, and there is still no response from the Government. I hope the Secretary for Home Affairs will listen to my grievances and look at the minutes of the Legislative Council meeting for 10 March last year, and particularly at the speech made by Prof NG Ching-fai when the District Councils Bill was passed. Prof NG's speech at that time was consistent with the motion which he is moving today. Prof NG said the following during the Second Reading debate of the District Councils Bill: "the functions of the District Councils that we should consider now may perhaps need to be different from the original set-out. Instead of serving as a purely consultative framework, they should become an important component in the representative government of the SAR The functional structure of the District Councils should vary with time." Then at last he said, "Hence, I believe that the Government should gradually devolve some of its powers to the District Councils."

A few weeks ago, I joined the discussions on the future prospects for Hong Kong held in the City Forum. There was a member of the district board who said that he supported the Government's move to "scrap" the Municipal Councils. He hoped that the future District Councils would take over the authorities of the Municipal Councils and that the terms of reference of the District Councils could be expanded. I think that member of the district board is too simple-minded. How can he believe that the Government will give the District Councils more authorities when the Municipal Councils have been "scrapped"?

Let us look at the terms of reference of the district boards. From the first appearance of the district boards in 1982 to the present day, Mr LAU Wong-fat has been the Chairman of a district board for all these years, but has there been any change in the statutory functions of the district boards? The Government has been saying that the district boards are a consultative framework, in other words, they do not have any decision-making power. As this is the case, what

kinds of powers can be devolved to the district boards? The answer is none. It is because the district boards are merely a consultative framework. This is the crux of the problem. Even if the Government is willing, there is not much that it can do. It is because the district boards are a consultative framework. Take a very simple example, if the Kwun Tong district has a civic centre, as the Urban Council no longer exists, so that civic centre is managed by the Leisure and Cultural Services Department. On matters related to the booking of venues in the civic centre or policies, such as whether a venue can be booked consecutively for one week, three weeks or five weeks, or on the question of what venues can be made available for advance booking by the public, will these matters be discussed in a District Council? I do not think so. Do the District Councils have the power to formulate such policies? No, they have not. Do the District Councils have the power to decide on the details of the booking of venues? No, they have not. Then what kinds of powers can be devolved to the District Councils? I do not know what kind of magic the Secretary for Home Affairs can conjure up to make the members of the 18 District Councils think that the District Councils are not merely a framework which gives advice but can really put the views into practice.

In addition, officials of what ranks will attend the District Council meetings? Take the example of the Housing Department. When more than a decade ago, I was a member of a district board, at that time it was a Chief Housing Manager who attended the meetings, then it is a Senior Housing Manager at present. I do not know if it will be a Housing Officer who will attend meetings of the District Councils in future. The ranks of these officials are getting lower and lower; I am not insulting these officers, I just think that when they are attending the meetings, they all seem to be very reluctant to do so. They are as if saying that, "Alright, after the members have made their criticisms, I will convey your views to the authorities." We all know what will happen, they will just listen and the members will be able to ease their pent-up sentiments. And that is it.

In the same meeting on 10 March last year, the Secretary for Constitutional Affairs in his reply said, "However, I still want to emphasize one point and that is the future District Councils must assume a greater role in matters concerning food and environmental hygiene services and the promotion of recreational and cultural activities. There is no question about this." I hope the Secretary was not making out a post-dated cheque or an dishonoured cheque. It is because the person to implement policies is the Secretary for Home Affairs,

not the Secretary for Constitutional Affairs. The Secretary for Constitutional Affairs has made such a pledge, I hope he can honour it. Now the elected assembly of the Urban Council has gone, there is only a two-tier assembly left. I hope the Government can show us some facts that the District Councils will assume a greater role in matters concerning food and environmental hygiene services and the provision of recreational and cultural services. The above remarks are made by the Secretary for Constitutional Affairs, I am just quoting from him. I hope he is not just saying something and forgets it soon afterwards. The Government should honour its words, it should not forget about the whole thing soon after it has gained the support of the Members of the Legislative Council and the members of the district boards in "scrapping" the Municipal Councils. I think that is being ungrateful for past help. It is not something proper for a government to do so. I oppose the "scrapping" of the Municipal Councils, but since we have failed to prevent it from becoming a reality, I hope that the pledges made by the Government can be honoured. The Government should not think that the functions of the District Councils are greatly expanded by giving just a few thousand dollars to members of the District Councils to hire a full-time or part-time staff. That would only help the members discharge their duties better, and that is all. If there is no fundamental change in the District Councils, their roles and functions would remain the same.

Finally, I would like to say that originally I intended to move an amendment to add the words to the effect that the next District Councils be entirely returned by popular elections. But that was rejected by the President. However, I wish to emphasize that when the functions of the District Councils are to be expanded, I hope that a review of the composition of the District Councils can be made to add more representatives from all sectors. If there are still appointed members in the District Councils and if there are still *ex officio* members, I would think that enhancing the powers of the District Councils may not be meaningful at all. I think only an assembly returned entirely by the public can be able to shoulder such responsibilities, and only when there are more full-time members committed to the work, can the views of the community be brought into the District Councils. So I think there will not be any problems with the enhancing of the functions of the District Councils. I am also in support of increasing the funding for the District Councils. At the same time, the Democratic Party is of the view that appointed and *ex officio* seats should be abolished as soon as possible, so that the District Councils can have a greater representativeness. With these remarks, I support the motion.

MR MA FUNG-KWOK (in Cantonese): Mr Deputy, after the abolition of the Municipal Councils, there have been discussions on the functions and duties of the newly formed District Councils. A preliminary consensus has been reached and that is, the functions of the newly formed District Councils should be enhanced. To a certain extent, part of the functions of the two former Municipal Councils should be included. But how is this to be done and how is the pledge made on the functions and duties of the district boards to be fulfilled? It appears that the Government is still short of answers. Therefore, I think that when the first District Councils are about to start their work, it is proper and timely to discuss the functions of the District Councils.

It is the common feeling of the public that there have been drastic changes in society since the Government launched the district administration scheme in 1982. There have been greater demands and expectations from the public on participation in community affairs. Enhancing the functions of the District Councils will not only enable greater participation in community affairs, but will also help the Government implement its policies and raise its efficiency. A more important thing is, the District Councils can be training grounds for political leaders. They can raise the ability of the local leaders in discussing political matters, facilitate the progress of democratization and lay a solid foundation for "Hong Kong people ruling Hong Kong".

At present the Government is stressing on productivity enhancement and utilization of resources. It is launching some policies which need the participation of community organizations. These include civic education, environmental protection education, improvement of building management, and the promotion of recreational and cultural activities. A lot of time and resources will be spent if the central authorities are to liaise with each of the households or the owners' incorporation and management company of each building. The results may not commensurate with the efforts put. Why can the Government not consider allocating some of the resources to the District Councils and let the latter play a co-ordinating role on a local level? The District Councils can help to promote central policies. Members of the District Councils can undertake the promotion and implementation work through their networks so that the activities can be filtered down to local levels. In so doing, community participation can be ensured.

Mr Deputy, when the District Councils take part in the promotion of policies on a community level, it does not follow that the District Councils are compelled to implement the instructions of the central authorities in each and every matter. District Councils have their own unique character and they can decide on the setting of priorities for the use of their resources on projects relating to community building and making improvements on the local environment.

The improvement to the local environment and matters related to sanitation are also some of the key functions of the District Councils. The establishment of the Department of Food and Environmental Hygiene by the Government is for the formulation and implementation of territory-wide policies and measures, and it is expected that this will help enhance the efficiency in service delivery. However, as each community has its own uniqueness, the District Councils still have an important role to play and to give advice, help to make decisions and monitor the improvement of environmental and health matters in each district.

There exist close ties between members of the District Councils and the public. Members are aware of the needs of the residents, and they are residents of the districts which they represent. The information and views which they put forward to the government officials are often made in their capacity as the representatives of the users. Therefore, the Government should expand the functions of the District Councils to cover the management of community facilities so that the District Councils can take part in the management of some municipal facilities like community centres, libraries and municipal complexes in such areas as their maintenance and repairs and the setting of opening hours and so on. All these will enable central policies to be adapted to local needs and characteristics. The public can then be given tailor-made services and hence the objective of person-based services can be met. Apart from these, in the setting up of pedestrian precincts, the location of traffic lights, diversions of traffic and such like matters, the District Councils can also provide concrete information to the Government for reference and they can play an important subsidiary role in policy-making.

Mr Deputy, the promotion of community building through local organizations is an important link in the implementation of "small government" and the enhancement of a sense of belonging in the public for their community. To enable the 18 District Councils to assume more responsibilities at the local

level and enhance their functions, the Administration should consult the District Councils, take into account the different population compositions and conditions in the communities, and provide more resources to the various activities organized by the District Councils. This will also enable the local organizations to have the resources necessary to improve their respective communities.

As we seek to enhance the funding, resources and responsibilities of the District Councils, there should also be some checks and balance so that the public can monitor the work of the District Councils to make them more accountable. Hence, the Government should set up a system to increase the transparency of the District Councils, promote their work and decisions, and enable the public to know clearly how they operate, thereby increasing the sense of belonging of the public to the District Councils.

Finally, I wish to point out that the pattern of communities here is apparently that of homogeneity and uniformity. The same pattern can be seen in every local administrative district. There is a lack of vitality and energy in the entire community. The District Councils cannot be expected to foster the individuality of every community and to enable every one of them to possess a unique community culture. These cannot be done by the District Councils themselves alone. It is important that other government departments can also offer their assistance. However, if the Administration can devolve some of its powers to the District Councils or to consider carefully the opinions of the District Councils and add in an element of flexibility in the central policies, and to provide more room to add more local colours to the community, then there will be vitality in our society, and we can depart from a monotonous and uniform kind of "model community". The District Councils and the public can build a unique community culture in each district, promote greater participation in community affairs and enhance the accountability of the Government at district levels. These will further help the development of a democratic system in Hong Kong.

With these remarks, I support the motion. Thank you.

MR AMBROSE LAU (in Cantonese): Mr Deputy, many Honourable colleagues have just now provided many suggestions on enhancing the functions of the District Councils and I do not wish to repeat what they have said. I only wish to reiterate one point and that is, the Government should not just consult the District

Councils on local issues and listen to their advice, it should also respect the views of the members of the District Councils. It should strive to forge a positive interactive relationship between itself and the District Councils.

To give full play to the role of the District Councils in meeting the objective of "Hong Kong people ruling Hong Kong", the Government must give due attention to the functions of the District Councils and the views they express. On the day when the Chief Executive mentioned the decision to build the Disney theme park, he briefed the chairmen of the 18 District Councils on the agreement made. Such meetings aiming at facilitating better communication should be held more often. If the Chief Executive can meet the chairmen of the 18 District Councils more often and listen to their views on issues of grave importance, it will certainly help the District Councils to be more involved in local affairs.

I have served as a member of the district boards for many years. I understand that the Government will often consult the district boards on important territory-wide issues and those related to the districts. However, the most important thing is that when the Government has listened to the views of the district boards, it must make an objective and thorough analysis and study of the issues involved. It must listen to their views with an open mind, seek common ground while preserving differences and respect the views of the District Councils.

There are many issues in Hong Kong which can be regarded as both community affairs and territory-wide affairs, for example, the tourist projects in Southeast and Southwest New Territories, customs clearance arrangements in passenger and freight traffic between Hong Kong and the Mainland, as well as issues like maintenance and redevelopment of aged buildings, substandard public housing, and the promotion of personal and community services and so on. As the District Councils have amassed a large number of people who represent public opinion and are well-acquainted with and concerned about local affairs, the Government should think highly of these members of the District Councils, enhance their functions and suitably allocate more resources to them, so that they can effectively cope with their work.

Mr Deputy, I so submit.

MR CHAN KAM-LAM (in Cantonese): Mr Deputy, I have worked as an elected member of the Kwun Tong District Board since 1988. Over these years, district boards (now District Councils) have seen great changes in both the delineation of constituencies and the election of members. The only thing that remains unchanged is their consultative nature and the way the Government took little heed of their views. Right before the reunification, the district boards were reduced to almost a nobody.

Just over two years ago, when the Government conducted a consultation on the review of district organizations, a common view among the people was that the functions of the District Councils should be enhanced at the same time as district organizations were streamlined. But today, although the "scrapping" of the two Municipal Councils has become history, noticeable changes in the functions of the District Councils are yet to come.

Mr Deputy, when district boards were first established in the early '80s, they were formed out of the British Hong Kong Government's concept of letting people handle their own affairs. Basically, the concept was meant to facilitate the making of representatives of public opinions and to project a cosmetic tint of democracy in the Hong Kong political scene.

It has long been government tactics to consult, as is often euphemistically said, the district boards whenever new policies are to be launched or when construction projects are to be carried out in certain districts. But when there is a difference in opinion between the Government and the district boards, the Government often adheres obstinately to its course. It just takes no heed of what we say and sticks to its own course. A blatantly obvious example is the building of a primary health care centre at Kowloon Bay.

When the proposal to build the health centre was submitted by the Government to the Kwun Tong District Board, basically, district board members were not against the idea, but they expressed strong objections about the siting of the project at three plenary meetings of the district board. However, the Government just ignored our views. Unfortunately, despite better siting proposals made by the district board, the Government completely ignored the suggestions and insisted on using the original site, just to save the face of government officials. As a consequence, residents staged a three-year struggle, rousing concern in the community.

Mr Deputy, the Government may have been treating consultation with district boards as a perfunctory task. It may treat the consultation more like "notification" than consultation. Hence, the Government attached little importance to consultations with district boards. In addition, officials were often not well-prepared for agenda items during meetings. For example, during a meeting with the Kwun Tong District Board last year about the construction of a road on the west shore of Tseung Kwan O and the reorganization of bus routes in the area, items had to be returned for further consideration due to the lack of preparation by government officials for the subjects. There have been occasions when committee decisions were reversed at plenary meetings. I think similar events occurred frequently in other district boards. Such events caused dissatisfaction among district board members and they also left members with no choice.

