

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 5 April 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 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 MARTIN LEE CHU-MING, S.C., J.P.

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE 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 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.

**MEMBERS ABSENT:**

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE SIN CHUNG-KAI

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

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

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

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

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

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

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

MRS 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 LEE SHING-SEE, J.P.  
SECRETARY FOR WORKS

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

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

**CLERKS IN ATTENDANCE:**

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

MR LAW KAM-SANG, J.P., DEPUTY 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>
Tax Reserve Certificates (Rate of Interest) (No. 3) Notice 2000.....	73/2000
Port Control (Cargo Working Areas) (Amendment) (No. 2) Regulation 1999 (L.N. 279 of 1999) (Commencement) Notice 2000.....	74/2000
Discovery Bay Tunnel Link Regulation (Cap. 520 sub. leg.) (Commencement) Notice 2000 .....	75/2000

**Other Papers**

- No. 86 — Estimates for the year ending 31 March 2001  
General Revenue Account Summaries and  
Revenue Analysis by Heads and Subheads
- No. 87 — Employees Retraining Board 98-99 Annual Report
- No. 88 — Audited Statement of Accounts of the Language Fund  
together with the Director of Audit's Report for the year  
ended 31 August 1999

**WRITTEN ANSWERS TO QUESTIONS****Certain Fairview Park Premises not Issued with Occupation Permits**

1. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, it was reported that only occupation certificates instead of occupation permits had been issued in respect of some residential units of Fairview Park in Yuen Long, resulting in some owners being unable to sell their properties. In this connection, will the Government inform this Council:*

- (a) *of the respective legal effects of an occupation permit and an occupation certificate;*
- (b) *whether there are any difference in terms of building specifications and titles between residential units issued with occupation permits and those with occupation certificates; if so, of the details;*
- (c) *of the respective numbers of residential units of Fairview Park issued with occupation permits and occupation certificates, and the reasons for some residential units having been issued with occupation certificates only; and*
- (d) *of the measures in place to dispel legal concerns among owners of those residential units issued with occupation certificates only?*

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

- (a) Construction of private buildings in Hong Kong is governed by the Buildings Ordinance (Cap. 123) (BO) or the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) (BO(ANT)O). For buildings the construction of which is governed by the BO, a permit from the Building Authority, known as an Occupation Permit, is required before the building can be occupied. For buildings in the New Territories which meet certain exemption criteria such as size and height, control on their construction is under the provisions of the BO(ANT)O and an Occupation Permit is not required prior to occupation.

Under Special Condition No. 10 of the lease conditions for the Fairview Park development (Lot 4665 in DD104), the then Secretary for the New Territories gave consent to the construction of exempted houses under the purview of the BO(ANT)O in the development. As a condition of this consent, building plans for the exempted houses were required to be submitted to the then Buildings Ordinance Office (BOO) for scrutiny as if these were not so exempted. Another condition of consent was that the developer on completion of such works had to obtain a certificate from BOO

stating that the buildings were in all respect suitable for occupation. Only then could the buildings be occupied.

- (b) Houses at Fairview Park met all technical standards and safety requirements at the time of completion and were erected in compliance with lease conditions. The main differences between the units issued with Occupation Permits and those issued with Certificates of Occupation related to the size and height of the buildings. As a result of these differences, they come either under the purview of the BO(ANT)O or the BO.

As no Occupation Permit is required under the law for an exempted house constructed under the BO(ANT)O, the fact that such a house is not issued with an Occupation Permit does not affect its legal status and will not result in a defective title.

- (c) There are currently 1 357 houses at Fairview Park for which Occupation Permits were issued and 3 660 houses for which Certificates of Occupation were issued.
- (d) As explained in (a) and (b) above, there are no doubts about the legal of status or the validity of the titles of those residential units which were issued with Certificates of Occupation. Therefore there are no reasons for concern in this respect.

### **New Subvention System for Welfare NGOs**

2. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, the Administration plans to provide funding for non-governmental welfare organizations in lump sums, instead of its current practice of basing the funding on their actual expenditure. The management of some welfare organizations has stated that the new subvention system will compel them to cut their staff's salaries and benefits. In this connection, will the Government inform this Council whether it has studied if the new subvention system is in breach of Article 144 of the Basic Law, which stipulates that "Staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system"; if it is not, of the detailed justifications?*



**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Madam President, the Administration has examined the legal implications of the changes proposed in the subvention reforms including, the proposed Lump Sum Grant arrangement. The legal advice is that the introduction of the Lump Sum Grant arrangement will not contravene Article 144 of the Basic Law.

Article 144 of the Basic Law, when construed with Article 145 of the Basic Law indicates broad parameters in relation to subvention policy as applied to non-government organizations and leaves room for improvement of that policy. In this regard, Article 145 provides that on the basis of the previous social welfare system, the Government of the Hong Kong Special Administrative Region (SAR) shall, on its own, formulate policies on the development and improvement of this system in the light of the economic conditions and social needs.

If Article 144 is construed narrowly to the effect that maintenance of the previous policy precludes any change to the subvention policy in the light of current economic conditions and social needs, such a construction would be inconsistent with Article 145 which requires the SAR Government to formulate policies on the "development and improvement" of the social welfare system.

As regards Article 144 which provides that "staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system", this ensures that no staff member would suffer as a consequence of the Transition. It does not, however, prohibit the introduction of new measures such as the Lump Sum Grant arrangement to improve the social welfare system, as contemplated by Article 145.

The subvention reforms are not intended to compel welfare organizations to reduce their staff's salaries and benefits. The Government is not reducing its level of subvention to welfare organizations. In fact, the Director of Social Welfare wrote to all subvented welfare organizations recently, reminding them of the Government's willingness to provide additional financial assistance, over the next three years as part of the Lump Sum Grant package, to help them meet their contractual commitments to existing staff.

**Assisting Disadvantaged Groups in Using IT**

3. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, regarding assistance given to the disadvantaged groups to promote the understanding and use of information technology (IT), will the Government inform this Council:*

- (a) *whether it knows the number and percentage of activity centres for the elderly in Hong Kong which are installed with computers for use by the elderly, and the total number of computers made available to the elderly for access to the Internet in such centres; and*
- (b) *of its policy on assisting the disadvantaged groups in understanding and using IT, and the measures to implement the policy?*

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

- (a) The Social Welfare Department (SWD) recently carried out a survey on 242 social centres and multi-service centres for the elderly on the availability of computers in these centres for use by their elderly members. 195 survey forms were returned and it was found that a total of 126 computers were provided in 24 centres (12.3%) for use by their elderly members. Thirty-eight of these 126 computers had access to the Internet.
- (b) Government policy is to promote the wider use of IT among all sectors in the community. To this end, the Administration has installed public computer facilities with Internet connection in community halls and community centres under the community Cyber Points project for use by members of the public who do not have their own personal computers either at home or at work. The "E-community Ambassador", a mobile educational facility equipped with computers and Internet connection, visits various districts throughout the territory to raise public awareness and understanding of IT in general.

The Administration has also been implementing measures and encouraging non-government organizations (NGOs)/schools to assist the elderly and disabled people to acquire IT skills.

NGOs in the welfare sector are encouraged to apply for grants from charitable funds for IT projects. The Queen Elizabeth Foundation for the Mentally Handicapped, the Lotteries Fund, the S K Yee Fund for the Disabled have in recent years approved a total sum of over \$17 million for purchase of computers, specially designed softwares and accessories for day activity centres, sheltered workshops and rehabilitation units run by NGOs. The total number of beneficiary is over 7 000 people with disabilities. The SWD also has a specific fund to provide financial assistance to people with disabilities in purchasing computer facilities for securing supported employment or self-employment purposes.

To encourage the elderly to acquire IT skills, elderly service units have organized activities such as classes on computer, Chinese word-processing, Internet, homepage design, and so on. In a recent survey conducted by the Hong Kong Council of Social Service, over 1 000 elderly people were reported to have participated in these learning activities.

The SWD has also initiated a three-year "Opportunities for the Elderly" Project (OEP), running from 1999 to 2001, under which interested parties and organizations are invited to organize continuous learning, community participation, senior volunteerism and inter-generational programmes, including training in IT, for elderly people and other disadvantaged groups. In 1999, two organizations participating in the OEP provided basic IT training for more than 650 elderly people.

The Education Department grants subvention to schools for the visually impaired for buying computer equipment and software which can help the visually impaired to access the Internet. The Home Affairs Department will also install public computers with special devices for the visually impaired at convenient locations for use by visually impaired persons. Courses on computer literacy and computer operation are offered in special schools and skills centres for the disabled.

### **Declaration of Interests by Journalists Specialized in Reporting News about Stock Market**

4. **MISS EMILY LAU:** *Madam President, will the executive authorities inform this Council whether the Independent Commission Against Corruption (ICAC) has recommended to journalists associations that journalists who specialize in reporting news about the stock market and who at the same time also participate in share trading should declare their interests; if so, of the details of the recommendations; if not, the reasons for that?*

**CHIEF SECRETARY FOR ADMINISTRATION:** Madam President, the ICAC has not specifically recommended to journalists associations that journalists who specialize in reporting news about the stock market and who at the same time participate in share trading should declare their interests. However, as part of its efforts to promote business ethics, the ICAC does assist professional bodies and companies in drawing up their codes of conduct and in providing corruption prevention training to their staff. In recent years, the ICAC has provided such assistance to a journalists association and a number of media companies. The ICAC will approach journalists associations to ascertain the need to pursue more specific recommendations regarding conflict of interests for financial journalists for inclusion in their codes of conduct.

### **Extension of Structural Safety Guarantee Period for HOS Flats**

5. **MR LAU KONG-WAH** (in Chinese): *Madam President, the Government plans to provide buyers a 20-year guarantee in respect of the structural safety of the public housing units in Tin Shui Wai when launching them in future, which is twice the length of the current 10-year guarantee period. In this connection, will the Government inform this Council whether it will consider extending the guarantee period:*

- (a) *to other Home Ownership Scheme (HOS) estates that have already been occupied or are about to be completed; if so, of the criteria it will adopt in determining the HOS estates to be covered; and*

- (b) *to other HOS estates where structural problems have already been identified, such as Kam Fung Court in Ma On Shan and Tong Ming Court in Tseung Kwan O; if not, of the reasons for that?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, in view of the complex geological conditions of sites in Tin Shui wai, the Housing Authority has already announced its intention to provide a 20-year structural guarantee to all new and existing HOS projects in Tin Shui Wai from the date of completion.

As for other areas, the Housing Authority intends to provide a 10-year structural guarantee to all new and existing HOS developments from the date of completion. These include Kam Fung Court in Ma On Shan and Tong Ming Court in Tseung Kwan O where no apparent structural safety concern are noted on the buildings.

### **Railway as an Alternative to the Proposed Route 7**

6. **MISS CHRISTINE LOH:** *Madam President, with reference to the on-going studies to construct Route 7 to connect Aberdeen with Kennedy Town and the Government's stated transport policy of using railways as the first choice to meet passenger traffic demand wherever practicable, will the Government inform this Council:*

- (a) *of the respective costs incurred so far on the feasibility, engineering and environmental studies conducted specifically on Route 7;*
- (b) *of the estimated volume and proportion of traffic for Route 7 attributable to goods vehicles and private vehicles respectively;*
- (c) *whether it has assessed if the construction of Route 7 is consistent with government policy of discouraging the use of private cars on roads;*
- (d) *whether it has conducted any feasibility studies on constructing the Mass Transit Railway South Island line (the railway) as an alternative to Route 7; if so, of the respective costs of the feasibility, engineering and environmental studies to be conducted on the railway option; if not, the reasons for that;*

- (e) *whether the reduction in volume of traffic attributable to private cars on existing roads in the Southern District, estimated to be brought about by the railway upon completion, will adequately accommodate the growth in freight traffic in the district;*
- (f) *whether it has compared the direct costs to the Government of Route 7 and the railway; if so, of the details of the costs;*
- (g) *of the criteria it uses to evaluate the highway and railway options, and the respective weights given to each criterion; and*
- (h) *whether, before deciding on adopting either of the two options, it will consider the overall economic impact of each option on the Southern District, including the market value of properties there; and of the economic factors that it will take into account in making the decision?*

**SECRETARY FOR TRANSPORT:** Madam President,

*Route 7 — Section between Kennedy Town and Aberdeen*

The proposed Route 7 — section between Kennedy Town and Aberdeen (Route 7) is planned to relieve traffic congestion at the major corridors in the southern and western parts of the Hong Kong Island including Aberdeen Tunnel, Wong Chuk Hang Road, Pok Fu Lam Road and Victoria Road. It will cater for the traffic demand arising from existing and future developments in the Pok Fu Lam area and the Southern District. It will also form part of the strategic trunk road system linking the southern part of Hong Kong Island to the new airport at Chek Lap Kok and the North Western New Territories via Western Harbour Crossing, Route 3 and Route 9.

According to our latest traffic impact assessment, the estimated total daily traffic flow on Route 7 in 2016 would be about 52 400 vehicles, of which 9 500 (18%) would be goods vehicles and 31 100 (59%) would be private vehicles excluding taxis.

The proposed Route 7 is now at the preliminary design stage. About \$17.6 million has been allocated to ground investigation works and \$16 million on investigation assignments such as environmental, traffic and engineering design studies. Subject to further investigation, the capital cost of Route 7 is estimated to be about \$9.6 billion.

### *South Hong Kong Island Line*

The South Hong Kong Island Line (SIL) was considered in the First Railway Development Study in the early '90s. It was proposed to be a railway linking the Southern District with Admiralty. The 1994 Railway Development Strategy pointed out that the recommended priority for the SIL was low because the forecast traffic demand could not support comfortably the railway at current rail fare level. The implementation of the SIL would be dependent on the population growth in the area.

We are now carrying out the Second Railway Development Study (RDS-2) to formulate the framework for the next phase of railway development for Hong Kong in the next 15 years. The Study costs about \$31 million at 1997 prices. Under the RDS-2, the SIL is one of the potential new railway lines being studied. Subject to further investigation, the order of cost estimate of the SIL is about \$10 billion.

The RDS-2 will assess the need and viability of the SIL in the context of meeting the transport demands of the area, having regard to the existing and planned road network, the economic benefits of the railway in relieving the road network, the environmental implications and integration with land use planning. We will also need to consider the priority of the SIL *vis-a-vis* other railway projects under study including the East Kowloon Line and the Ma On Shan railway extension to Kowloon.

The RDS-2 is expected to be completed sometime in mid 2000. By then, we should have a clearer picture about the way forward regarding the SIL.

### *Evaluation of Highway and Railway Options*

In comparing highway and railway options, the Government will take into account relevant factors including engineering feasibility, transport performance, planning and land use, environmental impacts, financial viability (particularly for

railways due to the need to recoup operating and maintenance costs and to allow for a reasonable profit margin), economic benefits and so on.

While it is our objective to expand the rail network to make it become the backbone of Hong Kong's transport system, we still need to develop and improve the road network to relieve existing bottlenecks and to cope with future transport demand. Roads cannot be replaced by railways in all cases. The two transport modes are complementary to each other and roads are essential for supporting other public transport services, commercial vehicles and emergency vehicles, and for serving areas where provision of railways is not feasible. The Government will strive to provide the most suitable means of transport to cater for the traffic demand of the public.

### **Decreasing Number of CSSA Cases in the Blind, Physically Disabled and Mentally Ill Categories**

7. **MISS EMILY LAU** (in Chinese): *Madam President, in the fiscal year 1998-99, the average numbers of Comprehensive Social Security Assistance (CSSA) cases in the blind, physically disabled and mentally ill categories were 550, 4 313 and 9 668 respectively. The numbers of such CSSA cases have decreased significantly since last May, with only 291, 2 752 and 8 627 cases per month respectively, as calculated by averaging out the figures between last May and last December. In this connection, will the executive authorities inform this Council whether:*

- (a) they know the reasons for the reduction in the numbers of CSSA cases in these categories during the past year; and*
- (b) they have graded the degree of disability of such CSSA recipients; if so,
  - (i) of the details of and the criteria for grading; and*
  - (ii) of a further breakdown of the CSSA cases in the above-mentioned categories, by the disability gradings assigned to the recipients, on a monthly basis since May last year?**



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

- (a) Cases under the CSSA Scheme are classified into different categories according to the characteristics of the principal applicants, for example, age, employment status, physical condition, and so on. In a data maintenance exercise of the CSSA Scheme conducted in May 1999, it was found out that the principal applicants of about 3 000 blind, physically disabled and mentally ill cases had reached the age of 60. These cases were subsequently re-classified as old age cases in accordance with the standard practices of the CSSA Scheme. This re-classification exercise has contributed to the observed decreases in the number of cases in these categories.
- (b) (i) The degree of disability of CSSA recipients is assessed by public medical officers on the basis of the nature, duration and extent of loss of earning capacity due to the disability. On the basis of the medical assessment, CSSA recipients with disabilities are classified into three broad sub-categories, that is, 50% disabled, 100% disabled, and recipients requiring constant attendance. Different levels of assistance will be provided to recipients in these sub-categories to meet their different needs.
- (ii) The sub-categories in (b)(i) above are assessed on the basis of individual recipient rather than case. Information on the number of disabled recipients in CSSA cases whose principal applicants are blind, physically disabled or mentally ill is available on a quarterly basis. It is summarized below:

Disabled recipients of CSSA cases whose principal applicants are blind

<i>Degree of disability</i>	<i>Number of Recipients</i>		
	<i>June 1999</i>	<i>September 1999</i>	<i>December 1999</i>
50% disabled	20	20	20
100% disabled	320	300	310
Requiring constant attendance	10	10	10
Total	350	330	340

Disabled recipients of CSSA cases whose principal applicants are physically disabled

<i>Degree of disability</i>	<i>Number of Recipients</i>		
	<i>June 1999</i>	<i>September 1999</i>	<i>December 1999</i>
50% disabled	490	490	520
100% disabled	1 800	1 710	1 720
Requiring constant attendance	500	430	450
Total	2 790	2 630	2 690

Disabled recipients of CSSA cases whose principal applicants are mentally ill

<i>Degree of disability</i>	<i>Number of Recipients</i>		
	<i>June 1999</i>	<i>September 1999</i>	<i>December 1999</i>
50% disabled	1 260	1 170	1 170
100% disabled	6 630	6 450	6 440
Requiring constant attendance	270	260	250
Total	8 160	7 880	7 860

### **Speeding Problem of Public Light Bus Drivers**

8. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the problem of speeding among public light bus (PLB) drivers, will the Government inform this Council:*

- (a) *of the number of traffic accidents involving PLBs over the past year and of its percentage in the total number of traffic accidents that year;*

- (b) *of the number of cases in which PLB drivers were prosecuted for speeding over the past year, with a breakdown by bands of 10 km per hour in excess of the speed limit;*
- (c) *whether it knows if the manufacturers for various models of PLBs have conducted vehicle collision tests at the design stage; if they have, of the details;*
- (d) *of the factors it has considered when setting the maximum dimension and weight limits for PLBs; whether it has assessed if PLBs to be installed with passenger seat belts will result in their permissible maximum dimension and weight limits being exceeded; if they will, whether it will relax such limits;*
- (e) *whether it will step up law enforcement actions to curb speeding by PLB drivers, particularly at night or in the early hours; and*
- (f) *whether it has explored measures to reduce the casualty rate of PLB passengers in traffic accidents?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, in 1999, there were a total of 995 road traffic accidents involving PLBs. This accounted for about 6.8% of the total number of traffic accidents in Hong Kong.