Other than their consultative role, District Councils are also required, under the District Councils Ordinance to undertake environmental improvements and promotion of recreational and cultural activities within the district, "where funds are made available for the purpose".

So, where is the controversy? Insufficient government funding for the District Councils. District Councils can do little without sufficient funding in environmental improvements and construction projects for the districts. District Councils also need funding for other community facilities. Using the Kwun Tong District Board as an example, we have been striving over the last 10 years or so for a town hall and a community centre to be built, but the Government has so far not heeded our request.

Mr Deputy, the Democratic Alliance for the Betterment of Hong Kong is of the view that the Government should conduct a further review of the functions of the District Councils after abolishing the two Municipal Councils. It should give District Councils more financial power to carry out significant projects to improve the environment and build necessary community facilities for the districts. It is timely for the Government to conduct a review now as District Councils are just beginning their operations. For example, the Government can review the composition of District Councils. We have now restored the former practice of appointing members to the Councils in the first District Councils of the Special Administrative Region. We can see that in the current District Councils appointed members have won the support of some of those who have expressed strong opposition to having appointed members in District Councils.

Some appointed members have even become Chairmen or Vice Chairmen of District Councils. So, it is a good opportunity for us to indicate to the Government the ways to enhance the functions of District Councils so that they can make real contributions to the districts and genuinely reflect public opinions.

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

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, I do not support part of the contents of this motion. The first point which I disagree to is: "this Council urges the Government to ensure that it attaches importance to the District Councils' consultative role". In my opinion, there is some problem with it and that is, how to ensure that importance will be attached to the consultative role of the District Councils. Honourable colleagues have just mentioned that in the past, whenever the Government encountered any problems in policy or other matters, it would often consult the district boards. But whether the views would be adopted or not after consultation was made would depend entirely on the final decision of the Government. The question here hinges on our understanding of the word "consultation". To the Government, consultation means listening to the views of the district boards, but that does not necessarily mean that their views will be accepted. It follows that it is a very difficult thing to attach importance to the consultative role of the District Councils. The Government indeed consulted the district boards in the past, but there was no guarantee that their views would be adopted and that the matters involved would be done according to the views of the district boards. As a matter of fact, I think the present work done by the district boards has fulfilled their consultative role. In many cases, the Government takes the initiative to inform the district boards of its policies and provides the relevant papers for their reference. The district boards will be consulted before a decision is made. Take the smoke-free city which has been the subject of recent discussions as an example. The consultation period has expired, but since the district boards of Tuen Mun and Yuen Long have not been consulted, so the consultation period has been extended. Hence, we cannot say that the Government has not consulted the district boards, the question is just whether their views would be adopted or not. So I would agree that the district boards are already playing a consultative role. That is precisely why I think that if the district boards continue to operate under the existing arrangements, they should not be renamed as District Councils but District Advisory Committees. That would be a more proper name, and so I urge the Government to stop deceiving us any more.

Why did I say that the Government is deceiving us? Generally speaking, if the public knows that a certain person is a council member, irrespective of which council that person is serving, the public will tend to think that that person must have certain powers. But this is far from being the truth and that is where the trouble lies. Mr Deputy, I must declare that I am also a district board member. As a member of a district board, I was often criticized by the public, for not being unable to help them. They said that I was not even able to convey their views to the Government. There were even times when the public would say to me, "You are a district board member, even one sentence you say is more effective than 10 sentences which we say." But is it really the case? I explained to them that it made no difference with the 10 sentences which they said and the 10 sentences which I said. The Government would not heed them and there was no difference at all. It was because the district boards only have a consultative role to play and the members are only targets of consultation and they do not have any genuine power. Therefore, I think the Government has been deceiving the public. It makes no difference with the former British Administration and the SAR Government of the present. The district boards should be renamed. However, if we look at the English name of the district board, there is some sort of distinction between it and the new name of District Council. The word "board" may or may not imply power. But the Government was smart in adopting the name "District Board" rather than "District Council", because generally speaking, councils have greater power than boards. That is why I say that the Government has been deceiving the people of Hong Kong since the British era.

On the question of reforms in the District Councils, I agree to the latter half of the motion, that is, on expanding the powers of policy-making. For without the power to make policies, it will be meaningless for the District Councils to continue with their work. We may have put forward some views, but there is nothing else we can do. Even when the district boards used to make some resolutions and passed them, they would not be of any use. It is very much like the Legislative Council, every Wednesday we spend a lot of time on debates, just like tonight, but what happens afterwards? The motions passed have no legislative effect. After the Government has listened to our views, whether they are adopted or not, there is nothing which the Members can do. We can do nothing when we have no power to make policies. At the district level, the matter involved may just be as simple as a proposal to install a set of traffic lights, even as the matter is agreed by the district board, if the Government says no, we are helpless. So it is important that there should be a power to make policies.

As for the last part of the motion, that is: "so as to nurture political talents, promote civic awareness and strengthen social solidarity", I support it. Sad to say, however, the motion stops short of telling us how political talents are to be nurtured and how civic awareness is to be promoted. To achieve these goals, we have to do more than enhancing the policy-making powers of the District Councils. For apart from the fact that members should have policy-making powers, they should also be elected by the public. Only then is the system meaningful. If the appointment system is retained, how can members of the public be involved in the work of the District Councils? For from the outset they will be deprived of the opportunity to take part in district affairs as the seats are occupied by appointed members. Then how can civic awareness be promoted? If there are members who can get seats in the assembly without having to stand for elections, then how can there be any civic awareness? What these people simply need to do is to build good interpersonal relationships and know how to flatter those at the top. Then they can stand a good chance of getting into the District Councils. Unless the Government intends to foster this "shoe-shining" culture, it would be meaningless if there is no universal and equal suffrage, and it would be equally meaningless if we want to promote civic awareness. Despite the fact that we have some seats returned by popular elections, if the Government still insists that there should be appointed seats, then it will likewise be meaningless.

Therefore, if we are to promote civic awareness, we must add a rider that all appointed seats must be abolished. As for the provision of additional funding to promote community building, I support it, but there must be a rider and that is, that the District Councils can have the power to decide on all items of expenditure. It should be different from the present arrangement where Government may make the final decision. Under the present arrangement, consent from the Government has to be sought if the expenses reach a certain limit. I hope that the power of the District Councils in this respect can be further enhanced. Mr Deputy, I so submit.

MISS CYD HO (in Cantonese): Mr Deputy, I think it is very difficult to oppose to the motion moved by Prof NG Ching-fai, for there is nothing wrong with the general direction which he has proposed, that is, enhancing the functions of the District Councils. I would certainly lend my support to it. I only think that this direction has great shortcomings. In fact, the contents of the motion do not differ very much from those of the District Councils Ordinance. Let me read

out section 61 of the District Councils Ordinance: "The functions of a District Council are - (a) to advise the Government - (i) on matters affecting the well-being of the people in the District; and (ii) on the provision and use of public facilities and services within the District; and (iii) on the adequacy and priorities of Government programmes for the District; and (iv) on the use of public funds allocated to the District for local public works and community activities". All these four areas are great functions, but the District Councils may only give advice. The Government can simply listen to the opinions but keep things as they are. Then how can the functions of District Councils be enhanced? Subsection (b) of the same provision says: "where funds are made available for the purpose, to undertake - (i) environmental improvements within the District; (ii) the promotion of recreational and cultural activities within the District; and (iii) community activities within the District". The prerequisite is "where funds are available for the purpose". The limitation here is a great one. If the Government refuses to allocate funds to the District Councils, then they cannot undertake any work in the three items mentioned above. The District Councils are unlike the former Urban Council which was financially independent. The latter can set priorities for the above-mentioned items and propose plans at its own initiative. The proposals made by the District Councils do not have any legal effect. Compared to the Legislative Council, the District Councils do not have any powers and they are purely discussion forums. It is because they do not have financial autonomy and cannot implement any policies or plans of their own.

Mr Deputy, actually I did have the intention of proposing an amendment. But please rest assured because I am not going to talk about why my amendment was ruled out. I just want to talk briefly about the contents of the amendment. The key words of my amendment are: "Bearing in mind the principle of popularly elected assemblies taking charge of district affairs, a review should be made of the functions of the District Councils". In this connection, I would like to go back in history. In the 1960s, the Governor of Hong Kong proposed a paper on the review of district administration and suggested dividing Hong Kong into five administrative districts with some district assemblies being responsible for district affairs. The district affairs mentioned in the paper were very wide and practical in scope, much wider than the ones found in the present District Councils Ordinance. They did not just include recreational and cultural activities and minor projects in environmental improvement for the districts, but also areas like housing, medical care, education, transport and traffic which had a direct bearing on our daily living. If the administration of these areas is to be

undertaken by a popularly elected assembly, then the powers of this local assembly would be very great indeed. It is even more powerful than the former Urban Council. This was a very democratic proposal and it was a very good direction to devolve powers to the local levels and to establish a popularly elected assembly at the local level and to make it responsible for the administration of local affairs. Unfortunately, this was only a transient proposal in the 1960s and it soon vanished. After the transfer of sovereignty, and in the course of discussing how the three-tier representative system was to be streamlined, the entire community was misled by the Government and the public did not make good use of this opportunity to discuss how this structure should be streamlined. And so the Government made use of the opportunity to "scrap" the Municipal Councils. These pieces of legislation were passed before we could demand the Government to transfer all the powers of the Municipal Councils to the District Councils. As a result, we have to make use of these motion debates which do not have any legislative effect and to "urge" the Government to attach more importance to the consultative role of the District Councils. This is most regrettable.

Actually, there are no objective criteria as to how importance can be attached to something. Government officials can talk all the time about how they attach great importance to our views. For example, they may say that they attach great importance to the views expressed by the Legislative Council and that they often come to listen to our views. After a motion is passed, they will give us a reply and say what follow-up actions have been taken. And that is what they mean by attaching importance to something. It is nothing more than that, there is only an exchange of papers. As for concrete actions, we do not have any mandatory legal mechanism to require the executive authorities to act according to our wishes.

What I want to see more is that Honourable Members can amend the District Councils Ordinance and expand the functions of the District Councils. I fail to see why, however, that this Council has not passed the motion to amend Article 74 of the Basic Law on the power of the Members to introduce bills. When the Government introduced the District Councils Bill to the Legislative Council, the Bill was passed without any opposition from the Legislative Council. I just fail to understand why on the one hand we say that we attach great importance to the powers of the District Councils, but on the other we have missed this opportunity to bargain with the Government. I think this concern expressed by word of mouth comes too late. For we can do nothing now to vote

down the District Councils Ordinance, hence compelling the Government to expand the functions of the District Councils.

Mr Deputy, my amendment has the words "popularly elected". I do not intend to withdraw these words. It is because I think members returned by popular elections belong to their own constituencies. They will come into contact with their voters every day and so they will know clearly the needs of the residents of that particular district. This will greatly help District Council members in exercising their communication functions in the district and in society. Therefore, I refuse to withdraw the words "popularly elected". I also hope that all the appointed and *ex officio* seats in the District Councils will be abolished as soon as possible. Thank you, Mr Deputy.

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

(No Member responded)

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr Deputy, we have stated on many previous occasions that the Government will enhance the role of the new District Councils in district administration in the furtherance of social harmony, and to enable more members of the public to participate in community affairs and actively contribute to the well-being of the community. We are now moving in this direction, taking steps progressively to enhance the functions and responsibilities of the District Councils.

The new District Councils will continue to advise on district matters as well as major territory-wide issues. Other than that, they will promote more cultural and recreational activities, and also monitor the provision of environmental hygiene services in their respective districts. To enhance the functions of the District Councils, the Government has in place the following measures:

- (1) We plan to provide additional funding for the District Councils for the organization of more cultural and recreational activities at a district level. In 2000-01, we will provide additional funding of \$13 million for the District Councils to organize more community participation programmes relating to recreational and cultural

activities. This additional funding will be incorporated into the 2000-01 Budget and submitted to the Legislative Council for approval;

- (2) We will introduce a new community sports subsidy scheme under which the representative sports organization in each district will be granted \$100,000 annually (total provision being \$1.9 million) as a subsidy to the expenses incurred in administration and in promoting recreational and sports activities in the district. This funding will also be incorporated into the 2000-01 Budget;
- (3) We will also introduce a new community cultural and arts subsidy scheme. Under the scheme, the representative cultural and arts group in each district will be granted \$100,000 annually (total provision being \$1.8 million) as a subsidy to the expenses incurred in administration and in promoting arts and cultural activities in the district. Again, this funding will be incorporated into the 2000-01 Budget;
- (4) We will appoint the Chairmen and Vice Chairmen of District Councils to their respective District Management Committees so that they can hold discussions with representatives of government departments to identify methods to solve district-based problems and respond to the needs of the districts. We will, in due course, appoint more District Council members to sit on the central-level advisory committee on people's livelihood in their personal capacity to assist the Government in the formulation of relevant policies;
- (5) The Chairmen or Vice Chairmen of District Councils will be invited to join the Central Steering Committee and District Working Groups specifically set up for the Rural Public Works Programme and the new Urban Minor Works Programme, so that they can advise on how best can such projects be used to improve the environment in the district and remove hygiene black spots. The Rural Public Works Programme, which comes under the purview of the Home Affairs Department, aims at improving the infrastructure and living environment in rural districts, whereas the Urban Minor Works Programme is a new initiative to facilitate environmental improvement in urban areas. In this connection, the Finance

Committee of the Legislative Council has approved a vote of \$35 million for the implementation of the Urban Minor Works Programme in the financial year 2000-01;

- (6) All government departments will maintain closer co-operation and liaison with the District Councils as well as their various committees with a view to improving the services, facilities and environment in their districts. The District Councils can either set up an additional committee or expand the ambit of the existing committees on environmental improvement to step up efforts in monitoring environmental hygiene services. The newly established Food and Environmental Hygiene Department (FEHD) will send directorate officers attend meetings of the committee to foster better co-operation with the District Councils. The FEHD will consult the District Councils on environmental hygiene programmes and submit reports on environmental hygiene services to the District Councils on a regular basis. The District Councils will also play a part in monitoring the standard of environmental hygiene services (that is, the standard of public toilets, markets and the street cleansing service) in each district, and will work in conjunction with the FEHD to launch promotion campaigns on environmental hygiene. We will help the District Councils to compile district-based reports on environment and map out plans for environmental improvement in an effort to consistently improve the quality of living. The new Environment and Food Bureau will provide assistance for each District Council to carry out these tasks; and
- (7) We will increase the accountable allowances for members of District Council to enable them to serve their districts more effectively. From 1 January 2000 onwards, District Council members can be granted an accountable allowance, subject to a ceiling of \$10,000 monthly, for the reimbursement of rent, rates, management fees, water charges, electricity charges, fees for fixed telephone lines or fax lines for their office, as well as the hire of assistants to assist them in discharging their duties as District Council members. Moreover, the Vice Chairman of a District Council will be granted a special allowance of \$9,095, which is equivalent to 50% of the honorarium for District Council members.