The statistics of the police prosecution record on speeding are broken down by bands of "15 km/h". In 1999, the number of prosecution cases against PLB driver speeding is summarized below:

<i>Year</i>	<i>1999</i>
In excess of speed limit by ≤ 15 km/h	481
In excess of speed limit by > 15 km/h but ≤ 30 km/h	646
In excess of speed limit by > 30km/h but ≤ 45 km/h	23
In excess of speed limit by > 45 km/h	1
Total	1 151

All the models of PLB currently used in Hong Kong are made in Japan. The Administration does not have information as to whether the manufacturers of the various models of PLB have conducted vehicle collision tests at the design stage. In approving the various models to operate in Hong Kong, the vehicles have to meet the safety requirements set out in the Road Traffic (Construction and Maintenance of Vehicles) Regulations.

The Road Traffic (Construction and Maintenance of Vehicles) Regulations limit the maximum length of PLBs to 7 m and the maximum gross vehicle weight (GVW) to 4 000 kg. The setting of the dimension and weight limits takes into account the seating capacity and seating arrangements required for the operation of PLBs and the availability of such vehicles in the market. With passenger seat belts installed in PLBs, the overall weight may have to be increased to accommodate stronger seats and chassis to provide suitable anchorage for seat belts. The Administration is prepared to revise the limits, where necessary.

Prosecution against speeding is one of the major enforcement targets of the police. The police will continue to take enforcement action at prevailing speeding black spots to deter speeding. The objective of the enforcement action is to reduce the number of traffic accidents and casualties, and the enforcement targets would be drivers of all vehicles, including PLB drivers.

The Transport Department is actively examining the feasibility of requiring speed limitation and/or speed recording devices to be fitted in PLBs in order to deter speeding activities. In addition, we are discussing with the vehicle manufacturers and the PLB trade on the feasibility of installing passenger seat belts as well as other measures, such as interior impact protection, energy-absorbing seatbacks and head restraints to enhance passenger safety.

### **Clearance Plan for Unauthorized Rooftop Structures**

9. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, the Buildings Department plans to clear the unauthorized structures on the external walls and rooftops of 400 buildings in the current fiscal year. In this connection, will the Government inform this Council:*

- (a) *of the geographical distribution of these 400 buildings and the number of unauthorized rooftop structures (URs) involved;*

- (b) *whether it has estimated the number of URSs on these buildings in respect of which the transfers of ownership have been registered with the Land Registry;*
- (c) *whether it will consider offering compensation on compassionate grounds to owners of URSs in respect of which the transfers of ownership have been registered; if so, of the amount of funds required for such purpose in this fiscal year; if not, the reasons for that; and*
- (d) *whether it will consider conducting an occupancy survey before clearance for the purpose of rehousing the occupants of these URSs; if so, of the specific timetable?*

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

- (a) The Buildings Department plans to take enforcement action to remove unauthorized building works (UBWs) on the external walls of about 400 buildings during this financial year. The Department is now considering which buildings to include in this operation. The target buildings will be those with a relatively large number of UBWs on the external walls and located in areas where on the ground level the flow of pedestrians and vehicular traffic is heavy. We expect that the geographical spread of these buildings will be similar to that of the first operation launched in September last year which covered some 14 districts.
- (b) If the target buildings have URSs on them, then we will take action against them. We do not have information on whether the transfers of ownership of those structures have been registered in the Land Registry. The main clearance programme for URSs is a separate enforcement programme of the Buildings Department targeted at 1 200 single-staircase buildings, the roofs of which are fully covered with URSs. Our original pledge was to deal with 200 such buildings every year. With the additional resources provided, the Buildings Department is able to increase the number of such target buildings initially to 300 this year.

- (c) As all URSs are UBWs under the Buildings Ordinance, there does not exist the question of compensation for owners or occupants of URSs upon clearance.
- (d) It is the Government's policy that no person should be made homeless by its clearance action. Immediately before the clearance of an URS, the Housing Department will carry out a freezing survey on the number and identity of individual occupants likely to be displaced as a result of the demolition action. Before demolition occurs, eligible occupants displaced from their URS dwellings will be offered public rental housing or interim housing. Where there exist compassionate circumstances, these cases will be assessed by the Social Welfare Department.

### **Internet Users being Switched to IDD Connections**

10. **MR DAVID CHU** (in Chinese): *Madam President, it was reported that the Office of the Telecommunications Authority (OFTA) received last month some 500 complaints from Internet users about their being unknowingly connected to overseas electronic bulletin board systems through International Direct Dial (IDD) lines, after downloading and launching certain software according to the instructions on certain websites in order to watch downloadable pictures and movies on the sites, and that they were thus required to pay the IDD charges incurred. In this connection, will the Government inform this Council of:*

- (a) *the software the using of which will lead to the above-mentioned situation;*
- (b) *the number, site locations and types of contents of the websites involved in the complaints concerned; among these websites, the number of those which had explained clearly on their webpages that users would be switched to IDD connections when the software was used; and*
- (c) *the measures the authorities will take to caution Internet users that using certain types of software may result in the above-mentioned situation?*

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

- (a) These cases happened after the complainants downloaded softwares from the websites. Once the softwares were installed and launched, the users' Internet connections would be routed to the overseas countries where the websites concerned were located. As the outgoing overseas calls were made through their telephone lines during such process, the complainants had to pay the IDD charges incurred. The website operators could then share the revenue from the IDD accounting rates earned by the telephone companies of the overseas countries concerned.
- (b)
  - (i) As most complainants claimed that they could not recall or were unwilling to disclose the websites they visited, the telecommunications companies and the OFTA encountered difficulties in their follow-up investigation. However, the investigation of OFTA revealed that the websites in question were all located in overseas countries such as Diego Garcia, Dominica, Guyana, St. Kitts, St. Lucia and Moldova where expensive IDD charges were charged. The contents involved were generally electronic games or pornographic webpages.
  - (ii) As the investigation is still underway, it is inappropriate to come to a conclusion at this stage. However, on some related webpages that the OFTA has inspected, there are indications that visitors only have to pay IDD charges after the softwares are downloaded and are not required to disclose their personal particulars such as credit card information on the Internet.
- (c) The OFTA advises Internet users to be cautious and adopt the following measures when they use the Internet:
  - (i) Internet users should avoid downloading softwares of unknown origin from the websites they visited;

- (ii) Internet users are advised to install IDD locking function in telephone lines and uses this function when they visit websites to prevent financial losses;
- (iii) Internet users are advised to switch off their modems before they test and use downloaded softwares if their telephone lines do not have IDD locking function. If they use computers with built-in modems, they may consider removing telephone lines temporarily from the computers.

### **Law Enforcement against Selling Pork Containing Clenbuterol**

11. **MR MICHAEL HO** (in Chinese): *Madam President, on the 3rd of last month, a fresh provision shop operator was convicted by the Court of selling pork containing Clenbuterol, an asthma drug, and the conviction was the first of its kind. In this connection, will the Government inform this Council:*

- (a) *of the annual number of persons hospitalized after eating pork or pig offal suspected of containing Clenbuterol since 1998;*
- (b) *of the annual number of prosecutions instituted against sellers of such pork since 1998, the current number of cases set down for hearing, the reasons for unsuccessful conviction until early last month, as well as the difficulties encountered in gathering evidence and instituting prosecutions;*
- (c) *whether it has traced the source of the pork containing Clenbuterol sold by the fresh provision shop concerned; and*
- (d) *of the progress of the plan to regulate the use of Clenbuterol and other chemicals by poultry farmers in feeding poultry, the relevant legislative proposals and the specific legislative timetable?*



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

- (a) Two and five persons fell ill and were admitted into hospital after eating pork or pig offal suspected of containing Clenbuterol in 1998 and 1999 respectively. No such cases have been identified so far this year.
- (b) There was no prosecution related to the sale of pork and pig offal containing Clenbuterol in or before 1998. In 1999, 13 prosecutions were instituted under section 52 of the Public Health and Municipal Services Ordinance. To date, there have been six convictions. Seven cases are awaiting hearing. In view of the time required for various legal procedures (such as setting down for hearing and employing defense counsel), the first case of conviction did not come about until last month. So far, the Food and Environmental Hygiene Department has not encountered any particular difficulty in gathering evidence and instituting prosecutions. No prosecution has been instituted so far this year.
- (c) During the investigation into the fresh provision shop concerned, staff of the Food and Environmental Hygiene Department have asked the shop to produce relevant bills to show the source of the pork and pig offal.
- (d) The proposed regulation aims to regulate the use of Clenbuterol and other chemicals by farmers in feeding livestock and poultry. We plan to require feed suppliers to state explicitly feed composition and usage directions. We would also control the chemical contents of animal feeds and bar the sale and import of live pigs containing harmful or excessive chemicals. We are working on details and aim to introduce the regulation into the Legislative Council in the next Legislative Session.

**Provision of Professional Input When Drafting Bills on Regulation of Financial Market**

12. **MR ERIC LI** (in Chinese): *Madam President, will the Government inform this Council whether the Department of Justice, when drafting bills pertaining to the regulation of the financial market, has engaged persons who are familiar with the operation of the financial markets, such as professional accountants, to provide professional input, in order to ensure that the provisions of the bill suit the actual market situations?*

**SECRETARY FOR JUSTICE** (in Chinese): Madam President, the role of the Department of Justice in respect of the preparation of bills is to provide legal, and legal policy, advice on the legislative proposals and law drafting services. The duty to ensure that the provisions of a bill are appropriate rests with the Policy Bureau that has carriage of the bill.

In relation to bills regulating the financial market, when formulating legislative proposals, the Financial Services Bureau obtains necessary professional information from relevant bodies (such as the Securities and Futures Commission and the Hong Kong Monetary Authority) and legal advice from commercial law experts of the Civil Division of the Department of Justice. Where necessary, other experts in my Department will be consulted on Basic Law, human rights and legal policy issues. The Bureau also arranges for the exposure of proposals, and discussions on them, with professional organizations and market bodies in the financial sector, incorporating their input where appropriate into those proposals.