Through these measures to enhance the functions of the District Councils, we hope that the District Councils can take on more commitments on issues at the district level, for example, improvement to building management, awareness of fire prevention, local environment, transport, community development, promotion of cultural, recreational and sports activities, and so on.

The new-fangled District Councils after the reunification is a milestone in the history of the development of district administration in Hong Kong. The Government attaches great importance to the role of the District Councils in district administration. We will ensure that all government departments will consult the District Councils as early as possible in the formulation of major policies and district development programmes, and actively consider the proposals of the District Councils. Here, I wish to respond to the points made by a number of Members earlier on. Firstly, a Member asked me just now whether the appointment system will be abolished in the next term of the District Councils. Since the question is outside the scope of this motion debate today, I do not wish to respond to it here. Secondly, the nomenclature. While the Chinese name remains as "區議會", they have been renamed as "District Councils" in English. I would like to make this point clear.

Since their inception, the District Councils (formerly known as the district boards) have all along been the major advisory bodies at the district level, serving as an important link between the Government and the public. They have been in operation for many years and been well received by members of the community. It is a proven structure. Now that the new District Councils have just been set up, and their functions and duties enhanced gradually, we consider it unnecessary to make fundamental changes to the functions of the District Councils at this stage. Having said that, however, after the new District Councils have operated for some time, we will review their functions in the light of their experience to ascertain whether or not there is a need to further enhance the role of the District Councils in district administration. In our review, we will take account of the valuable views from all sectors in the community, including those expressed by Members today, on the improvement of the District Councils so as to enable the public to continue to actively participate in district affairs in future.

Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

PRESIDENT (in Cantonese): Prof NG Ching-fai, you may now speak in reply. You still have five minutes and 43 seconds.

PROF NG CHING-FAI (in Cantonese): Madam President, first of all, I wish to thank the 11 Honourable colleagues who have spoken on my motion and for the fact that in most cases they have shown their unreserved support for it. I have benefited a lot from listening to their speeches and I would like to express my gratitude.

Madam President, it has been barely some two years since we have entered a new era of "Hong Kong people ruling Hong Kong". In terms of political development, we are still at a primary stage. We are in a new political situation where the Government and various political forces of all sides are engaged in an active interplay. Not long ago, the ambassador of the European Union in Hong Kong made an analysis of the present state of party politics in Hong Kong. His farewell remarks as an observer well deserve our consideration. However, we must look forward and strive for a transition from the primary stage to an intermediate stage and finally to a higher stage. We must not just focus our attention on the Legislative Council which is only a hardware, we need to look at the software as well, and that is the nurturing of political talents. In my opinion, a District Council which is imbued with a certain amount of political power and vested with a considerable amount of resources, given a sound operation, will help the formulation of community policies well-liked by the public and will serve to enhance civic awareness and become a breeding ground for future politicians. This is the reason why I have moved this motion to enhance the functions of the District Councils today.

Madam President, I am also very grateful to the Secretary for Home Affairs and a few of his colleagues who have listened so attentively to the speeches made during this motion debate. I am sure that they have heard the forceful note of this Council sounding out in support of enhancing the functions of the District Councils. When the Secretary said that the Government would not make any fundamental changes, I was quite disappointed. But I hope that this is only a question of different interpretations. Madam President, in the next 20 to 30 years, Hong Kong will grow into a great metropolis with 8 to 10 million

people. We need to equip ourselves with a new perspective in order to meet the needs of the public effectively. I hope that the Government can make a review of the functions of the District Councils as soon as possible. It should consider how an effective division of labour can be arranged between the central authorities and the local authorities so that local affairs can be better managed. This will pave the way for what I have said in my speech, that is, to increase the cohesion and solidarity of our society, so that we can take practical, orderly and well-planned steps to turn Hong Kong into a world-class metropolis.

PRESIDENT (in Cantonese): Miss CHOY So-yuk, do you have a point of order?

MISS CHOY SO-YUK (in Cantonese): Madam President, I am requesting to speak. I had already pressed the "Request-to-speak" button in front of the seat. I thought I was in the queue.

PRESIDENT (in Cantonese): Miss CHOY, the computer screen does not show your request. Maybe there is something wrong with your "Request-to-speak" button. We will check it later. But if you wished to speak, you should have raised your hand to so indicate after the Secretary for Home Affairs had delivered his speech. Prof NG Ching-fai has already replied. If I let you speak now, Prof NG may be obliged to reply again because of your speech.

MISS CHOY SO-YUK (in Cantonese): Madam President, I think the problem lies with the button. It was lit all the time. I did wonder why you did not ask me to speak after the Secretary for Home Affairs had spoken. So, I pressed one more time and then raised my hand. I did not know that the button was not working.

PRESIDENT (in Cantonese): Miss CHOY, did you raise your hand? I did not see you raise your hand.

MISS CHOY SO-YUK (in Cantonese): I raised my hand just now. Since I suspected that the button was not working, I raised my hand to request to speak.

PRESIDENT (in Cantonese): I am sorry, Miss CHOY, I cannot let you speak.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Prof NG Ching-fai, 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 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 motion passed.

PRESIDENT (in Cantonese): Second motion: Creating employment opportunities by providing support for the waste recovery and recycling industries.

CREATING EMPLOYMENT OPPORTUNITIES BY PROVIDING SUPPORT FOR THE WASTE RECOVERY AND RECYCLING INDUSTRIES

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, I move the motion as printed on the Agenda.

There must be people who find it very strange for the Hong Kong Federation of Trade Unions (FTU) to move a motion on "Creating employment opportunities by providing support for the waste recovery and recycling industries", and who will put to me the question "Why are you, trade unionists, involved in environmental protection?". As a matter of fact, we are very supportive of environmental protection. The main reason why we put forward this motion is that we want the SAR Government, through supporting labour-intensive industries, to create new industries and new jobs for the purpose of absorbing grass-root workers. Waste recovery and recycling industries are precisely the ideal ones among them.

Late last year China and the United States concluded a bilateral World Trade Organization (WTO) Agreement. China's accession to the WTO is just round the corner. The impact on Hong Kong following China's accession to the WTO is currently a hot topic in town.

Two week ago, the Honourable David CHU already moved the motion of "Assisting Hong Kong's work force in meeting the economic challenges of the new millennium". Next week, the Honourable HUI Cheung-ching is going to put toward the motion of "Assisting import and export trade in seizing the opportunities created by China's accession to the World Trade Organization".

With regard to the impact on Hong Kong following China's accession to the WTO, we can notice some problems from the above two motions: Namely, with China's "accession," there might come challenges or even blows to the local labour market. To Hong Kong businessmen, however, it is a business opportunity; they are now mapping out ways to make big business deals by taking advantage of China's "accession."

The two sectors show sharp contrast, but are able to adequately reflect the reality in Hong Kong. World economy is getting more and more globalized whilst the development of economy tends to be highly knowledge-based. Unable to meet new requirements of society in such a macro-climate, grass-roots workers are prone to be displaced, their income dwindles and some may even lose their jobs. However, those possessing capital can trade in for even more capital with their capital. As a result, polarization between the rich and the poor becomes more and more acute.

While debating the Honourable David CHU's motion, the Secretary for Education and Manpower (SEM) again reminded us that about one third of Hong Kong's working population are below junior middle school in education level, and 750 000 of them are aged above 40. How are we going to help these grass-roots workers face up to the new challenges? In the opinion of the SEM, only training is to be provided so as to have them equipped; whether or not they can find jobs after being so equipped is to be determined by the market. On the other hand, quite a few SAR officials admit that there is now structural unemployment in Hong Kong, and that it is not possible for unemployment rate to revert to the 3% level. This well proves that the market is unable to absorb all these jobless people.

How can those unemployed obtain jobs when there is none around? The motion that I moved is to urge the Government not to rely on the market for the supply of jobs, but to create more employment opportunities to absorb more grass-root workers through its support for certain industries, especially those that are labour-intensive.

The FTU all along advocates support for environmental industries so as to create employment opportunities. After our in-depth study, it has been discovered that among environmental industries, waste recovery and recycling industries have the greatest development potentials in Hong Kong. On 15 and 16 November last year, FTU members visited Guangzhou to study its waste recovery and recycling industries, and noticed that there is a wide variety of local recycling industries, producing not only recycled paper but also recycled leather. Running in good shape, the business is profitable.

With a large population, Hong Kong generates a lot of garbage but its recovery and recycling rates are on the low side. There is much room for such developments in Hong Kong. However, there has been severe limitations on the industry's operations as rental costs in Hong Kong are high and government support is not forthcoming. The rates of waste recovery have been dropping, with that for waste paper going down from 60% in 1996 to 53% in 1998, that for plastic going down from 43% to 35% and that for tainted metals, such as aluminium cans, going down from 85% to 80%.

The global macro-climate is apt for the development of industries such as waste recovery and recycling. Being exploited and vandalized all over the world, natural resources are becoming more and more scarce. Waste is precious resources for re-use and ought to be made good use of.

The micro-climate in Hong Kong is also suitable for the development of such industries. The SAR Government now sends garbage to landfills. However, it is expensive to operate landfills. Furthermore, it is believed that Hong Kong's landfills will be filled to full capacity by 2015. By then, there will be no more room for landfill, which is indeed a headache for the SAR Government. The headache can be overcome with having the pressure on landfills reduced and waste disposal expenses lowered if the Government puts in real efforts to adopt waste recovery and recycling as the strategy for waste reduction, and also provides land and appropriate supporting facilities to make it easier for members of the industry to operate. What is more, the Government can use the money so saved to provide support to waste recovery and recycling industries, thereby creating more employment opportunities while conserving re-usable resources, thus achieving several things in one go.

Another micro-climate is that Hong Kong citizens are in favour of waste disposal by means of recycling. Last year, the FTU conducted a territory-wide opinion poll, surveying 741 Hong Kong citizens by random sampling. 90% of those surveyed consider waste recovery and recycling to be the best waste disposal methods. To make things easier for the recycling business, over 85% of those surveyed are prepared to separate and categorize recyclable waste.

However, Hong Kong is lacking in the facilities for recovering and separating waste. It is, however, futile for the general public to be so willing. For each litterbin in the street, there is only one compartment. All refuse matters are being thrown together. It is difficult as well as unhygienic to recover from litterbins useful matters like plastic bottles and aluminium cans. If the Government provides sufficient waste separation bins, the ones with separate compartments for plastic bottles and aluminium cans, it will render the work of collection easier and hygienic. This will help the growth of the waste recovery industry. In Japan and Taiwan, there are many people engaged in the waste recovery industry. Moreover, the skills required of the waste recovery and recycling industries are not high. Take Guangzhou's recycled paper factory as example. The operation of machines in the factory is simply an "eye-to-hand skill", the kind of work suitable for grass-roots workers.

According to statistics, Hong Kong's waste recovery industry has lost 40 000 to 50 000 jobs since 1995. So even if it is just restored to the level of 1995, it will still provide employment opportunities to 40 000 to 50 000 people. If the industry continues to grow, it can absorb even more manpower, and at the same time create more administrative, transport, and clerical jobs.

With the labour market becoming knowledge-based and the impending accession of China to the WTO, Hong Kong's workforce is inevitably subjecting heavy blows. The FTU calls upon the SAR Government to support labour-intensive industries and create jobs as we suggested so that there can be enough jobs for Hong Kong workers to earn their daily bread. My colleagues, the Honourable Miss CHAN Yuen-han and the Honourable CHAN Wing-chan, are going to elaborate on the difficulties faced by the waste recovery and recycling industries and the supportive measures we suggested.

Madam President, I so submit and call upon fellow Members to support my motion.

MR CHAN Kwok-keung moved the following motion: (Translation)

"That, as the waste recovery rate in Hong Kong is on the low side, this Council urges the Government to adopt recovery, recycling, and re-use as its major strategy for waste reduction, so as to reduce the environmental pollution caused by wastes and, at the same time to create more employment opportunities for the working population. In this connection, the Administration must:

- (1) step up publicity and education on waste separation and recovery to enhance public awareness of waste recycling and re-use;
- (2) provide appropriate facilities for the convenient separation and recovery of waste by the public and collectors of recyclable waste;
- (3) establish an industrial estate for the environmental industries and provide land and supporting infrastructure, in order to reduce the operating costs of the waste recovery and recycling industries; and
- (4) formulate positive policies and measures to attract more investors to join the waste recovery and recycling industries."

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr CHAN Kwok-keung's motion, as set out on the Agenda, be passed.

Mr LAW Chi-kwong is going to move an amendment to this motion. This Council will now proceed to debate the motion and the amendment together in a joint debate.

I now call upon Mr LAW Chi-kwong to speak and move his amendment.

MR LAW CHI-KWONG (in Cantonese): Madam President, I move that the Honourable CHAN Kwok-keung's motion be amended as set out on the Agenda.