In this way, the Bureau does its best to ensure that the provisions of each bill suit the actual market situations. However, further improvements to the bill can, if appropriate, be made as a result of representations made by others who are familiar with the operation of the financial markets as the bill is taken forward. In the case of complex bills, consultation with such persons may be facilitated by the publication of a White Bill.

It is therefore neither necessary, nor appropriate, for the Department of Justice to engage persons who are familiar with the operation of the financial markets for the purposes of drafting such bills.

**KMB not Taking Out Full Insurance Coverage for Third Party Risks**

13. **DR TANG SIU-TONG** (in Chinese): *Madam President, according to the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272) (the Ordinance), the owner of a motor vehicle for use on the road must take out a valid insurance policy on third party risks. However, it is understood that the Kowloon Motor Bus Company (1933) Limited (KMB) is only insured against third party risks for compensation equivalent to or in excess of a certain amount. Claims for compensation below that amount will be met by the KMB itself. In this connection, will the Government inform this Council whether:*

- (a) *the KMB is allowed not to take out full insurance coverage for third party risks by virtue of section 4(4)(c) of the Ordinance; if so, whether it has assessed if the exemption granted to the KMB under the provision is consistent with its original legislative intent; if it is not by virtue of that provision, of the legal basis for the KMB not taking out full insurance coverage for third party risks;*
- (b) *it knows the policies and handling procedure formulated by the KMB on insurance claims in relation to third party risks;*
- (c) *it has assessed which of the following practices is fairer or more beneficial to the claimants: the KMB's practice of taking out insurance in respect of third party risks versus the practice of other franchised bus companies taking out full insurance coverage; if it has, of the details; if not, the reasons for that; and*
- (d) *it knows the respective numbers of claims handled by the KMB and the relevant insurance company in each of the past three years; of the respective numbers of cases in which those claimants who were dissatisfied with the compensation proposals approached the KMB for negotiations, lodged complaints with government departments and claimed compensation by seeking civil remedies?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, under section 4(4)(c) of the Ordinance, well-funded and responsible organizations which own a fleet of vehicles may on the basis of their financial security opt to shoulder third party liability arising from their own activities. The KMB is currently adopting this alternative insurance arrangement. The company is allowed to do so on the basis that it has in place insurance arrangements which provide an adequate measure of protection to the public in the discharge of its third party liability, including:

- (a) an element of self-insurance through a cash reserve of a size sufficient to meet potential liability up to a limit (excess limit); and
- (b) an external insurance policy covering potential liability beyond the excess limit.

Under the current arrangement, the KMB maintains a Contingency Fund for meeting third party claims up to the excess limit. For claims above the excess limit, the KMB has taken out an external insurance policy. In accordance with the KMB's franchise which requires the company to engage a qualified actuary to examine the Fund, the Fund is reviewed by the KMB's actuary on an annual basis.

In handling third party claims, it is the KMB's practice to refer all claims to an independent loss adjuster firm for assessment, investigation, and inspection. Claimants who are not satisfied with the loss adjuster's assessment may negotiate direct with the KMB or take court proceedings.

For other franchised bus companies which take out full external insurance, their third party claims are handled by insurance companies. It is a common phenomenon in the market that insurance companies would engage loss adjuster firms to undertake assessment, investigation and inspection. In the event of any claims dispute, the claimant would normally negotiate direct with the insurance company or take court proceedings.

It can be seen from the above that the arrangements adopted by the KMB and the other franchised bus companies are not different in substance, insofar as the interests to the claimants are concerned.

The number of third party claims handled by the KMB, the number of claims pursued in Court and the number of complaints received in each of the past three years concerning the KMB's compensation proposals is given below:

	1997	1998	1999
(i) Total number of claims received by the KMB direct from claimants	632	620	645
(ii) Number of claims above the KMB's excess limit and therefore handled by the KMB's external insurance company	4	1	2
(iii) Number of claims pursued in Court	31	28	58
(iv) Number of complaints received by the KMB	3	2	3
(v) Number of complaints received by the Transport Department and the Office of the Commissioner of Insurance	0	0	0

### **Queuing for Homes for the Elderly**

14. **MR BERNARD CHAN:** *Madam President, there are complaints that applicants for admission to subvented residential care homes for the elderly such as hostels, homes for the aged, care-and-attention homes and nursing homes, have to wait for a long time before such places are allocated to them. In this connection, will the Government inform this Council of:*

- (a) *the respective numbers of applicants for admission to various types of residential care homes who had died before places were allocated to them in the past five years;*
- (b) *the current waiting time for admission to each type of residential care homes for the elderly; and*
- (c) *the measures it will take to shorten such waiting time?*

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

- (a) The number of applicants who passed away while on the waiting list for different residential care places is about seven, 350 and 2 500 per year in the past five years for self-care hostels, homes for the aged and care-and-attention homes respectively. The Social Welfare Department established six nursing homes in 1998 and the number of applicants who passed away while waiting for these homes in the past two years is about 800 per annum. The death rate is influenced by biological, medical and other factors and should not be seen to relate directly to the waiting time.
- (b) The waiting time for different applicants will vary due to their health conditions and specific preferences. For those who are in urgent need, priority placement can be arranged within a few weeks, or even days, where emergency placement is justified. On the other hand, applicants who have indicated locational, home, religious or diet preferences, their waiting time will usually be longer than those who have not indicated any particular preferences. As at March 2000, on average, there was a waiting time of about five, 16, 22 and 12 months for application for places in self-care hostels, homes for the aged, care-and-attention homes and nursing homes respectively.

When interpreting the waiting time for residential care places, we should take note that not all applicants have an immediate need for residential care services. Under the existing practice, applicants are not required to undergo care need assessments before registration on the waiting list. Some of the elderly people on the waiting list (about 10%) are already receiving subsidized residential care services but are awaiting transfer to another residential care institution, providing a different level of care service.

- (c) To shorten the waiting time for residential care, we are adopting a range of measures, as follows:
- (i) According to a recent survey, only about 60% of the elderly people on the care-and-attention home waiting list are genuinely in need of residential care. We will put in place an enhanced gatekeeping mechanism by the summer of 2000

to target subsidized residential care service to the frail elderly with genuine need so that their waiting time can be shortened.

- (ii) The Social Welfare Department will be introducing a pilot project on continuum of care in residential care homes. Residential care homes taking part in the pilot project will be provided with additional resources to provide higher levels of care services for their frail elderly residents. This will reduce the need for transfer of elderly residents between residential care homes providing different levels of care. Overseas experience has also shown that upon implementation of the continuum of care funding formula, residential care homes are more inclined to admit frail elderly with higher levels of care needs, thereby reducing their waiting time for admission to residential care homes.
- (iii) To accord with the wishes of the majority of our elderly population who prefer to be cared for at home, we will continue to expand and upgrade our home and community care services for the frail elderly. In 2000-01, an additional \$99 million has been earmarked to provide additional home and community care services in districts of high concentration of elderly population. These services will provide an alternative to the frail elderly who might otherwise have to apply for admission to residential care homes.
- (iv) In 2000-01, a total of 2 510 additional residential care places will be provided to meet the residential care service need.
- (v) We will continue to engage the private sector to encourage and facilitate them to provide quality residential care service to give more choices to families in the middle and higher income groups who are willing to pay for better quality services for their elderly members. This will help target our elderly residential care programme at those who are in need of subsidized service, thereby reducing their waiting time.

**Resources to Assist Teachers in Coping with Stress**

15. **DR DAVID LI:** *Madam President, according to a survey conducted by the Hong Kong Young Women's Christian Association, many teachers felt extraordinary pressure at work and found serious difficulty in helping students to handle their personal problems because they lacked the professional knowledge, skills and necessary experience in counselling. In this connection, will the Government inform this Council of:*

- (a) *the progress in providing each secondary school with one school social worker; and*
- (b) *the community resources available to teachers to assist them in coping with stress and providing counselling to students?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President,

- (a) At present, there are 300 school social worker units, comprising school social workers as well as supervisory and supporting staff, serving 452 secondary schools. Starting from September 2000, 152 additional school social worker units will be created in stages for existing secondary schools. In addition, one school social worker unit will be provided for each new secondary school commencing operation from 2000-01 onwards. A total of 12 school social worker units will therefore be provided for the 12 new secondary schools coming into operation in 2000-01.
- (b) All teacher training institutes have included an element of student counselling in their initial teacher training programmes. The Education Department also provides in-service training programmes and a range of support services to teachers, including guidance and discipline teachers, to strengthen their knowledge and skills in helping students with learning, emotional, or behavioural problems. These support services include the provision of consultation and support services to schools by the Psychological Services Section, the operation of a telephone hotline by Educational Psychologists to



advise teachers on handling critical incidents, the production of a CD-ROM on discipline and guidance work to assist teachers in improving teacher-student relationship and in handling students' problems, and the organization of experience sharing sessions and workshops. Further, the Social Welfare Department and non-governmental organizations provide psychological counselling services, including advisory services on dealing with work pressure, to people who need help. Teachers may also apply for the services if they need any assistance.

In addition, school social workers will also assess the needs of individual schools and bring in appropriate community resources, including children and youth centres, integrated teams and other units such as family services centres, family life education and group work unit and so on to provide counselling services to students.

## **BILLS**

### **First Reading of Bill**

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

### **REVENUE (NO. 2) BILL 2000**

**CLERK** (in Cantonese): Revenue (No.2) Bill 2000.

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

### **Second Reading of Bill**

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

**REVENUE (NO. 2) BILL 2000**

**SECRETARY FOR THE TREASURY:** President, I move that the Revenue (No. 2) Bill 2000 be read a Second time.

This Bill seeks to give effect to two of the three revenue concession proposals in the 2000-01 Budget announced by the Financial Secretary last month. The two proposals are an extension of the concessionary diesel duty rate of \$2 per litre for another nine months to 31 December 2000; and an extension of the exemption of electric vehicles from first registration tax for another three years to 31 March 2003. These proposals have already taken effect from the beginning of this month under a Public Revenue Protection Order made by the Chief Executive, in order to ensure that they could come into effect immediately after the existing concessions under the relevant legislation expired on 31 March 2000.

Let me briefly explain the reasons for these two proposals. With regard to the concession on diesel duty, the temporary reduction in diesel duty from \$2.89 to \$2 per litre was introduced in June 1998 as part of a special economic relief package to alleviate the burden of the community at a time of economic recession triggered by the Asian financial turmoil, as evidenced by a negative 2.6% growth of our Gross Domestic Product (GDP) in the first quarter of 1998. When the Financial Secretary announced the 1999 Budget, the overall economic situation had stabilized but remained generally sluggish, with the GDP growth registering a negative 5.6% in the last quarter of 1998 and a negative 3% in the first quarter of 1999. The Financial Secretary therefore decided to extend this diesel duty concession for another year along with other relief measures such as tax and rates rebates.

Entering into the new Millennium, our economy has been rebounding strongly. We achieved a remarkable GDP growth of 8.7% in the fourth quarter of 1999, while the growth for the whole year is estimated at 2.9%. For 2000, we expect our economy to grow by 5%. There is general consensus that Hong Kong has started to recover from the most difficult time in our economic history. And in order to facilitate a quicker economic recovery, the Financial Secretary has proposed in this year's Budget to extend the temporary concession on diesel duty for another nine months to 31 December 2000, after which the duty will revert to \$2.89 per litre.

Not surprisingly, some quarters of the transport industry consider the proposed nine-month concession extension to be inadequate, and want the concession to be extended to 12 months. The Member in this Council representing their interests also made this point at last week's Budget debate. While I can understand their sentiments, I wish to reiterate to this Council and the transport industry that the diesel duty concession is a temporary measure to provide relief during an extraordinary time of economic recession. By the end of 2000, we expect the economy to have substantially improved so that there should be no longer any grounds for continuing with the concession.

With regard to the proposal to extend the first registration tax exemption for electric vehicles, the exemption was first granted in 1994-95 and then extended in 1997-98. In the hope of further encouraging the use and development of this environmentally-friendly type of vehicles as part of our overall efforts in improving air quality, the Financial Secretary has proposed to extend the first registration tax exemption for another three years to 31 March 2003.

President, with these remarks, I commend the Bill to Members.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue (No. 2) Bill 2000 be read the Second time.

In according 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 Appropriation Bill 2000. The public officers concerned will speak first and the Financial Secretary will reply.

**APPROPRIATION BILL 2000****Resumption of debate on Second Reading which was moved on 8 March 2000**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, the 2000-01 Budget of the Government of the Hong Kong Special Administrative Region (SAR) is a pragmatic budget in line with the overall interests of Hong Kong. Since its announcement, it has received the widespread support of the various sectors of the community. Members of this Council who spoke in the Budget debate supported the great majority of the Budget proposals. A moment later, five Bureau Secretaries concerned will give their responses to the remarks made by Members in the debate, to be followed by the Financial Secretary's concluding speech on the Budget debate.

Madam President, over the past one year, the economy of Hong Kong has started to recover gradually from the Asian financial crisis. In the process, private enterprises and local workers have demonstrated a high degree of adaptability. With concerted efforts, they have sought to restore the overall competitiveness of Hong Kong by improving efficiency and enhancing productivity.

Drawing lessons from our past experience, and on the basis of the policy objectives of the Chief Executive and the development strategies of the SAR in the 21st century, the Budget proposes the injection of additional resources into education, environmental protection, innovation and technology and other major social services. We will seek to strengthen our financial system, upgrade our financial infrastructure, revamp the structure of government departments responsible for trade and commerce and promote inward investment. Hong Kong must prepare itself well for the challenges brought about by globalization and grasp the commercial opportunities generated by the accession of China to the World Trade Organization (WTO).

Despite a lack of natural resources, we have still managed to build up Hong Kong as one of the most prosperous and successful cities in the world through our long-term investments in education, manpower training and infrastructure construction. Hong Kong people's diligence and ability to grasp opportunities are of course the greatest factor contributing to such success. However, we must not forget that our clean, reliable and professional Civil

Service is certainly another important contributing factor. In line with the efforts of private commercial organizations to adjust and upgrade themselves, the Government has also been making continuous efforts over the past few years to implement various schemes to upgrade the efficiency and cost-effectiveness of its public services. Some of these measures include the Services for the Public Scheme, performance pledges, target-oriented management and two other recent initiatives, namely, the Enhanced Productivity Programme (EPP) and the civil service reform.

The EPP has achieved satisfactory progress since its implementation last year. All departments, while seeking to cut down on their expenses, have not only managed to maintain their existing standards of services, but have also been able to provide new services or upgrade their service standards. I am very pleased to inform this Council that all government departments have achieved the EPP target for 2000-01. In the case of some particular departments, they have even gone farther than that and achieved the 5% EPP target set down for 2002-03. Such achievements are largely attributable to the hard work of dedicated civil servants from all ranks and posts. It is true that a small number of our colleagues in the huge Civil Service have indeed performed poorly or acted against the regulations, but I am still convinced that our existing Civil Service is on the whole a responsible and customer-oriented team.

Nowadays, with the rapid advancements in the dissemination of information and a rising civic-mindedness, people will no longer be satisfied so easily by the present progress made by the Government. They will ask for more, demanding us to attain world-class standards in governance. They will also place an increasingly heavy emphasis on the cost-effectiveness of public services, requiring us to achieve maximum cost-effectiveness by making more efforts to rationalize our staff establishment and by introducing more flexibility into our use of resources. All these demands are perfectly justified and are normal in a mature, open and democratic society. As the head of the Civil Service, I fully appreciate public expectations for the Civil Service. As far as the civil service reform is concerned, our attitude is both active and positive, and we hope to get the support of all in the community. The civil service reform which we initiated last year aims precisely to bring in a more flexible and open management framework for the purpose of promoting a customer-oriented management culture. Following months of efforts and consultation with community figures, the staff side and departmental management, we have gradually finalized a detailed scheme of reform for many different areas under

the principles of maintaining stability while introducing reforms and protecting existing staff while introducing changes at entry levels. The proposals on new entry pay levels for recruit civil servants and the streamlining of the disciplinary procedure have been endorsed and will be implemented in April. Besides, after thorough consultations with the staff side and departmental management, we have formulated a package of entry mechanism, terms and conditions of appointment and fringe benefits for recruit civil servants, with a view to increasing the flexibility of the civil service appointment system and bringing it more in line with practices in the private sector.

The Civil Service Bureau has also put forward concrete proposals on a voluntary retirement scheme and enhanced management of performance, and will shortly hold discussions with the staff side. In addition, the consultancy study on a provident fund scheme for new civil servants also started in January. It is expected that the first report can be completed in the middle of this year. Our significant progress in all these reform areas over a short span of just one year is an apt reflection of the Government's determination to reform the Civil Service. Certainly, I must add that we still need the support of the community and this Council to promote and implement all these proposals. During the debate last week, some Members criticized us for being too slow in pace, for being thus unable to follow private sector practices. However, some other Members expressed the worry that all these reform measures might deal a blow to civil service morale. I understand that the public does attach very great importance to the Civil Service, and I can well appreciate their concern. In the coming few months, we will approach this Council for the voting of funds to implement the package of fringe benefits for new civil servants. Moreover, we will also submit a detailed voluntary retirement scheme plus compensation proposals to this Council for discussions. In the course of formulating all these reform measures, we have aimed at prudent financial management, enhancing the flexibility of staff establishment and the provision of reasonable and fair compensation to the staff affected. I hope that Members can support the appropriation of funds, so that we can implement and complete the work of reforming the Civil Service.

While seeking to intensify the civil service reform, we also wish to show our determination to enhance the productivity of public sector organizations and maintain a slim and excellent Civil Service. To this end, the Financial Secretary and I have set down the target of deleting 10 000 civil service posts in the coming three years. The aim is to put the establishment of the Civil Service

under strict control and, more importantly, to further encourage government departments to examine the demand for and provision of their services in a more serious manner. Specifically, government departments are encouraged to provide better and more effective public services through wider private sector participation and information technology application. That way, we hope to uphold the principle of "small government".

Actually, the proportion occupied by the expenditure of the Hong Kong Government in the Gross Domestic Product is more on the low side, when compared with the expenditure of other governments in the Asia-Pacific Region after deducting their defence expenses. During the debate last week, quite a number of Members criticized that the reduction of 10 000 posts was in fact very minimal. I must say that our aim is to scale down the civil service establishment to the 1995 level of 180 000 by the year 2003. However, in the run-up to 2003, we will still have to make sure that we can continue to cope with the ever-increasing demand for public services resulting from population growth and various policy initiatives. That is why we are of the view that a reduction of staff establishment by 5% is a realistic target. The reduction of posts proposed will be implemented in conjunction with other back-up schemes. The Secretaries of the two resources bureaux concerned will work closely with other heads of department, with a view to reviewing their manpower planning, existing staff establishment, vacancies and future demand for services and manpower. It is hoped that this can achieve the aim of streamlining establishment and controlling manpower growth, while maintaining the level of service. The resources saved through the deletion of posts can be used to provide services in other forms, or they can be spent on meeting the demand for new or extra services.

I wish to emphasize that the deletion of posts will not be implemented "across the board", nor will it be directed at any particular predetermined grades. Rather, we will simply make use of voluntary retirement and central redeployment as a means of easing the problem of surplus manpower suffered by those grades which experience changes in service demand or mode of service delivery. We do not think that the deletion of posts will lead to any staff dismissal. More importantly, we can assure members of the public that while trying to streamline the civil service establishment, we will at the same time make sure that the standards and quality of government services will not be adversely affected.