Madam President, in the first motion debate of the current legislative year, the Democratic Party brought up the topic of creating employment opportunities by promoting environmental industries. Today I am glad to have another opportunity to put forward on behalf of the Democratic Party some principles and measures pertaining to the policy of promoting environmental industries. In 1998, Hong Kong's waste output totalled 3.19 million tonnes. The recovery rate was only some 30%, with one quarter of it being recycled locally and three quarters being exported to China or other overseas markets.

There are mainly four limitations on Hong Kong's waste recovery and recycling industries. Firstly, the waste recovered in Hong Kong is primarily for export. There is strong competition for Hong Kong in the export market of waste materials because many foreign countries subsidize waste exports with cash, and thus keep the prices of waste materials low. Secondly, the waste recovery costs are high as Hong Kong provides no proper waste recovery system, nor facilities, nor financial incentive to encourage waste producers to sort them out at source whilst the public's environmental awareness is not high. All these very much weaken the competitiveness of Hong Kong's waste materials in the international market. Thirdly, Hong Kong does not have a green market and the Government has no clear and concrete policy for the procurement of green products. Consequently, there is no market support for green products which tend to cost more. Investors are often deterred at the sight of them. Fourthly, those involved in waste recovery and recycling industries are mainly small and medium enterprises. Most of these enterprises lack sufficient capital to make hi-tech investment in their production operations or upgrade their equipment.

The Democratic Party holds that a policy to promote environmental industries must embody the following principles. Firstly, waste should be regarded as a kind of resources. To solve the problem of our landfills running out of capacity, the Government has been thinking of building two incinerators for waste disposal purposes recently. For the portion of waste that is not recyclable, incineration surely ought to be taken as one of the options for consideration. However, the Administration should apply various measures and policies to encourage waste producers to sort out the waste as far as possible so as to minimize the quantity of waste requiring incineration. Incineration should be used only as the last resort, otherwise it will become the major obstacle obstructing the development of environmental industries.

Secondly, the externalities from environmental industries should be ensured. We all know that environmental industries are economic activities bearing externalities. Operators can profit from them. In addition, the community can also save the expenses on waste disposal, and the hazards posed to the residents by environmental pollution can be reduced too. So the Government should support and help the operations of the environmental industries, and indirectly give them some limited assistance, such as providing facilities for waste separation at source and granting land for installation of waste separation systems. The Government may also contract out some of the domestic refuse collection service contracted out so as to bring in competition. At the same time, the contract may include provisions for waste recovery, such as to prescribe the rates of waste recovery and to designate certain areas at large scale refuse collection points and other major points for materials recovered so that waste collectors can gather and send them away.

The Government also has the responsibility to apply appropriate measures to deliver separated waste to those engaged in the waste recovery and recycling industries. As a matter of fact, in the past, the work of collecting plastic and glass bottles at housing estates also depended on the assistance of Urban Services Department workers in separating the waste. But recently the Government does not allow Urban Services Department workers to assist in separating waste to prevent them from making profits from that. As a result, there are fewer sources of waste materials for the waste collectors. This shows that there is a definite demand for a market of waste materials, and that it is feasible to do waste separation at the source. What is needed now is a system that is effective

and proper. With regard to refuse collection points where designation of areas for waste recovered is impossible, the Government should consider implementing the concept of refuse transit points to make it easier for some cleansing companies or waste collectors to deliver and pick up refuse so as to effectively carry out waste separation in the waste recovery system in order to ensure the quality of waste materials, enhance the quantity of recyclable waste, and lower the cost of waste materials. One of the concepts for upgrading the technology and equipment of the environmental industries is the establishment of an industrial estate providing cheaper land and supporting infrastructure.

Furthermore, the Democratic Party is of the view that the Government should implement the polluter pays principle as soon as possible. At present, even for useful metals, the waste producers will not hesitate to send such materials directly to the landfills, thus increasing the quantity of waste dumped into the landfills year after year. As such, the effectiveness of relying solely on stepping up education to reduce waste is highly questionable. We suggest charging the construction industry landfill fees so as to make those dumping waste consider separating their waste and, after weighing the expenses involved, opt to deliver their waste for disposal to waste collectors or gleaners whose charges are cheaper. Given enough supply, the operating costs of major operators will naturally go down. In this way, the competitiveness of our environmental industries in the overseas market can be enhanced and the industries' demand for labour increased. The collection of separated waste just mentioned by me will increase labour demand in the market, and enable those engaged in waste recovery to collect waste efficiently and lower their operating costs.

The growth of the environmental industries is often determined by market demand. It is not possible to ask in one go every Hong Kong citizen to buy some environmental products or green products, commodities that are more expensive. If the Government takes the lead to formulate a policy giving preference to environmental products in making procurement, then there will be a regular consumer for the environmental industries and it will facilitate the development of these industries. If the Government goes one step further with the development of local commercial eco-labels, it will even be easier to open up a green market.

To sum up, Madam President, the amendment proposed by me today is primarily asking the Government to implement the polluter pays principle, to develop a green market with a view to setting it as the leading direction in drawing up policies regarding environmental industries in the future, and to support the development of environmental industries in order that the goal of sustainable development can be achieved. My purpose is consistent with that of the original motion of Mr CHAN Kwok-keung. The Democratic Party also supports Mr CHAN Kwok-keung's original motion.

Before closing, I want to lay a few markers on the polluter pays principle. I have to point out clearly that this principle should not touch on the essentials of the basic living of the public. For example, we all exhale carbon dioxide, but there is no reason to levy a tax on it. So, in implementing the so-called polluter pays principle, it is still necessary to consider one basic factor, namely, the question whether or not the pollution caused is a basic and essential part of every citizen's living. I so submit.

Mr LAW Chi-kwong moved the following amendment: (Translation)

"To add "implement the "polluter pays" principle and" before "step up publicity," and to add ", including a policy that gives priority to the procurement of green products in order to increase the demands for these products, as well as introducing commercial eco-labels that are suitable for Hong Kong to promote environmentally responsible purchasing among the public and exploiting the local green market, so as," after "policies and measures, "."

DR RAYMOND HO (in Cantonese): Madam President, environmental protection has become a global focus. Some of our residents have been attaching more importance to the issue, and the SAR Government is also responding to it. Government officials have on various occasions spoken about the environment, air and water quality, and the ever-increasing quantity of refuse requiring disposal. In last year's policy address, the Chief Executive also made special mention of stepping up waste recycling. He even remarked that: "On the waste recycling front, we have achieved some results."

The Chief Executive even cited relevant data to support his claim, and added that "while these figures are not low by world standards," — of course, he had not finished talking. The sentence goes on like this: "they do not reflect the fact that only 8% of recoverable domestic waste was recycled in Hong Kong." As a matter of fact, on the waste recovery and recycling or the waste re-use front, Hong Kong still has much room for improvement. When compared with some developed countries, we are still lagging far behind, and sometimes even appear to be primitive or backward. I wonder if Members have seen cleansing workers opening bags of refuse collected in the streets in order to pick out from the plastic bags items which they consider to be useful after separating them. However, this is inefficient and during the separating process, the carriageways and sidewalks are all covered with refuse. Foul water dripping from the refuse and the stink from discarded food are also pernicious to the neighbourhood environment.

I think most Honourable colleagues have come across such a scene in the streets in the middle of the night. In citing such an example, I mainly want to sound out two points. Firstly, Hong Kong people's awareness of the need to carry out waste separation to facilitate waste recovery is still very weak. Secondly, Hong Kong has not provided suitable facilities for the convenience of its citizens and the people concerned in separating and recovering waste. To promote waste separation and recycling, we must begin by educating the people so as to make them understand that waste separation done properly at the time of dumping can greatly facilitate recycling. However, to get the people's co-operation, we still have got to provide the relevant facilities for waste separation.

To my understanding, some public or private housing estates do have the practice of encouraging residents to suitably separate waste materials at the time of dumping. However, the results have not been satisfactory. In view of this, I think the Government should play a more positive role here.

To promote the growth of waste recovery and recycling industries, the Government may even consider further providing the industries with matching infrastructure. At the same time, policies of encouragement or relevant measures can also be formulated, such as taking the lead in using certain recycled materials or products, and giving consideration to the idea of legislating against certain products that are not environmentally-friendly, for example, styrofoam food containers that are now commonly used by many eateries. So long as conditions are favourable, waste recovery and recycling ought to be a fairly

attractive investment. On the social front, the industries' development can contribute to environmental protection and create some employment opportunities for Hong Kong, thus bringing in even more social benefits.

Madam President, I so submit. Thank you.

MR HOWARD YOUNG (in Cantonese): Madam President, a serious environmental problem now facing Hong Kong is the production of waste. In 1998, Hong Kong produced on the average 13 000 tonnes of urban solid waste daily. If things go on like this, then in 15 years' time the three existing landfills in Hong Kong will be filled to capacity.

The most fundamental solution to the problem of waste production is to recover, recycle and re-use, as far as possible, recyclable waste. However, at present, Hong Kong's performance in waste recovery is not at all satisfactory. In 1998, of the daily average of 13 000 tonnes of waste produced, 9 750 tonnes (or 75%) were recyclable materials. However, out of that, only 4 270 tonnes (44%), or less than one half, were successfully recovered. The remaining 5 480 tonnes were dumped into the landfills.

There are many factors contributing to such poor performance in waste recovery. In the first place, the Government has not been able to promote and establish a mechanism or culture for waste recovery. For reasons like inadequate space, most of the private buildings in Hong Kong provide no facilities for waste separation. The public also generally lack an awareness of the need to separate domestic waste before dumping. As a result, the recovery rate of domestic waste is only 8%. Surely, waste of commercial value has a higher recovery rate.

Moreover, before their dissolution, the two Provisional Municipal Councils only selectively placed waste separation bins at 20 locations in Hong Kong with heavier pedestrian flows, such as certain bus terminals, train stations, and Mass Transit Railway stations. Consequently, it has no effect on our society. Furthermore, those waste separation bins were unable to draw people's notice as they were neither special nor attractive. The Government also has not put in much effort to promote publicity or education on a large scale to enhance public awareness about waste recovery and recycling.

In the second place, with no support given by the Government to the waste recovery and recycling industries, it is difficult for them to survive. The glass recovery industry is now extinct in Hong Kong. The unavailability of cheap land and a market with demand constitutes the biggest problem to operators, who are also not happy with the Government's bureaucratic practices. For instance, the Government once offered for bidding by members of the industry a piece of land measuring 170 000 sq m. However, it was stipulated that there should be only one operator, that no sub-leasing would be allowed and that no structure should be erected thereon. As a result, operators just turned away upon learning that.

Hence the Liberal Party is presenting to the Government the following five suggestions to promote waste recovery and recycling and to reduce waste:

Firstly, the Government should conduct in-depth investigation to look for ways to reduce the cost of waste recovery and recycling, covering aspects like land, storage and transport.

Secondly, positive efforts should be made to assist the development of the waste recovery and recycling industries, such as providing sites that are cheap and suitable (for example, sites that are convenient for less costly sea transport), offering technical support, and promoting commercial development. In his motion, Mr CHAN Kwok-keung proposed to establish an industrial estate for the environmental industries. On this, we have reservations.

I have to point out that at present the Tai Po Industrial Estate and Yuen Long Industrial Estate already have five industrial estates for the environmental industries. Two others are under discussion. I am of the view that the Government should first make good use of the land in the existing industrial estates to provide land for the waste recovery and recycling industries. An additional industrial estate for the environmental industries should be developed only when it is absolutely necessary.

Thirdly, government departments ought to play a leading role by drawing up procurement plans for environmental products and giving preference to environmental or recycled products. Every department should also be required to prepare and submit specific environmental protection plans. There should be close monitoring on the dumping of government articles. In this way, the Government, the largest employer in Hong Kong, can take the lead to promote a market of environmental or recycled products.

Fourthly, full efforts should be made to promote a waste separation scheme, which is to include setting up waste separation depots in all districts, installing waste-separation machines, and additionally providing waste separation and recovery facilities to every floor of all public housing estates.

Fifthly, the Government should put in resources to conduct public education and publicity on a large scale so as to teach the public to form green living habits (for example, using handkerchiefs instead of tissue paper), understand the importance of waste recovery and recycling, and carry out waste separation on the domestic front.

With these remarks, I support the original motion as well as the amendment on behalf of the Liberal Party.

MISS CHOY SO-YUK (in Cantonese): Madam President, in the last century I brought up for debate in the Legislative Council a motion to review the policy on waste management. Requests made then are very much similar to the original motion and amendment of today. The Government was likewise asked to reduce and manage waste in a cost-effective way, and to create employment opportunities. My motion at that time was unanimously endorsed by major environmental bodies, and supported by most Honourable colleagues. However, because of the need to "be true to one's words" in respect of the implementation of the 1998 Waste Reduction Framework Plan, the Government at that time replied that no review was needed. It is now another century. The Government's waste reduction plan appears to be not at all successful, otherwise there should not be any need for the Legislative Council to urge the Government to put in more efforts now.

Over the past 10 years, the quantity of Hong Kong's urban waste has sharply gone up by nearly 40%, an increase far outpacing population growth in the same period. There is probably not a soul who does not want the Government to reduce waste immediately. The question is: Does it follow that waste reduction has come by as the Government has been true to its words?

The Government's Waste Reduction Framework Plan places special emphasis on the "polluter pays" fee-charging mechanism with the hope of urging the public to exercise long-term self-discipline and improving efficiency. I am of the view that in order to be successful in effectively reducing waste, it is necessary to apply a "three-pronged approach".

The first method is to levy a landfill charge on the basis of the "polluter pays" principle. However, such a method is only applicable to operations likely to produce a lot of waste materials such as the construction industry and the factories. It is very difficult to extend this method to the domestic front and the offices. The reason is that Hong Kong is so densely populated. Compared with overseas places, neighbours here are even more prone to disputes over the question as to who should be held responsible for the waste produced.