Madam President, I note that some individual Members are of the view that the salaries of civil servants are rather high and should be reduced, so as to control public sector expenditure and enhance the overall competitiveness of Hong Kong. I wish to emphasize that it is the pay policy of the Government to draw up reasonable and competitive pay conditions for civil servants by making reference to private sector pay conditions, with a view to attracting and retaining its employees and providing them with proper incentives. In regard to a comprehensive survey on the overall pay levels of civil servants, the Secretary for the Civil Service already submitted a paper to the staff side and the Panel on Public Service last month, in which he set out the details and factors which must be considered in the survey. The staff side has questioned whether it is at all appropriate to conduct a comprehensive pay level survey under the prevailing economic conditions. Besides, we also need to consider very carefully how we can possibly reflect the different job nature of public and private sector organizations in such a survey. In this regard, we need to conduct very careful studies, and we will have to study our experience in the pay survey of 1986 before we come back to the staff side and this Council for further discussions. At this juncture, I must mention that we have in fact been adhering to a time-tested annual pay survey mechanism which is widely accepted by the community and the staff and management sides within the Civil Service. The pay trend survey of 2000 is now in progress. As a good employer, we will adhere to the established mechanism and make a decision for this year only after the completion of the survey, taking into account the morale of civil servants and our overall economic and financial conditions.

A highly efficient, clean and modernized Civil Service has always underpinned the development of Hong Kong. Structurally speaking, we must ensure that our Civil Service can always keep abreast of the times and meet the increasingly numerous and complex demand for public services. However, we must realize that the effective operation of the Civil Service will also have to depend on the discipline and integrity of individual civil servants. That is why we must implant a clean culture firmly in the Civil Service to make it immune to adverse influences.

The recent spate of piling problems with public housing blocks have led members of the public to query the effectiveness of the civil service system and even the integrity and competence of civil servants. These incidents also exposed the problems with the construction industry itself. The existing operation of the construction industry does indeed require improvements in many



areas, and we should also look squarely at the impacts of substandard building works on the reputation and sustainable development of Hong Kong. In view of the seriousness and urgency of these incidents, the Chief Executive has decided to appoint an independent committee to conduct a comprehensive review on the construction industry, so as to improve its operation. The terms of reference of the committee covers a detailed study on various different aspects of the construction industry, including output, quality, environmental awareness, safety at construction sites, manpower, works supervision and so on. Taking account of the local context and drawing lessons from overseas experience, the committee will put forward a series of proposals and a feasible mode of operation for the industry. The ultimate aim is to increase cost-efficiency and user confidence, train up quality construction teams, promote integrity and good conduct within the industry and create a sound culture of work for it. The committee will be chaired by the Honourable Henry TANG. Reputable personalities with a good understanding of the industry and also laymen will be appointed to the committee as members. We expect that it will take about nine months for the committee to complete its work, and hopefully, it will be able to submit its report and recommendations to the Chief Executive by the end of this year.

Earlier, the Legislative Council Panel on Housing passed a motion urging the Chief Executive to appoint a statutory commission to conduct a review on the construction industry. However, the Government is of the view that the scope of work of the commission will cover a wide range of areas, and the review will be very complex as it will involve the entire industry, many different levels and related bodies. For this reason, we think that the commission must be given adequate flexibility if it is to complete such a complex study with so far-reaching effects within a short span of just nine months. Normally, a statutory commission of inquiry is only expected to look into a particular case for which it is set up, and its mode of operation is governed by the relevant ordinance, with the result that its pace of investigation is often slowed down by procedural technicalities and other statutory requirements. Owing to the job nature and wide range of issues involved, we would say that a non-statutory body will be the best option both in terms of appropriateness and efficiency.

The Government and the Housing Authority (HA) both attach very great importance to the quality of public housing. Like Members of this Council, we are also very disappointed at the recent spate of piling problems. All such public housing projects are meant to provide comfortable homes to people, which

is why we must ask for their good quality besides asking for reasonable selling prices and rents. Over the past one year, the HA has been handling this problem with transparency, impartiality and decisiveness. This has the total support of the Government. Regarding the cases of Tin Chung Court and Yuen Chau Kok, the HA has already taken a series of specific follow-up measures. Disciplinary and legal actions are being taken by the HA against the relevant building contractors and consultants. Besides, the HD has also commissioned an expert to conduct a comprehensive review and make recommendations on its entire internal operational procedure from planning to actual construction and eventually occupation. The expert will complete the work by the middle of this year. The ICAC has initiated an investigation into the Yuen Chau Kok case to examine whether it involved any criminal acts, and a number of people have been arrested. On this same case, the HA itself has also set up an independent investigation committee to ascertain the causes and who should be held responsible. It is expected that the committee can complete its report in May this year. Following the completion of the investigation into the Yuen Chau Kok cases, the Government will take immediately follow-up actions to further examine whether the Tin Chung Court and Yuen Chau Kok cases actually involved any dereliction of duty on the part of civil servants. I wish to emphasize that the Government will definitely take severe actions against any civil servant found involved in any dereliction of duty and criminal offence. Once a suspected case or allegation is substantiated, we will definitely take appropriate disciplinary and legal actions against the civil servants concerned regardless of their ranks. There will never be any tolerance.

I believe Members should know that in January this year, the HA released a consultative document entitled "Quality Housing: Partnering for Change", which contains 40 specific recommendations. The HA hopes to establish a partnership with the construction industry in its endeavours to improve housing quality and works supervision. It believes that only this can enhance housing quality and meet people's demand. The consultation period is just over, and the HA will shortly release the findings of the consultation exercise and its specific improvement programmes. The Government is determined to make use of this opportunity to overhaul the operation of the construction industry.

Madam President, I hope that Members can support the implementation of the civil service reform and the work of the independent committee on reviewing the operation of the construction industry. I also hope that they can vote in support of the 2000-01 Budget. Thank you, Madam President.

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, at the Legislative Council meeting last week, quite a few Members commented on issues concerning environmental protection, the provision of municipal services and agriculture and fisheries. I thank Members for their concerns and would like to say something in response.

Some Members queried whether the services provided under the new structure were more cost-effective than those of the two Municipal Councils. In the Controlling Officer's Report of the Food and Environmental Hygiene Department (FEHD), we have set out our targets and indicators in detail. We have also, at Members' request, provided supplementary information as far as possible.

Within the short period of three months, we have undertaken to introduce change in the following areas:

- First, to consult the public on the broad direction for the labelling of genetically modified food within the next 12 months;
- Second, to shorten the time required for processing restaurant licences;
- Third, to complete a review of the open categorization scheme on restaurants, that is, the so-called "five-star restaurants"; and
- Fourth, to introduce an amendment bill in the next Legislative Session to authorize the FEHD to close unlicensed and unhygienic food premises so as to safeguard public health.

As regards the problem raised by Members concerning the cumbersome procedures that supermarkets have to go through to apply for various kinds of licences, the FEHD will consider simplifying the procedures in dealing with such cases. We hope to be able to introduce improvements in the not-too-distant future.

Among the various environmental hygiene services, it seems that Members were particularly concerned about the control of unlicensed hawkers. Some Members queried whether the Government should spend several hundred million dollars in controlling unlicensed hawkers. To my surprise, two of them were members of the Provisional Urban Council or the Provisional Regional Council up to the end of last year. They had participated in formulating hawker policy as well as approving the relevant expenditure of the two Municipal Services Departments. In fact, during last year's reorganization exercise, we had cut some 130 posts assisting the hawker control teams and are now redeploying the affected staff to other duties.

Illegal hawking is a long-term problem. I believe we all agree that an effective way to deter illegal hawking is through stringent enforcement actions and increasing patrol of hawker black spots. At a time when the unemployment rate is high, if we do not provide sufficient resources for the control of illegal hawking, the number of unlicensed hawkers will surge. Needless to say, this would adversely affect our living environment.

To ensure effective use of our resources, the FEHD has embarked on a review of the structure, operation and training of hawker control teams with a view to enhancing efficiency.

Turning to the question of environment. The very high air pollution index recorded last week aroused a great deal of concern among the community and Members of this Council. Our overall air quality is indeed unacceptable. As the officer responsible for environmental protection policy, I would very much like to wave a magic wand and cure Hong Kong of its pollution. But in the reality of environmental protection work, there is no magic wand. To eradicate air pollution problems, we must be prepared to shoulder the costs and to put a lot of hard work over time. There must also be active public participation in the formulation and implementation of policies.

At the moment, excessive particulate levels and rising nitrogen dioxide levels pose serious health threats. More than 70% of the particulate and nitrogen dioxide in the main urban area come from our vehicles. In addition, air emissions from the Pearl River Delta also account for some part of our smog and particulate problems.

In tackling cross-boundary air pollution, we must strengthen our co-operation with Guangdong in transport planning and environmental protection. The Joint Working Group on Environmental Protection and Sustainable Development under the Hong Kong/Guangdong Co-operation Joint Conference will study the cause of the problem and devise effective control strategies as soon as possible.

Our immediate task is to clean up our own act. The measures set out in last year's policy address aim to remove the threat to our health from particulate emissions. Our target is to reduce vehicle particulate emission from the existing vehicle fleet by 60% by the end of 2003 and by 80% by the end of 2005.

To achieve this target, the following measures are being adopted:

- Converting the fleet of 18 000 diesel taxis to liquefied petroleum gas (LPG) and the 6 000 light bus fleet to LPG or electric vehicles;
- Requiring another 50 000 older light diesel vehicles to be fitted with particulate traps;
- Requiring 30 000 older heavy diesel vehicles to fit catalysts;
- Introducing tougher standards for new diesel vehicles and fuel; and
- Stepping up enforcement action against smoky vehicles and improving vehicle inspection programmes.

Let me briefly set out the progress we have made on these measures:

- To ensure the smooth implementation of the LPG taxi conversion scheme, we need to provide sufficient LPG filling facilities in convenient locations. We must also make appropriate arrangements for the trades. We will brief Members shortly on details of the conversion scheme at a joint meeting of the Transport and Environmental Affairs Panels. We will also seek the necessary funding from the Finance Committee within this Legislative Session so that we can implement the conversion scheme by the end of this year.