To levy a landfill charge is, after all, rather passive and coercive. It does not offer any positive guidance in itself. I hope the Government can study the practice adopted by places like the United States, Canada, Holland and Germany of collecting a waste recovery deposit from some waste manufacturers and take it as the second method to reduce waste.

The concept of waste recovery deposit goes like this. The Government collects in advance a deposit from manufacturers or sales agents who are likely to produce a lot of waste (for example, beverage and food dealers). If these manufacturers or agents recover any usable waste produced by them instead of sending the waste to the landfills, the Government will refund them the deposit; otherwise the Government will credit the deposit to a recycling fund. Will this waste recovery deposit add to the operating costs? According to overseas experience, the waste recovery deposit at most only makes up a few percent of the commodity's production costs, far lower than the landfill charge.

The waste recovery deposit can positively encourage manufacturers to minimize waste production right from the design stage up to the packing stage. Compared with the measure of collecting a landfill charge, this practice better reflects the fairness and reasonableness embodied in the "polluter pays" principle, and better defines polluters and their responsibilities. It also provides an incentive for the manufacturers to place emphasis on the environmental value of their products. Moreover, so long as manufacturers support environmental protection, they need not run the risk of having to pass on to consumers a temporary additional cost, which will in turn undermine the competitiveness of their products.

In order that the plan to reduce waste can achieve better results, the Government should adopt the third method simultaneously, that is, to encourage the recovery of usable waste so as to reduce the burden on landfills.

I have this neighbour. Every evening he will spend two or three hours to collect usable waste. However, each time he can only make less than \$100, sometimes even \$10-odd from selling the waste so collected. If the Government is prepared to use the landfill cost saved through recovering usable waste to appropriately subsidize operators of the waste recovery industry so as to raise their income, more people will surely thus be encouraged to participate in waste recovery. Increased income for waste recovery operators may encourage continuous investment in the waste recovery industry. This may prevent the waste recovery industry from going into the vicious circle of having to fend for itself all the time. Furthermore, better employment opportunities can be created for the low-income group too. It can be said that this is both environmentally-friendly and cost-effective.

With these remarks, Madam President, I support the original motion as well as the amendment.

MR LAU CHIN-SHEK (in Cantonese): Madam President, to have stable employment is a wish commonly shared by "wage earners" in this century. However, it is becoming more and more difficult for "wage earners" to materialize this wish. Having been in touch with quite a few "wage earners", I have the feeling that they are losing more and more confidence in their employment prospects. This is the state of mind of most "wage earners".

As pointed out by many fellow Members in a debate of this Council two weeks ago, because of changes in the economic structure, globalization of world economy, and the extensive use of information networks, the structure of the job market will have to suffer very heavy blows in the future. The trend of such development is going to upset the stability of jobs and wage levels, and thus very much jeopardize the rice bowls of the "wage earners." I think this is the worry of most "wage earners". However, unfortunately I just fail to see how the Government has shown concern for such worries of the "wage earners" and addressed the problem with the right prescriptions by putting in efforts to create more jobs so as to ease the employment predicament of the "wage earners."

Madam President, the Confederation of Trade Unions holds the view that we will support any proposal conducive to the creation of jobs, especially one that stabilizes employment. Although the Cyberport and Disneyland projects are actually to create just limited jobs, and even fewer long-term regular posts for lower-skilled workers, we still support them.

Waste recovery and recycling industries are indeed industries requiring support for the purpose of creating more jobs. I think the Government has the responsibility to provide all kinds of assistance and supporting facilities so as to advance their development. However, I must tender a piece of advice. Some of the work processes of the waste recovery industry are very offensive. So, while promoting the waste recovery industry, the Government should encourage members of the industry to arrange regular post reshuffle and reserve time for workers to get in-service training so as not to compel them to remain in posts of the same work processes.

Thank you, Madam President.

MR CHAN WING-CHAN (in Cantonese): Madam president, waste recovery and recycling industries do have development potentials. According to the International Organization for Recycling, recycling industry is the world's third largest industry, with an annual production value of US\$16 billion. However, Hong Kong's waste recovery and recycling industries have been shrinking continuously, and the number of companies has dropped by over 400 and the recovery rates of waste paper, plastics and tainted metals by some 10%. Because of the shrinkage of the industries, some 40 000 to 50 000 posts have been lost over the past few years, not inclusive of those obscure members of the industry who make a living out of gleaning.

Recyclable waste is our local resources apart from manpower and limited land supply. Our landfills will be "topped up" by 2015, which well speaks for the problem. According to a survey conducted by the Hong Kong Federation of Trade Unions (FTU) last December, most of the public are willing to separate waste and buy recycled products. This is indicative that the shrinkage of the waste recovery and recycling industries is totally not a question of market. The Government should be held responsible, and its policy is particularly to blame.

With regard to land supply, the Government leases to operators in the waste recycling industry remote sites for terms as short as five years. Although rents are low, the operators are required to lay their own water pipes and power lines, even to build their own roads. When their five-year leases expire, their investments will simply be cast to the winds. How can businessmen possibly have the interest to make investments? Take the waste recovery centre at the old airport as an example. Though it is better than a piece of remote farmland, it still faces the problems of inadequate power supply and poor transport. The Government should establish an industrial estate for the environmental industry in order to solve the above problems of survival for the waste recovery industry.

According to many operators in the waste recovery industry, Hong Kong, which is very different from foreign countries, lacks a proper waste recovery system, thus dissuading workers from joining the industry.

Foreign countries have a proper waste separation system, whereby non-perishable recyclable waste is separated from ordinary waste for disposal. There is not such a waste recovery system in Hong Kong. People have to dispose of their waste without separation. Such a practice not only contaminates recyclable waste but also exposes workers to deplorable working conditions continuously. This also has something to do with the low waste recovery rate. So, the FTU suggests that the Government should organize "environmental protection ambassador" teams for all public housing estates and Home Ownership Scheme estates to promote among the public the ideas of waste separation and recycling in support of environmental protection, and provide every floor with waste separation and recovery facilities that are convenient to both the residents and operators of the waste recovery industry. The above proposals will not only improve the waste recovery rate but also attract more workers to the industry.

Hong Kong's waste recovery and recycling industries are mainly small and medium enterprises. They are unable to invest in high technology to improve their competitiveness. Normally production can be improved if manufacturers make investment in scientific researches. The Government should expand the Special Finance Scheme for Small and Medium Enterprises, or even offer extra tax concessions so that the waste recovery and recycling industries can take hold of development opportunities, or even create new industries. Here are some examples. The FTU recently visited the Guangdong Recycled Paper Factory to see their foul water treatment system. Though it cost RMB 30 million, it has

been able to greatly reduce the factory's water consumption as foul water can be recycled for re-use. Guangdong's de-colouring industry is also a new industry derived from the recycled paper industry.

Madam President, the FTU further urges the Government to draw up legislation to implement a "deposit system for bottles" so as to reduce waste items like plastics and glass bottles. In fact the public generally accepts the "deposit system for bottles" long practised by milk suppliers. If the Government legislates to promote the "deposit system for bottles", it will be good for the environment, and also conducive to the development of the waste recovery and recycling industries and the creation of jobs. To make the work even easier for waste recovery operators when dealing with plastic waste, the Government should also draw up legislation to bring in a system of code labelling for various kinds of plastic.

The shrinkage of the waste recovery and recycling industries has cost Hong Kong many jobs, and dissuaded people from working for them. This has much to do with the Government's policy. Here I call upon the Government to support the waste recovery and recycling industries so that they can create more jobs.

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

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, the Democratic Party holds that the Government should give environmental industries necessary support in order that they can survive and develop in the market independently. At present, the success or failure of the environmental industries hinges on the question as to whether or not the Government's policy can bring in a situation favourable to the competitiveness of green products, create a sustainable green market, and lead to green business opportunities.

Over the last 10 years, countries in Europe and America have been improving legislation on environmental protection, enhancing environmental awareness, introducing green labels, levying environmental protection tax on products that are not environmentally-friendly, and promoting the growth of environmental technology, thus creating an enormous market for green products. Where there is a market, there are business opportunities. In overseas countries, the products of many successful green enterprises can even beat non-green

products in terms of price, quality and quantity. In some places they even take up more than one half of the market share. The experience of countries in Europe and America shows that green industries and market economy are not necessarily incompatible. It also shows that the Government's principal responsibility is to formulate all the necessary legislation and administrative measures to create an environment conducive to the green market.

First of all, the Government should require all government departments and public organizations to procure recycled products and environmental products wherever possible to increase the market demand for green products and set themselves as examples in order to promote the use of green products among the people and the business sectors. The Government Supplies Department has yet to draw up a clear and specific checklist on green products. However, the Government's Special Group on Waste Reduction is reviewing the tendering specifications for periodic procurement to stop procuring commodities which are harmful to the environment in the waste disposal context. As the first move to promote the green market, we suggest that the Government should release, as soon as possible, the green yardstick; formulate guidelines; and order the Government Supplies Department and other departments not to procure products that are harmful to the environment.

Secondly, the Government should establish an green labelling system as soon as possible so as to differentiate recyclable products from products harmful to the environment for consumers to make their choices. At present, the Government still lacks the determination to bring in a green labelling system because:

- (i) there is not any internationally recognized system;
- (ii) there will be confusion among consumers upon the formulation of a system only applicable to Hong Kong as Hong Kong's daily necessities are mainly imported; and
- (iii) there is not adequate indication of support for the new system from the industrial sector.

Madam President, I do not agree with such a negative and passive attitude of the Government. Similar measures such as the Energy Efficiency Labelling Schemes have already been introduced for domestic electrical appliances. The

Electrical and Mechanical Services Department is responsible for the work of formulating guidelines, verifying and issuing labels. Though most of our domestic electrical appliances are imported, the implementation of the Energy Efficiency Labelling Schemes has caused no confusion to consumers here. Why is it that the labelling of other green products will cause confusion? We are of the view that the Government should draw up green standards that are suitable for Hong Kong by referring to the experience from the Energy Efficiency Labelling Schemes and consulting green labelling systems now practised by some 30 countries so as to create Hong Kong's own green market.

Thirdly, an environmental protection tax should be levied on products which are very harmful to the environment and for which substitutes can be found in the market, so as to make their prices fully reflect their environmental cost in order that green products can compete in a fairer situation.

Fourthly, the Government should formulate and implement all laws and regulations for environmental protection in accordance with international standards and trends so as to encourage local industries to actively look into new technology in environmental protection. Furthermore, enterprises should be encouraged to develop foul water treatment technology, air purification technology, and environmental technology for power generation and so on. Technology changes with each passing day. The proper use of technology on environmental protection for the well-being of the human civilization ought to be a key area in the Government's policy on environmental protection.

Madam President, the Hong Kong market is small but open. Most daily consumer goods have to rely on import for supplies. It is difficult to adopt a protectionist policy. Competition from abroad can be countered just by helping the growth of local environmental industries. However, the Government can also can give local environmental industries the opportunity and room for competition through legislation, tax regime, education, technology and policies so as to create more employment opportunities. What is more, the principal purpose of promoting green industries is to improve the living environment for the benefit of the human race and the earth. On this issue, we must adopt the perspective of sustainable growth for the human race and that of a global village. If we manage to create a green market in Hong Kong and reduce environmental damage arising from consumer activities, the ultimate beneficiaries are going to

be Hong Kong and the world. Local green industries and their counterparts elsewhere as well as local employees and consumers of green industries and their counterparts elsewhere are surely going to be among those to be benefited.

With these remarks, I support the original motion as well as the amendment.

MR LEE CHEUK-YAN (in Cantonese): Madam President, in recent days, the term "world trends" has been frequently mentioned in the course of our policy debates with the Government. With regard to the three waste disposal methods, namely, waste recovery, landfill and incineration, the present world trend is definitely for the development of waste recovery industry. Take some examples. Seven states of the United States have set the target of achieving a waste recovery rate of 50%, or even 80%, by 2005. In the case of Canada, the range is between 50% and 75%. Germany has already managed to reach 50%. Australia wants to achieve a waste recovery rate of 100% by 2010. This shows that the world trend is in the direction of a close loop economy. I do not know how to render this into Chinese. It means reducing the quantity of waste to the minimum with a view to recovering all the waste so as to minimize the demands on global resources and to conserve global resources.

I am of the view that it is a "three-win solution" to develop waste recovery. The "three wins" are: environmental protection will win, economy will win, and finance will win. I call upon the Government to give special consideration to this "three-win solution".

Firstly, the environment will win. I think there is no need for me to say much as the result is most obvious. If resources can be re-used, then far fewer trees will have to be felled, a lot of pollution can be eliminated, and, in addition, far less resources will be consumed. The global environment definitely will benefit from the recycling of resources for re-use.

Secondly, before talking about how economy will win, I want to point out that the Treasury is also going to win. The Financial Secretary always mentions the need to increase income and reduce expenditure. When he discusses the budget with us, he welcomes suggestions from legislators on how to reduce expenditure. Apparently, it is a way to reduce expenditure for us to develop the waste recovery industry.

At present, the landfill cost for each tonne of waste is \$680. Each day we have 16 200 tonnes of waste. If waste disposal is by way of recycling, one tonne only costs a few hundred dollars: Only \$300 has to be paid for each tonne of waste paper and operators in the waste recovery industry are quite prepared to do the job. Please consider the difference between \$680 for one tonne and \$300 for one tonne. Why spend \$680 on landfill instead of spending \$300 on waste recycling? Each year the sum to be saved might amount to billions of dollars. The Audit Commission looks into various government expenditures. I hope that the Commission can find out why the Government spends so much on landfills instead of using the money so spent to develop the waste recovery industry properly.

The Government often expresses an unwillingness to subsidize the industry. However, that subsidy can in fact be regarded as a procurement of services. At present, the Government dumps waste into a landfill at a cost of \$680 per tonne. Yet for a payment of \$300 from the Government, service providers or contractors can undertake to carry out waste recovery. Why is such a procurement of services not feasible? There will be not any problem so long as the Government is prepared to give it some thought. At present, the Government is in fact procuring some services. Why cannot it procure services in this area? To do so is also advantageous to the Treasury.