- The trial of LPG and electric light buses will start in June and be completed by the end of the year when we will decide on the timetable of the conversion programmes for minibuses to switch to LPG or other cleaner fuels.
- The particulate trap trials have been completed. We will seek funding from the Finance Committee later this Session to start implementation within this year.
- The catalyst trails for heavy diesel vehicles are underway and should be completed by November this year. We will then seek funds for implementation. The franchised bus companies are already implementing fitting catalysts to older buses.

Substantial resources have been allocated for the implementation of the above measures. These include concessions on duty for auto-LPG that will result in \$700 million in revenue foregone every year once all taxis are running on LPG. The incentives for vehicle owners to switch to LPG form part of the provision of \$1.4 billion which has been set aside in this year's Budget. Furthermore, we have provided sites for the five dedicated LPG filling stations now under construction without land premium, thus foregoing additional public revenues.

In May this year, we will introduce advanced smoke test for heavy diesel vehicles. At the same time, we will extend more stringent emission checks to all commercial vehicles during their annual inspection programme.

Within this Legislative Session, we will introduce regulations to require more stringent diesel vehicle engine and fuel standards. At the same time, we will actively support other initiatives to develop clean fuel and technology. Citybus has already announced its electric trolley-bus trial. Kowloon Motor Bus and New World First Bus are working on introduction of Ultra Low Sulphur Diesel fuel. We also encourage trials for heavy vehicles using compressed natural gas and are looking into the feasibility of introducing hybrid vehicles and fuel-cell vehicles to Hong Kong.

In addition, I understand the Transport Department has introduced measures to reduce bus numbers on congested corridors, to truncate some routes and to smooth out stopping zones on Hong Kong Island. In addition, the

Customs and Excise Department has enhanced its attack against the use of illicit diesel. The Lands Department is looking into the cancellation of land licences and leases for sites persistently used for illegal fuel transfers.

Over the last few days, I have received many requests for early introduction of an increase in fixed penalty fine for smoky vehicles. Members may recall that last November we put a proposal to the Panels concerned to increase the penalty to \$1,000. Members then asked us to provide free diagnostic services and to delay implementing any increase in penalty to allow mechanics to be trained. Members also suggested that we enact legislation to require vehicle manufacturers to provide servicing information.

We have worked hard to address these requests. I have obtained the consent of the convenor of the Panel on Environmental Affairs to include a discussion of this issue at the Panel meeting this Friday.

I know that the community — and many Members of this Council, would like to see improvement in air quality happening faster. A Member also asked me pointedly when the people of Hong Kong would have clean air.

I cannot give a firm answer to this question, because of the following three reasons:

- First, the issue does not rest on the actions alone — I describe above alone. It is also dependent on whether vehicle numbers and usage will increase substantially — a question closely linked to economic growth and road construction programmes here and in the region.
- Second, we must ensure that we take of the right decision on clean alternative fuel. Any conversion programme will require substantial investment from the transport sector. They will pay a big price if we rush into a wrong decision. Furthermore, clean alternatives to diesel for heavy vehicles are not widely available. Even when they are, implementation requires supporting measures and these take time;
- Third, the prognosis for the future will also be affected by how quickly neighbouring cities can deal with their own air pollution problems.

I do not put these reasons forward as an excuse or to shirk my responsibility. I merely wish to explain the complexity of the issue. I agree with some Members that to solve our problems completely, we need to address related issues, such as:

- whether we should adopt stringent fiscal measures to restrain vehicle growth, for example, by increasing first registration tax and licence fees for vehicles, or even introducing electronic road pricing?
- whether we need to review our transport policy, including our road building programme? and
- how we can alleviate problems of air quality caused by the increase in cross-boundary traffic as the cross-boundary transport infrastructure is enhanced.

These problems have far-reaching consequences on our economic development and our way of life. They involve hard choices and should therefore be extensively discussed and debated in the community so that we can reach a consensus on which public policy can be built.

Before the various improvement measures have an effect, we will continue to experience high Air Pollution Indices (APIs) on certain days of the year. What can we do in the short term during such episodes? Ideas that have been put forward include: banning certain categories of vehicles from most polluted streets; restricting loading and unloading activities to night-time; and enacting legislation against idling engines.

These measures even if enforced only when the pollution is very high may be unpalatable to some members of the public and will evoke strong reaction from the transport sector. We therefore wish to listen to the views of the public and Members of this Council before we take these suggestions forward.

Madam President, as we grapple with air pollution, we must also face up to other equally pressing environmental issues. We cannot continue to avoid financial measures based upon the "polluter pays" principle to arrest the increase in waste and to sustain the maintenance of a costly sewerage system. Unless our community work together to address the problems which are threatening our



living environment, our social and economic development would be stunted and our hopes of making Hong Kong a world-class city would be in vain.

Madam President, we have done a lot of talking about the state of our environment in the past few years. It is time for us to put our words into action and work together in tackling these problems. Thank you.

**SECRETARY FOR HEALTH AND WELFARE:** Madam President, I wish to thank Members for their interest and support for the provisions for health and welfare services required to achieve our policy objectives and targets. And I would like to take this opportunity to respond to some of the comments made by Members.

On the health side, good progress has been made in expanding and improving the provision of health care services over the years. Recalling the past, when the Hospital Authority (HA) was first established, our total recurrent expenditure for health services was \$12.3 billion accounting for 13.5% of the total recurrent public expenditure. Our investment in the health sector has since been growing steadily. The provision of \$30.8 billion that we propose for health services for 2000-01 will account for 14.7% of the total recurrent public expenditure.

Over the years, we have developed an enviable health care system that provides accessible, affordable and quality medical care to the citizens of Hong Kong. That said, I do agree with Members that our current system is under considerable stress. Some Members are concerned about the increasing pressure on public hospitals and front-line staff. I share this concern, too, but I must caution that the problems cannot be resolved merely by pouring in additional public resources, which are finite, without addressing the more fundamental aspects of the organization of the health care system and its funding. We also need to encourage individuals to take responsibility for their own health, maintain a healthy lifestyle, and make early plans for their future health care needs. Maintaining good health is a lifelong investment, which helps all of us better enjoy life in old age and relieve the burden on our future generations.

Members are aware that we are preparing a public consultation document which will set out our directions for reform to our health care system. I would like to emphasize that our proposals are related not only to financing. The

scope of our deliberations will be comprehensive and the proposals we put forward seek to address all the key aspects, including preventive and primary care, service reorganization, development of Chinese medicine, quality assurance and financing options. I look forward to a constructive and in-depth discussion with Members of this Council in the months to come on our consultation document.

Turning to the welfare side, I would like to stress that despite financial constraints, we are still fully committed to ensuring that people in need, particularly the elderly and the disadvantaged are provided with the necessary care and support. The provision that we propose for welfare services for 2000-01 will account for 14.2% of the total recurrent public expenditure, which is close to an 80% growth comparing to the 7.8% 10 years ago. Of the \$29.8 billion that we budget for next year, \$8.8 billion will be used for providing direct services, which is an increase of approximately 9.7% over the current year. This is a very notable growth in the context of our financial constraints.

Honourable Members also made reference to the needs of the ageing population in Hong Kong. With a life expectancy of 77.2 years for men and 82.6 years for women, 10.7% of our population are now over the age of 65.

I agree with Members that the long-term care needs of our population have been constantly rising as our population aged. Accordingly, provision of subsidized long-term care services has been rising rapidly throughout the 1990s, an example of which is the provision of care-and-attention (C&A) and nursing home beds. In 1991-92, a total of 2 948 C&A beds were provided. At present, the combined supply of C&A and nursing home beds is more than 12 884, including 2 492 beds purchased from the private sector.

Public expenditure on direct welfare services for the elderly has registered phenomenal growth in the past decade, rising from \$410 million in 1991-92 to an estimated \$2.7 billion this financial year. This is an approximate 560% growth over a 10-year period.

Our recent experience is similar to that in many communities facing a rapidly ageing population. Demand for long-term care services outpaces supply, even though considerable amount of public resources are committed to service expansion. Other than continuing to provide additional services, we have three major tasks to tackle in relation to our system of long-term care for the elderly.

First, we have to ensure that the services are taken up by elderly people genuinely in need of long-term residential care. We are putting in place an enhanced gatekeeping mechanism by this summer. Care needs of elderly people will be assessed by an objective tool and will be matched with the appropriate care to be provided.

Second, we should ensure that our long-term care services are provided in a cost-effective manner. To enable more of the frail elderly an option of ageing in their own homes, we have commenced re-engineering our home help and home care services, and are re-examining the modes of operation of our various community care services. In parallel, we have also initiated strategies to increase the supply of residential care beds in the most cost-effective manner.

Third, we should examine how all these services should be financed. At present, direct welfare services for the elderly, including some long-term care services in the private sector, are heavily subsidized. Financing is derived mainly from general tax revenue. International experience has clearly demonstrated that this will not be financially viable in the long term, particularly when the population continues to age. This is a subject which was raised for discussion in the Harvard Report on health care reform and which we need to consider and will be discussing with the community on the future financing option.

Before turning to other policy areas, I would also like to state what may be obvious, but is often overlooked because of misconceived stereotypes of the elderly. Elderly people are not all consumers of expensive long-term care services, most elderly people in Hong Kong enjoy good health. The great majority are able to care for themselves, and in many families, they help to look after other members, such as grand children, or their elderly spouse. Research has shown that by maintaining a healthy lifestyle and staying active, many elderly people can continue to live healthily and independently and contribute to society. Our current generation of individuals aged over 65 are healthier than the previous generation. The next generation will be even more healthy. Older persons are an asset both to their families and to the community at large, and not a burden. The Director of Health will work closely with the community in promoting the concept of healthy ageing.