Finally, the economy will win and so will the employees. Indeed, this is a way "to kill three birds with one stone". Now on employment. Under the current circumstances in Hong Kong, we often ask the Government how it is going to help Hong Kong workers get jobs. To develop the waste recovery industry is in fact one of the methods.

I want to talk about the waste paper industry first. At present, 50% of the waste paper is handled by way of waste recovery. The industry now hires 5 000 workers. There will be employment for 10 000 workers if we can recover 90% of the waste paper. That is to say, 5 000 jobs can thus be created. If the Government adopts the concept of service procurement just mentioned by me and draws up plans to allocate land, for example, for waste paper recovery in seven locations around Hong Kong, then it is most likely for the development to reach the level of recovering 90% of the waste paper.

If the waste paper industry can indeed achieve something, then more employment opportunities might be created. Workers of the industry might be better treated too. According to some old women interviewed by me, they will get two cents for each kg of waste paper recovered, a very low waste recovery price. One working round the clock to collect waste paper only earns a meagre sum of 10-odd dollars. If we indeed give the industry some assistance to open up the market for it, then their income might go up. I am very much against the idea of old people having to come out to work. However, Hong Kong has not got a pension system. So advanced in age though they are, they still have to work. I am of the view that if the Government is prepared to further develop the industry, their livelihood might improve.

If Hong Kong can develop in the areas of collection, transportation and packing, then it is possible to create the 5 000 posts just mentioned by me. There might be even more employment opportunities if the production of recycled paper is also brought in. Surely, the question is whether or not we can compete with foreign countries. The reason is that foreign governments subsidize the whole waste recovery industry, making it possible for them to export products at zero cost. They need only calculate the shipment charges. Hong Kong's ability to compete is indeed questionable. However, as pointed out by Mr LAW Chi-kwong, we can promote the idea of giving preference to environmental products in making procurement. The recycled paper industry probably can prosper as a result of this.

Finally, I want to talk about the problems of construction waste. At present, we have just 2% of such waste materials recycled. Every day there are 6 700 tonnes of such waste materials, for which currently no landfill fee is charged. I strongly support the "polluter pays" principle mentioned by Mr LAW Chi-kwong. That is to say, developers should be made to shoulder the landfill cost. However, I do not want them to dump their waste materials into landfills. If they do not want to pay the landfill cost, then they should get some people to recover those materials. That might be even cheaper. If the recovery of timber and construction materials can be developed

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, your speaking time is up.

MR LEE CHEUK-YAN (in Cantonese): then more employment opportunities can be created. Thank you, Madam President.

PROF NG CHING-FAI (in Cantonese): Madam President, I support Mr CHAN Kwok-keung's motion today, that is, creating employment opportunities by providing support to the waste recovery and recycling industries. I also support Mr LAW Chi-kwong's amendment, which supplements the original motion.

Madam President, Mr CHAN Kwok-keung linked environmental protection and employment together to urge the Government to work more on the two issues. I think the Government should attach great weight to this idea. Although the unemployment rate has dropped a little over the last two months, there will continue to be considerable pressure of unemployment on the changing Hong Kong economy in the medium term. All enterprise activities capable of creating jobs do deserve the Government's attention and careful consideration.

These two issues have been brought up for debate in the Legislative Council repeatedly. However, there has been not much response from the Administration after the debates so far. Perhaps the Government is only concerned with the principle of "not subsidizing any industry", disregarding the principle of sustainable development, one which is much bigger, and which Hong Kong economy will follow in the future, as promised by the Government this year. So, in connection with today's debate in this Council, I therefore hope that the Government can place the principle of sustainable development in the "Formula" for consideration. It is hoped that the Government can follow good advice as naturally as a river follows its course, and eventually accomplish something.

I have to stress that waste recovery and recycling is not a trivial matter for Hong Kong. Here, waste refers to urban solid waste, that is, the so-called "refuse". At present, the refuse dumped into the landfills daily totals 16 500 tonnes. Given the small size of Hong Kong, this figure can be said to be internationally eye-catching, by all standards. Yet the recovery rate of recyclable materials among the refuse is very low. I think Hong Kong ranks among major international cities that have really low waste recovery rates. In the case of China, the recovery rates of waste and old matters are one third or

one quarter of advanced international standard. Hong Kong is probably not much better; it might even lag behind the national average. So from the standpoint of environmental protection and sustainable development, for Hong Kong to become a modern developed world-class city, we must regard our waste disposal problem as a major issue for which a proper solution must be identified.

I understand that the Government already has a plan for refuse disposal, namely, to spend \$20 billion to build incinerators. I understand that many environmentalists have reservations about this plan as they worry that incineration might generate substances like Dioxin. I think the Government should properly consider these opinions. I also want to remind the Government that incineration as a waste disposal method is, after all, a method of "transforming pollutants". Furthermore, Hong Kong has little concern for electric power generated from burning waste. Moreover, to build incinerators does not mean that the Government needs not give further consideration to waste recovery and recycling. The reason is that as far as technology for pollution control over solid waste is concerned, there is nothing but reduction in quantity, elimination of hazards, and conservation of resources that really matter. In developed countries, the disposal of urban waste is mainly by means of waste separation and recycling of re-usable matters. What is left behind will then be disposed of by means of burial or incineration. Only by such a combination of methods can quantity be reduced, hazards eliminated and resources conserved. Only this conforms with our sustainable development, the general direction adopted by the SAR. Therefore, I must ask the Government to make careful consideration. Waste recovery and recycling is more meaningful than incineration. If there is a plan to spend \$20 billion to build incinerators, then why not use some money to support the waste recovery and recycling industries?

Quite a few Honourable colleagues have spoken on the point that providing support to the waste recovery and recycling industries can achieve the positive effect of creating employment opportunities for Hong Kong workers. I am not going to repeat it here.

With these remarks, Madam President, I support the original motion as well as the amendment.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, with regard to today's motion, I want to first discuss the contents of the amendment moved by Mr LAW Chi-kwong. The amendment moved by Mr LAW seeks to mainly implement the "polluter pays" principle. In fact, I understand that the Government all along has been implementing the "polluter pays" principle. The Government puts special stress on the implementation of the "polluter pays" principle when it comes to the collection of sewage charges. The question is that the polluters referred to by the Government are not those polluters referred to by Mr LAW. Polluters as defined by the Government have a very broad meaning, covering pollution caused by industrial investors and waste matters that ordinary people have got to discharge. As a result, ordinary citizens too are required to pay for the so-called implementation of the "polluter pays" principle. The levy has been condemned by the public as a "poll tax" in disguise. Consequently, our society is experiencing a very bad effect, namely, the further polarization of the rich and the poor. To charge fees in this way precisely goes against our practice in levying taxes, completely contradicting the concept of "more income, more tax". Therefore, I consider that it is very dangerous for the amendment to mention the implementation of the "polluter pays" principle as the Government definitely will act in compliance with the motion. Although Mr LAW added that the idea of charging polluters did not include charging ordinary people fees for exhaling carbon dioxide, I am not sure whether or not Mr LAW will say that the people should be charged fees for going to the toilet. I think it is necessary to be more specific on this. Therefore, I have reservations about Mr LAW's amendment.

With regard to the original motion, I agree with many points put forward by Mr CHAN Kwok-keung, especially the point that environmental industries can create employment opportunities. Quite a few colleagues have in fact pointed out that those facing unemployment in society are mainly middle-aged or even older workers, especially those of low skill and low education level. The situation of unemployment for them is quite serious and many of them have been unemployed for long periods of time. Contrary to what the Government says, the problems of those who have been jobless for a long time cannot be solved simply by offering them vocational retraining. It has often come to our notice that many workers still cannot find a job after receiving retraining. The main reason is that there are simply no jobs for them. So we have got to create employment opportunities now. Quite a few Members have just pointed out that in many countries green industries are able to create employment opportunities. If we really promote the development of environmental recycling industry, some employment opportunities might be created. What is more, these employment opportunities can accommodate the middle-aged or

even older workers who are non-skilled and poorly-educated. I, therefore, call upon the Government to promote the industry.

It is, however, a pity that the way in which the Government deals with environmental issues exactly runs counter to what we have conceived. As just pointed out by Prof NG Ching-fai, the main direction taken by the Government now in connection with waste disposal is incineration, not landfilling or recycling. If the Government still sticks to this course, it is most unlikely for us to see the Government develop environmental industries, he said. I somewhat disagree with what Prof NG Ching-fai said. I am of the view that if the Government really spends money to build incinerators, then it definitely will use that method. Just consider this. There will be condemnation from the public if an investment item as big as this cannot bring the function of the incinerators into full play. In order that the function of the incinerators can be brought into full play, there has got to be incineration. Given this, how can the recycling industry be developed? Environmental industries just cannot develop unless the Government changes its course. So I have to stress that the development of environmental industries is going to be very difficult unless the Government changes its principle.

In addition, there is an absolute need to carry out publicity and education. The Government often says that it is necessary to do so. We do notice that such work is being carried out in the estates of the Housing Department. In fact the Housing Department has provided some boxes for waste separation. However, Madam President, it is useless to do so as there is no outlet at all for such waste. With no outlet, waste separation is just a waste of efforts. In the past, some non-government bodies also tried to carry out waste separation in housing estates, for example, recovering waste paper. We, however, ran into great difficulty when we tried to get contractors to take over the waste paper so collected. They claimed that the cost was too high for them to meet with the expenses. Thus they were not prepared to recover the paper. So, no matter how much effort is made to educate the public, it is just meaningless unless we do provide support to the environmental industries. As a matter of fact, when we visit some private buildings or public housing estates, we often notice that many people do put bundles of old newspaper together. But what is the use? Can they be recycled for re-use? The answer is in the negative, because the environmental industries do not receive any support from the Government in terms of taxation, land use, and technology.

I think the Government today still says that it supports environmental protection, but it has got to focus on hi-tech environmental protection. I do not know what that is. I did discuss the matter with Mr TUNG. According to him,

hi-tech environmental protection is the direction of our development. I hope that the Secretary can let us know later what hi-tech environmental protection is.

I think the environmental industries now under discussion by us do not merely amount to the "three-win" solution mentioned by Mr LEE Cheuk-yan. That can be a "four-win" or even "five-win" solution. Included are the creation of employment opportunities and the recycling of materials. All these are inter-related. So I think our suggestions, such as establishing an environmental industrial estate and developing basic and simple waste recovery and recycling industries, are beneficial to members of the general public.

Madam President, I so submit.

MR DAVID CHU (in Cantonese): Madam President, in the concept of environmental protection, there are three "Rs", namely, Reduce, Re-use, and Recycle. However, the waste treatment policy in Hong Kong is a far cry from these three yardsticks. Though the Government has formulated and implemented the Waste Reduction Framework Plan, the principal strategy of the Government for waste disposal still makes landfill as the ultimate method of disposal. According to information from the Environmental Protection Department, the Government has to spend an average of more than \$7 million daily to dump some 16 000 tonnes of waste into the landfills. Given such a policy, one that disregards waste recycling, it is no wonder that it is not possible to promote in Hong Kong some simple methods of waste reduction, such as minimizing the use of plastic bags and styrofoam food containers, not to mention waste recovery and recycling.

No matter how hard the Government promotes recycling or how earnest the people are in improving the environment, it is just useless unless the Government makes a proper waste recycling system as well as environmental industries available for us. It is hoped that the Government can understand this. Take waste reduction as an example. Even if the Government provides all public and private housing estates with waste separation boxes, and even if many people are prepared to separate recyclable waste matters, the Government still will have to "dump into the sea" truck-loads of waste at high cost reluctantly when there is nobody to recover those waste matters and no recycling operators to handle the matters recovered.

I hope the Government can understand that if we do not put effort into developing environmental industries, there will be more and more pressure on our landfills, and, on top of this, it is going to be necessary for the Government to build two incinerators. Though incinerators can handle solid waste not recyclable, they can, as pointed out by many environmentalists, cause pollution too. The Government spends a lot of money to dispose of refuse in landfills, and also makes use of incinerators to dispose of refuse at high cost. Why does not the Government use all these resources to support waste recycling? What is more, most countries, including the Mainland, have adopted positive supporting policies to promote technology for environmental products. If the Hong Kong Government does not put in enough effort here, Hong Kong not only will lag behind others but will also find it hard to become a cosmopolitan city like London or New York.

The Hong Kong economy is undergoing a third round of restructuring, with the unemployment rate remaining at a high 6%. Both officials and scholars predict that for Hong Kong's lower-skilled workers the problem of unemployment will get worse. The Government's training and retraining programmes are, of course, crucial in solving such an issue of structural unemployment. However, it is also a good way to create more jobs by developing the environmental industries. Foreign experience in fact has long proved that the waste recycling industry has strong demand for manpower. Here Hong Kong is just starting. I am of the view that Hong Kong's unemployment problem can be greatly eased if the Government does have the intention to support the environmental industries.

With these remarks, Madam President, I support of the Honourable CHAN Kwok-keung's motion.

MR FRED LI (in Cantonese): Madam President, environmental protection is not my subject. However, in late December, I took a group of middle school students to Hiroshima of Japan for a visit. That was the last tour organized by the Provisional Urban Council for students before its "final breath". In Hiroshima we visited the Recycle Plaza. I think the Hong Kong Government should look at the experience of other places, especially that of Japan as I think they have done very well.

I want to share with the Secretary for the Environment and Food experience of that visit. That Plaza is a recycling centre of the government. The centre surely creates employment opportunities as it hires many workers specially for recycling work. In addition, it is interesting that the centre asks some housewives to take some used cooking oils to the centre. As we know, Japanese like fried cuisine, such as tempura. Their oils are not suitable for further use after repeated use as that is harmful to health. Those housewives take their oils to the centre where the staff convert the oils into detergent by means of recycling. I do not know how they perform that wonder, which takes some three hours. The housewives also take part in the recycling process so that they may be educated and learn that waste matter can be useful. They then take home the detergent, which has been derived from their oils through recycling.

In addition, the centre repairs for sales at regular intervals broken bicycles picked up from the streets. People in Hong Kong often throw away furniture items, such as sofas, dumping them everywhere. Basically, these old furniture items are sent to the landfills. In fact many furniture items are still in good shape and are not too worn out. The said centre brings in some old furniture items and, after some patching work here and there, they can convert the items into new sofas or cabinet units. I saw many such recycled furniture items in the centre. With price tags put on these items, the centre offers them for sale at regular intervals.

I hope that these examples can give the Government some food for thought. That can surely be done to items that have some value. Furthermore items made from recycled waste can be very cheap as they are second-hand old stuff. In this way, the public can buy cheaper goods. The centre also collects clothing articles, wash them and then offer them for sale. The centre's English name is Recycle Plaza. I do not know its name in Chinese. The whole project has strong behind-the-scene support from the government and hires many workers. The staff members are mostly in their '40s and '50s, or '50s and '60s. Members of that age group in Hong Kong are probably those badly in need of help. They need not perform complicated tasks, just recycle waste matters.

The centre also separates waste matters. They can sort out from waste matters delivered by refuse trucks items that are combustible or incombustible, recyclable or non-recyclable and so forth. They hire some totally unskilled workers, who are just responsible to pick up from a conveyer belt different kinds of waste matters and deposit them into separate boxes according to their classifications. Waste not recyclable will be incinerated.

I consider that visit to be a piece of good experience. So I hope that the Government will carefully consider the matter instead of just saying no. There are many examples of this kind overseas. Even Hiroshima, not a big city in Japan, has such a sizeable operation. It is needless to mention Tokyo. I call upon the Secretary to refer to my experience from that visit.

I so submit.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, the onset of the Asian financial turmoil has led to a nose-dive of our economy. In Hong Kong, the unemployment rate remains high, and all sectors are facing great difficulties. Here we have again and again urged the Government to solve the problem of unemployment, and conducted a lot of discussions on topics concerning the creation of jobs. In the last Session, we already discussed suggestions of providing support to environmental industries. On this basis, we now look further, focusing on waste recovery and recycling in a bid to get the Government to make a good start so as to assist and promote local industries, and help all those unskilled and poorly educated workers by creating more employment opportunities for them.

We bring up these issues again and again because we understand that, because of economic restructuring and social changes, some people are experiencing, or will be experiencing, difficulties in employment. Mr TUNG made mention of environmental protection in last year's policy speech. Why does he not work out one whole set of environmental issues, including the development of waste recovery and recycling industries, though he is well aware of the need for society to protect the environment? Many people may find this rather strange. In the previous policy debate, we did criticize this. For this, the Hong Kong Federation of Trade Unions (FTU) later formed a work team to conduct research and investigation into the issue. To look for solution for Hong Kong's predicament of today, the work team visited quite a few places and is planning to visit other places, including Japan.

In fact, when we look into this issue, and discuss it with the outsiders or among Honourable colleagues, I feel that what we need to do is more than resolving the existing problems. We need to address changes in the future, especially so since late last year when China secured the opportunity to access the World Trade Organization (WTO). It has come to our notice that upon China's accession to the WTO, Hong Kong's current employment problem might get worse. So we have done some analysis in detail on this issue. It is hoped that the motion tonight can pass and that the Government will heed the analysis put forward by me. Today attending our meeting is the newly-appointed Secretary for the Environment and Food. In fact, the Secretary for Education and Manpower should have come too. However, this is not very important. I hope that after the debate tonight, the two Bureaux concerned can work out some solutions between them.

According to some government statistics, among the Hong Kong population there are some 2.85 million people who are aged above 15 and who have just completed or are below Secondary Three in educational level. According to government statistics of mid-1999, those aged between 15 and 75 total 4 773 000. If we put it in a simple formula, about one half of those in this age group are below junior secondary school level; if the estimate is based on a workforce of 3 474 500 of mid-1999, these people may roughly total 1 878 108. This is our rough calculation. This gives us two indications. Firstly, Hong Kong people's overall educational standard is still on a level lower than what we imagine. Does this have anything to do with the time lag since the implementation of free education? Secondly, with regard to low-skill and poorly-educated workers in Hong Kong, the situation is apparently more acute than what we once predicted. The failure on the part of the British Hong Kong Government to make proper preparation for manpower retraining in accordance with structural changes in economy over the years is probably the cause for that. But time has changed; so has the situation. Today, the SAR Government not only has to take up problems left over from the previous administration but also face the new challenge arising from Hong Kong's third round of economic structuring. So, if the Government still maintains a passive attitude towards structural unemployment, and if those people long out of employment are joined by those newly rendered jobless as a result of economic restructuring and still cannot get assistance from the Government in respect of policies for training and promotion of employment, these people might have to head towards the brink of permanent unemployment. This may give rise to irreparable social problems in the days to come.

After talking about all these figures and problems, I want to return to a point already mentioned, namely, that the FTU has put in much effort to do research in this respect. We are of the view that the development of the waste recovery and recycling industries in Hong Kong can help to relieve the current unemployment problem, especially that in respect of those with people of low skill and poor education just mentioned by me. Take the waste recovery industry as an example. This industry takes the recycling of waste as its starting point. In addition, its importance lies in the fact that it can reach out to hundreds and thousands of households, because the industry workers may work in all public or private housing estates. In other words, employment opportunities are spread out in every Comprehensive Development Area, thus giving those in the area equal employment opportunities. Furthermore, because of the shortened distances between homes and places of work, those working in the industry need not spend so much on travelling expenses.

Here I want to add one point. Before today's meeting, we met with the officials concerned to study waste recovery in housing estates. It was found to be nothing but a farce. Each public housing estate is usually provided with three waste recovery boxes. However, the waste so collected is sent to the landfills all the same. The function of waste recovery has totally not been brought into play. I made mention of the case in Japan, where there is always a waste recovery company inside every major wholesale market. If we can eventually have such waste recovery companies set up in different towns or major housing estates, then the problem can be solved. I consider this to be very important. Participating workers living in housing estates also need not spend too much travelling expenses when going to work.

Madam President, many colleagues have spoken on the contributions of the waste recovery and recycling industries to society in the proper utilization of resources of the earth. I do not want to repeat their points here. However, I have to stress again that I hope that the Government

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, your speaking time is up. Please sit down.

MISS CHAN YUEN-HAN (in Cantonese): I hope that the Government will address squarely the issues brought up by me. Thank you.

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

MR NG LEUNG-SING (in Cantonese): Madam President, it is rather meaningful to talk about environmental protection in the small hours. It can be recalled that the policy address delivered by the Chief Executive last year used "Quality People, Quality Home" as its theme. The policy address outlined in detail the environmental policies and measures to be implemented by the Government in the days to come. The Government also set up the Waste Reduction Committee, whose target is to double the overall rate of municipal waste reduction and recycling by 2007. To achieve targets of the environmental policies stated in the policy address, concerted actions by different sectors of society, including the Government, citizens and members of the industrial and commercial circles, are necessary, I believe.

Land in Hong Kong is very precious as the territory is small in area but dense in population. Land can be developed into country parks, residential areas or various facilities for economic activities. To use that as landfills for disposal of refuse is something most unwelcome to us. According to information from the Environmental Protection Department, it cost \$6 billion to build Hong Kong's three strategic landfills, the annual operating costs of which amounted to \$0.36 billion in 1997. The three landfills take up land area measuring 270 hectares, which is worth \$8.2 billion even if the assessment is based on farmland price.

According to traditional views, it is necessary to pay for resources required for a living, but it is not necessary to pay for the disposal of waste arising from leading a life. We dump waste matters as they are of no more use to us. Here the Government provides municipal services free of charge to do the work of waste disposal for the people. However, the reality is that as society develops continuously, so do industrial and domestic wastes grow. The overall quality of our living environment is being affected. In reality we ultimately have to pay a lot. So, from the standpoint of education, the Government should publicize among the public the point that dumping waste is in itself a consumer activity for which a price has to be paid. It is believed that not

until the whole society has accepted such a concept can environmental work progress effectively.

Furthermore, under the premise of waste recycling and the improvement of living environment, the meaning of "no littering" is no longer confined to the idea of putting into the garbage can what we do not want. Given the more complicated process involved in the recovery and separation of domestic waste, the recovery rate of domestic waste is far lower than that of industrial or commercial waste. The Government must encourage the public to change their habits relating to waste disposal through publicity and education so as to make them realize the need to consider the recyclable or re-usable value of waste matters before putting them into garbage cans. In addition, the Government must match this with the provision of suitable collection facilities in order that all recyclable or re-usable domestic waste can be appropriately sorted out and collected. In this way, the operating costs of the waste recycling industry can be reduced.

With regard to promoting environmental products, I am of the view that environmental products do have a bright future, being compatible with our economy's restructuring in the direction of hi-tech and high added value. On the other hand, however, environmental products are new here, and therefore require long-term investment, hi-tech equipment, and development and research. With no prospects of financial returns or government assistance, investors are unwilling to run the risk of putting in huge capital. So the Government should at least draw up a clear policy to encourage the development of environmental products and to foster the birth of a market for environmental products by, for example, prescribing the disposal of domestic and industrial waste through legislation or administrative measures so as to promote a supply and demand market for waste disposal, and providing environmental industries with concessions in terms of suitable land and other facilities.

Furthermore, waste matters vary in recycling and re-use value as well as in recycling cost. This directly affects the recovery rates of the waste matters concerned. To increase the value of waste matters and to reduce the recycling cost, the Government should encourage the development of innovative environmental technology. At present, some of the waste matters directly recovered in Hong Kong are meant for export. Among these, each kind of waste varies in destinations and rates meant of export. According to information provided by the Environmental Protection Department, of the 3 920

tonnes of waste glass bottles recovered in 1998, 3 900 tonnes were locally recycled for re-use; on the contrary, of the waste with iron content recovered, only 0.7% was locally recyclable for re-use. It can be noted from these data that the various kinds of recovered waste have different recycling rates in Hong Kong. However, on the contrary, those with lower recycling rates probably have more potential as well as room for development. That being the case, the Government should help local environmental industries strengthen their links with their overseas counterparts in order that among them there can be exchanges in innovative environmental technology as well as concerted actions. Furthermore, through this, our high-valued added environmental technology can be fostered, more local environmental products developed, and a larger environmental market opened up.

Madam President, I so submit.

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

(No Member responded)

PRESIDENT (in Cantonese): Mr CHAN Kwok-keung, you may speak in response to Mr LAW Chi-kwong's amendment. You have five minutes.

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, Mr LAW Chi-kwong's amendment requests the Government to implement the "polluter pays" principle. The FTU has reservations about this.

As a member of the Hong Kong community, the FTU very much supports environmental protection. At the same time, however, we hope that the Government will launch the right policy at the right moment to the best interest of the public. It is obvious that, with the economy yet to make a full recovery, to rashly bring up the "polluter pays" principle now is indeed untimely. This might add to the burden of grass roots and deal a blow to the public's support for environmental protection. Apart from the fact that the policy might have the effect just opposite to what it sets out to achieve, there might even be some inherent problems in the implementation of the policy.

To advocate the "polluter pays" principle is to make people pay even before they can enjoy the good environment resulting from the environmental policy. This might cause members of the public to feel a repugnance to it. No matter how sound the rationality of a policy is, the effectiveness of a policy still will suffer greatly if the Government ignores responses of the public.

Furthermore, once the "polluter pays" principle is implemented, people might simply lump all refuse together for disposal as they have already paid the refuse disposal fee. This might dampen their incentive to separate waste matters for recovery. In order to avoid paying the refuse disposal fee, some people might even dump their refuse everywhere, thus worsening the problem of environmental pollution. Moreover, if the Government does implement the "polluter pays" principle, then how is the pollution caused to the environment by members of the public going to be measured and assessed, and how the relevant fee is to be levied? Is it going to be unfair to the grass-roots, especially those underprivileged, if the levy charged is at a fixed rate? All these are problems that warrant out careful consideration.

In addition, Mr LAW Chi-kwong proposes that a landfill charge be levied on the construction, industrial and commercial sectors. This suggestion merits consideration by the Government. However, the attempt to persuade me to accept the amendment merely because of this point is indeed defective as it fails to address the whole picture.

The FTU is of the view that to replace punishing measures with policies of encouragement is more effective in making the public pay more attention to environmental protection. As the public's environmental awareness grows, Hong Kong's environment will improve and there will also be an opportunity for the growth of Hong Kong's waste recovery and recycling industries. Consequently, there will be more employment opportunities too.

Therefore, I call upon Members in this Chamber to support my motion to urge the Government to adopt recovery, recycling and re-use as the principal waste reduction strategies by progressing step by step and by opting for an easier course while avoiding the tough one, and to support the waste recovery and recycling industries to create more employment opportunities for local workers.

Thank you, Madam President.

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese):

Madam President, I am grateful to Mr CHAN Kwok-keung for moving this motion. My thanks also go to other Honourable Members who have expressed their views. I believe that this debate can arouse more public concern on waste reduction and recycling.

Waste recovery, recycling and re-use can reduce the wastage of resources and the damages to the environment caused by waste, and help us achieve the objective of waste reduction. Yet, we must also pay attention to the difficulties involved in waste recycling:

- Firstly, not all materials are suitable for recycling;
- Secondly, a huge consumption of energy and other resources is required to recycle certain materials. The recycling process will also bring about environmental impacts. Therefore, waste recycling does not necessarily have marked economic and environmental merits in many cases. Worse still, it may have a negative impact on the environment.

Notwithstanding practical constraints, waste recovery and recycling are obviously integral to the strategy to improve waste management in Hong Kong. This motion today reminds us that apart from creating many employment opportunities, materials recovery and recycling can also bring in good economic returns. In 1998, for example, the export of 1.2 million tonnes of recovered materials generated a revenue of \$1.9 billion for Hong Kong.

On the treatment of the bulk of waste produced in Hong Kong, the Government seeks to achieve the following three objectives:

- Firstly, we must ensure that the collection, management and disposal of materials are safe and hygienic in order to protect public health and the environment;

- Secondly, recyclable materials of which the recycling process is economical and environmentally-friendly should be recovered for recycling as far as possible;
- Thirdly, the amount of non-re-usable waste which must be disposed of should be minimized.

Mr CHAN has proposed four measures in his motion to achieve these objectives. Mr LAW Chi-kwong's amendment further proposed three additional measures. These measures and proposals are broadly in line with the Government's inclinations.

1. Stepping up public education and publicity

I very much agree that we must attach importance to enhancing community awareness of environmental protection.

Many of our promotional activities on environmental protection involve initiatives to promote the message of materials recovery and recycling. Moreover, "waste reduction" was a major part of the Government's environmental campaigns in the past two years. In the meantime, the Government has spent about \$2 million on various publicity materials, including the production of a series of six Announcements of Public Interest. This year, we will further allocate some \$1 million to promote the messages of waste reduction, waste recovery and so on.

2. Provision of appropriate facilities

The Government also agreed on the provision of appropriate facilities to encourage public participation in waste separation in order to facilitate the operation of the waste recovery industry. We have provided collection bins by the types of waste at many locations including:

- all public housing estates under the Hong Kong Housing Authority (HA) and 80 private housing estates;

- over 140 locations in public areas, such as bus terminals, playgrounds, refuse collection points, and so on;
- the 10 more popular recreational spots inside country parks.

We will substantially increase the provision of these facilities in the next few years for use by the public.

The Government will also introduce legislative amendments to the Buildings Ordinance shortly, requiring the provision of space for waste separation and recovery facilities in new buildings.

Moreover, a study on materials recovery and recycling facilities will be completed in the middle of this year. The study considers, among other things, the integration of materials recovery and recycling processes into the municipal waste collection and management system. At the same time, it will also look into the ways to implement the relevant proposals.

Members mentioned that some cleaners at public housing estates mixed the separated materials with other refuse and then sent them altogether for disposal at landfills. This does not seem to reflect the general situation. At present, an average of some 3 700 tonnes of used paper, 57 tonnes of aluminum cans and 31 tonnes of plastic bottles can be recovered through the waste collection bins monthly. Moreover, the cleaning contracts awarded by the Government and the HA require the contractor to deliver the separated materials to waste recovery plants. Should Members and the public discover operational irregularities on the part of the cleaners, I hope that they can provide information to the relevant departments for follow-up actions.

3. *Establishment of an industrial estate for the environmental industries or the provision of land and supporting infrastructure*

As far as we understand it, the recycling industry makes only meagre profits due to the high cost of land and wages. To support the industry, our policy is to allocate land exclusively for waste recycling. We have now allocated three sites on a short term lease for this purpose. Another site in Tai Po will also be leased out shortly for use by the waste recovery or recycling industry.

However, we do not consider these measures adequate. We intend to provide sites for a longer term. We are currently considering setting aside land at certain restored landfills for the construction of "recycling parks". While these landfills are not suitable for putting up industrial complexes, they can provide adequate space and facilities for the collection, sorting, treatment and baling of materials as well as the conduct of certain simple recycling processes in a more cost-effective manner. The restoration project of the Pillar Point Valley landfill will be completed in 2004. The Environmental Protection Department will work closely with the industry to study the feasibility of constructing a "recycling park" there.

As regards the more sophisticated recycling industry, given that its operation requires heavy-duty machines or factory premises of a large size, the operators have to continue to apply land from the Hong Kong Industrial Estates Corporation to build their recycling plants.

4. *Formulation of policies and measures to attract and encourage investment in the waste recovery and recycling industries*

First of all, I must point out that the existing industrial and commercial policy provides incentives and support for the waste recovery and recycling industries. Similar to other local industries, the green industries can benefit from the various industrial support measures of the Industry Department or other supporting bodies, such as the Hong Kong Productivity Council (HKPC). These measures mainly come in the form of funding and technical support.

Take the Industrial Support Fund as an example. Since the establishment of the Fund in 1994, 32 projects related to environmental protection have been funded with a total commitment of over \$110 million.

On technical support, the HKPC has all along played an important role in this regard. The HKPC provides a wide range of consultancy, training and technology transfer services relating to environmental protection, and explores the development of cost-effective environmentally-friendly facilities as well as less polluting production technologies. For instance, it provides the required technology transfer services for the relevant industries and introduces the application of new technologies in waste recovery.

Some Members pointed out that the "polluter pays" principle may be the most effective instrument to reduce waste. In this connection, we consider that the levying of landfill charges will be an immediate economic incentive to waste producers to reduce waste and consider disposing of waste by other means. A review of the proposal to levy such charges is underway. Furthermore, the Green Manager Scheme being implemented in government departments will promote and encourage environmentally responsible purchasing within the Government. To facilitate the implementation of this measure in government departments, we will conduct studies on the inclusion of "green specifications" in the new procurement contracts and tender documents shortly.

Starting from this year, controlling officers are required to submit environmental reports on a yearly basis. This is to encourage all departments to consider procuring and using recycled products, and to take effective measures to facilitate separation and recycling of re-usable materials.

I think government organizations can actually do more to spearhead waste reduction and recycling. In the next few months, we will study further measures and Members' input is welcome.

Madam President, I now respond to the amendment proposed by Mr LAW Chi-kwong. Mr LAW's amendment covers the following three issues:

- First, implementation of the "polluter pays" principle;
- Second, adoption of the policy of environmentally responsible purchasing; and
- Third, introduction of a commercial eco-labelling scheme.

Earlier on I already responded to the first and second issues. I now respond to the third issue in brief.

The commercial eco-labelling scheme is a voluntary accreditation system which provides indicators for products capable of bringing about greater environmental merits. Consumers can obtain information about products from the commercial eco-labels for comparison with the environmental performance of similar products in order to make a choice.

We have introduced the Energy Efficiency Labelling Scheme for a diversity of domestic electrical appliances. We plan to extend the scheme to cover a wider range of appliances and office equipment. We have also considered introducing a Energy Efficiency Labelling Scheme for vehicles.

The Government will consider developing a broader commercial eco-labelling system. But before putting in place any such system, we should be clear in the first place about whether such a labelling system is credible to manufacturers and consumers locally as well as worldwide. We believe that a labelling system can operate effectively only if it is widely accepted by the international community as an indicator for a wide range of products.

We are closely watching the development overseas. We will report to Members once we have identified a suitable model, so that we can make concerted efforts to study the feasibility of adopting this labelling system.

Madam President, the views expressed by many Members in the motion debate do merit our consideration. An effective waste management strategy plays a decisive role in the development of Hong Kong as a sustainable metropolis. I am confident that the Environment and Food Bureau will co-ordinate more effectively the work of the Food and Environmental Hygiene Department and the Environmental Protection Department in the collection and separation of domestic waste. We will also examine and implement measures as far as practicable, with a view to creating more business and employment opportunities in the materials recovery and recycling industries. We will make unrelenting efforts in the hope that the public will identify with, support, and participate in measures which facilitate waste recovery and recycling.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr LAW Chi-kwong to Mr CHAN Kwok-keung's motion 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 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 CHAN Kwok-keung, you may now reply. You have five minutes 20 seconds.

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, here I must thank the 13 Members who have spoken on this topic. I also thank the Secretary for the Environment and Food for participating in our debate even though it is so late, and the President for extending tonight's meeting time.

I recently came across a piece of news concerning India. It is reported that the Indian Government blew up a multi-purpose incinerator, including the generation of electric power. But why was it blown up? The reason was that for a period of four years India had no refuse for incineration. The people had all the refuse retrieved for recycling. It is hoped that in Hong Kong all refuse can also be recycled for re-use, just as in the case of India, so as to leave no refuse for incineration. This is what I am looking forward to. I also wish that the clock could be turned back to the time of my childhood, when objects kept but no longer needed, such as electric wires, could be traded with "junk collectors" for candies so that some other people could use them for other purposes.

Thank you, Madam President and Members.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr CHAN Kwok-keung's motion, as amended by Mr LAW Chi-kwong, 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 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 motion as amended carried.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 26 January 2000.

Adjourned accordingly at eight minutes to One o'clock in the morning.

Annex I

WRITTEN ANSWER

Translation of written answer by the Secretary for Trade and Industry to Dr LUI Ming-wah's supplementary question to Question 1

In response to the Honourable Member's question, I have sought advice from departments concerned. Both the Trade Department and Census and Statistics Department (CSD) have advised that they keep no data on flour consumption and it is therefore impossible to calculate the ratio between the annual flour consumption and rice consumption in Hong Kong.

However, the CSD does keep records of retained imports of rice and flour. Relevant figures for the past five years are listed in the table at Appendix for Members' reference.

Appendix

<i>Year</i>	<i>Retained Imports (Import - Re-export)</i>	
	<i>Rice (tonnes)</i>	<i>Flour (kg)</i>
	<i>[] denotes consumption</i>	
1995	309 156 [326 850]	132 122 444
1996	325 971 [331 607]	152 491 244
1997	319 086 [332 712]	160 681 291
1998	293 021 [322 039]	143 360 200
1999	269 490 [319 925]	138 049 783
(from January to November)		

Note: In the case of rice, retained import refers to the effective quantity of all imported rice stored in registered rice godowns after deducting the amount for re-export, whereas consumption refers to the quantity of rice taken out from rice godowns for sale in the market. Since a certain quantity of rice has to be maintained in rice godowns as reserves, the figures of rice consumption are usually higher than those of retained rice imports.

Annex II**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr HO Sai-chu's supplementary question to Question 3**

We do not maintain separate statistics on the number of visa applications by nationals of the six Middle Eastern countries in question, namely Iran, Iraq, Lebanon, Sudan, Syria, and Libya, for which local sponsors may be required. Based on the result of a sample survey conducted on 1999 visa applications by nationals of these countries, we estimate that about 6%, or 184 of the applicants last year were required to provide a local sponsor. Of these 184 cases, 116 were subsequently approved after clarification with the local sponsors or provision of further information by them to substantiate the applications. One case was rejected. No further action was taken in respect of the remaining cases because the local sponsors failed to provide substantive information, refused to sponsor the visit, or did not respond at all.

Normally a visa applicant is not required to nominate a local sponsor. However, the Immigration Department may ask an applicant to provide a local sponsor when the information contained in his application is insufficient, or does not appear to be commensurate with the stated intention of his visit. Examples are an unduly long proposed duration of stay, or a request for a multiple-entry visa for a doubtful purpose. In such cases, a sponsor may be required to provide clarification or further information on the application, to certify the purpose of the visit, and to assume responsibility for the applicant's repatriation to his country of origin should he fail to leave Hong Kong when his limit of stay expires.

Annex III**WRITTEN ANSWER****Written answer by the Secretary for Transport to Miss Cyd HO's supplementary question to Question 4**

At present, about 100 signalized junctions with pedestrian crossings are being installed with audible signals each year. More than 700 junctions (or 64%) have been installed with such devices. The average installation cost of mechanical audible units at a signalized junction is \$67,000. To complete installation at the remaining 400 junctions would require \$27 million.

Funding aside, works relating to the construction of the underground cable ducts will also affect the installation programme. It takes on average three to four weeks to complete one junction since considerable electrical and mechanical work would be required. In cases where the existing underground cable ducts were found blocked, extra time would be required for clearance of the blockage or re-laying of the cable ducts.

The Administration is also keen to find ways to improve the existing audible signal devices. We have commenced trials in March on new electronic audible units whose sound level output will adjust automatically in accordance with the ambient noise level. Upon successful completion of the trials, we will seek funds for the procurement and implementation of the new devices. In the meantime, the Administration will closely monitor the progress of the existing installation programme and work with organizations for the visually impaired to identify junctions requiring priority installation.

Annex IV**WRITTEN ANSWER****Written answer by the Secretary for Transport to Mr Andrew CHENG's supplementary question to Question 4**

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Annex V**WRITTEN ANSWER****Written answer by the Secretary for Planning and Lands to Mr HO Sai-chu's supplementary question to Question 6**

Our preliminary view is that Building Surveyors or Structural Engineers in the Buildings Department should carry out the initial technical assessment of buildings. They will be assisted in this by Surveying Officers and Technical Officers. Senior Building Surveyors and Senior Structural Engineers in the Department will be responsible for scrutinizing and endorsing these assessments.

The Government is still working out details of the proposed statutory scheme. Our aim is to consult the public, professional bodies and other concerned parties on this proposal later this year.

Annex VI**ORGANIZED AND SERIOUS CRIMES (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for SecurityClauseAmendment Proposed

- 2
- (a) In the proposed section 24A, in the definition of "remittance agent", in paragraph (b) —
- (i) in subparagraph (ii), by adding "or authorized insurance broker" after "insurer";
- (ii) by adding —
- "(iv) a licensed leveraged foreign exchange trader within the meaning of the Leveraged Foreign Exchange Trading Ordinance (Cap. 451);".
- (b) In the proposed section 24D(1)(a), by adding ", unless the person shows that he exercised reasonable diligence to avoid the commission of the offence" after "agent".
- (c) In the proposed section 24E —
- (i) in subsection (1) —
- (A) by deleting "Where" and substituting "Subject to subsection (6), where";
- (B) by adding ", with such assistants as may be necessary," after "he may";

ClauseAmendment Proposed

(ii) by adding —

"(6) An authorized officer shall not exercise his power under subsection (1) in respect of premises which are domestic premises except pursuant to a warrant issued under subsection (7).

(7) A magistrate may, if satisfied by information upon oath that there are reasonable grounds for the suspected offence, issue a warrant authorizing an authorized officer, with such assistants as may be necessary, to exercise his power under subsection (1) in respect of any domestic premises where the activities of the remittance agent concerned are being carried on.

(8) In this section, "domestic premises" (住宅處所) means any premises or place used exclusively for residential purposes and constituting a separate household unit."