A number of Honourable Members have spoken about the subvention reforms focusing primarily on the lump sum grant package. The existing subvention system has long been criticized as inflexible, complex and bureaucratic. Under this system, there is tight control on "inputs" of resources, but little control on "outputs", "outcomes" or "results" of services, with no incentive for effective use of resources and to reassess the evolving social needs of the community. It is widely recognized that reform is required. It is certainly not one of the objectives of the reform to reduce the level of funding for welfare sector. The objectives of the proposed reforms are firstly, to introduce a funding system which allows the Government to link funding to our policy objectives and to enable welfare services to respond more quickly to changing social needs. Secondly, to provide for the most cost-effective use of finite resources. Thirdly, to give flexibility and responsibility to non-governmental organizations (NGOs) to manage and to be accountable for their resources, thereby encouraging greater innovation and more effective service delivery. As a result, a less bureaucratic system will emerge which will, in turn, allow the welfare sector to focus on the quality of services provided to clients, which is our prime concern. Fourthly, to more clearly define the different roles and responsibilities of both the Government and the NGO sector. And finally, to introduce an improved planning process which will regularly review each major programme area so as to ensure that the evolving needs of different sectors of our community are continued to be met.

We are not, as has been alleged by some, rushing ahead with the subvention reforms. Quite the contrary, the reforms are long overdue and are desperately needed. The review of the current subvention system started way back in 1994. Since then, we have consulted the welfare sector on a number of proposals culminating in the present package. The sector's views have been taken into account and the proposals have been modified.

In this current exercise, we have taken into account feedback collected from the welfare sector on the proposed lump sum grant package obtained during our preliminary round of consultations which took place between November 1999 and January 2000. After announcing the proposed package on 10 February 2000, we have consulted the sector widely. So far, we have met with over 80 NGOs, and exchanged views with the relevant advisory bodies including the Social Welfare Advisory Committee, the Subvention and Lotteries Fund

Advisory Committee, the Elderly Commission, the Rehabilitation Advisory Committee, other concerned groups, staff associations and consumer groups. In fact, the present package represents further improvement on that proposed by the sector through the Hong Kong Council of Social Service last year.

As a direct result of these extensive consultations, we intend to introduce a "tide-over grant" to ensure that NGOs have adequate funds to meet their contractual commitments to their existing staff over the next three years. The purpose of this grant is to give NGOs sufficient time to adjust to the new funding system and where necessary, to re-engineer their operations.

We are aware of the anxiety of some NGOs in facing the changes brought about by the lump sum grant and, in particular, the adequacy of the funding to enable them meet their contractual obligation to existing staff, and the arrangements and details of the tide-over grant. We are aware that a few NGOs, without waiting for information on the proposals of the tide-over grant, have pre-emptively proceeded to re-negotiate the employment packages of staff. We are asking all NGOs, their boards, management and staff to adopt a positive and prudent attitude in facing these changes. In particular, we have written to NGOs to urge them to consult and involve their staff in managing the re-engineering initiatives in a gradual and structured manner, and not to resort to unwarranted measures which adversely affect staff morale.

We are also aware of the requirement for better management capabilities in the sector. The Government will be working with the sector to identify practical ways in which to assist NGOs to deal with the new environment, particularly in terms of human resources, financial management and information technology. In this regard, we have commissioned consultants to map out detailed plans to help the sector manage the changes in the coming months ahead. In the short term, we intend to arrange a series of practical seminars and workshops on these issues so as to equip NGOs to start to manage the changed process. The idea of setting up a common support centre to provide tailor-made advice and assistance to individual organizations will be explored.

The Government has already obtained much useful feedback from the sector in recent weeks. The views and concerns will be carefully considered in the weeks ahead prior to the implementation of the reforms.

We do not, for one moment, underestimate the complexity and enormity of the proposed reforms as well as the impact and anxiety which it has generated on the welfare sector. We will be working in close partnership with the welfare sector to address the concerns and to effect the changes. In the final analysis, we need to continue to work together to ensure that the current day needs of the community are met in the most cost-effective manner and that the interests of our clients remain of paramount importance. The quality of service provided remains our prime focus and we are convinced that the subvention reforms, with their emphases on developing a new planning mechanism and accountability mechanism for results or outcomes and outputs, will ensure that the changing needs of our community for welfare services are met and accounted for in a cost-effective manner. The subvention reforms are badly needed and will ultimately lead to further improvements in welfare services which will benefit those whom we seek to serve.

Thank you, Madam President.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, first of all, may I take this opportunity to thank Members for their concern for and valuable views on education and employment. I would like to talk about education first.

In the Budget announced a short while ago, the Financial Secretary reaffirmed that education was an area to which the Government of the Hong Kong Special Administrative Region (SAR) attached the greatest importance. In the past few years, the growth in the appropriation for education has far exceeded the average growth of public expenditure. In the 1996-97 financial year, the total expenditure on education accounted for 2.99% of our Gross Domestic Product. This was increased to 3.8% in 1999-2000. A further increase to 4.15% is expected in the 2000-01 financial year, and this has already exceeded that of Singapore, which stood at 3.6% in 1998, and is only slightly lower than that of Japan, which stood at 4.9% in recent years. The Government's current total expenditure on education represents 22.3% of the total government expenditure, a proportion larger than those of many developed countries, such as the United States (14.4%), the United Kingdom (12.4%), Australia (11.5%), Japan (16.7%) and Singapore (20.52%).

In the Budget, it is proposed that in the coming year, we will, among other things, spend \$140 million to improve the School Textbook Assistance Scheme and the Student Travel Subsidy Scheme to help needy students, and set aside \$800 million for an early start on education reform recommendations that warrant priority implementation. Apart from recurrent provision, the Quality Education Fund will continue to provide additional resources for schools. It is estimated that \$500 million will be granted this year to support school-based education projects.

The Education Commission (EC) will soon embark on the third stage of consultation on education reform proposals. As rightly pointed out by the Honourable SZETO Wah, education reform should be a gradual process building on the solid foundation of the existing system, and while encouraging active participation of teachers, measures must be taken to ease their workload. We cannot agree with Mr SZETO more. Many Members also pointed out that tertiary education is already taking up one third of the total expenditure for education, and therefore, in considering the allocation of new resources for education, emphasis should be put on basic education and measures which can genuinely enhance the effectiveness of teaching and learning. We also concur with such a view. Education is an important undertaking of society as a whole. The Government and the entire community should make collective efforts to foot the education bill. I wish to point out that in many countries such as the United States, Korea, Japan, and so on, resources from outside the government often make up a large proportion of the total expenditure on education. Whereas in Hong Kong, it is still the Government who pays for the lion's share of the education expenses. I look forward to more comprehensive and extensive discussions on this subject among members of the public when the EC releases its consultation document in May.

Next, I would like to briefly respond to and report on a number of education issues. We have always attached great importance to the maintenance of a favourable learning environment in schools. In the past five years, we have spent a total of \$4.4 billion on the School Improvement Programme (SIP). Up to now, improvement works in about 300 existing schools have been completed and works in 80 other schools are in progress. In view of the staggering increase in the cost of school improvement works in recent years, we consider it necessary to review the steps and procedures of the SIP to enhance cost-

effectiveness and ensure proper utilization of public funds. To this end, we have commissioned a consultancy review and a report is expected to be ready by the end of this month. Meanwhile, improvement works on schools covered in Phases 1 to 3 which are already underway will proceed as scheduled. Of the 156 schools in Phases 2A and 4, improvement works for 47 schools will commence shortly. Some Members are concerned that works for the remaining 109 schools in Phases 2A and 4 will be shelved with no hope of seeing daylight again. We would like to assure Members that upon completion of the consultancy review, we will follow up on the recommendations to improve the cost-effectiveness of the SIP as soon as we can, and we will see to it that additional resources are allocated in the current financial year to enable projects which are cost-effective to proceed at an early date. We will also discuss with the schools concerned and deploy resources of the current financial year as far as possible for them to carry out urgent and minor improvement works first. In the event that major or urgent maintenance works are necessary for a school, we still can provide funding for works to be carried out immediately. Members, school heads and parents can rest assured that the consultancy review will not in any way undermine the safety of schools and the implementation of any maintenance works.

A five-year strategy on information technology (IT) in education was published in November 1998 in a bid to enhance the effectiveness of teaching and learning by harnessing the powers of IT. For this purpose, we have earmarked huge resources for implementing various initiatives. More than one year has since elapsed and I am pleased to see that the IT culture has started to take root in schools. To further promote IT in education, we plan to set up an education-specific intranet by the end of this year, which will serve as an on-line education resource exchange centre for all local schools. Our idea is to upload the education software developed by the Education Department (ED) onto the website for use by teachers. On the other hand, we also encourage teachers to disseminate the teaching materials they produced among teachers through the intranet. Publishers and software vendors can also supply software through the intranet for teachers and parents to purchase. The ED will closely monitor the contents of the intranet so as to safeguard students from being contaminated by indecent information materials. In addition, the intranet can also provide a convenient and effective channel of communication between students and teachers and among teachers themselves.



In response to Members' concern over the cost-effectiveness and quality of tertiary education, I would like to put forward the following three points. In the past decade or so, research grants provided by the Government to tertiary institutions has increased four times to the existing amount of over \$400 million a year, with an average increase of 30% recorded in the first five years. This investment has begun to bear fruit since about two years ago. Up to now 300 patents have been registered by the institutions, some of which were taken out by students. The institutions have set up over 50 research and development companies as well as more than 60 spin-off companies. We expect the number of these companies to multiply in the next few years. Last year, we granted \$126 million to support, over the next five years, three "Areas of Excellence" projects on IT, business and economic strategy as well as plant and fungal biotechnology respectively. We believe that these researches have the potential of attaining recognized international standard of excellence and will facilitate the economic development of Hong Kong towards advanced technology and high value-addedness. We understand that in recent years, many people are concerned about the quality of our university students. To have a better grasp of information on this, we have commissioned a consultant to carry out a survey on the opinions of employers on major aspects of performance of local first degree graduates. The survey, which is expected to be completed in April to May this year, will provide a comprehensive and objective assessment of the quality of local graduates at work. As a matter of fact, we are not lacking in outstanding talents among our university students. In the past two years, more than 300 local students were awarded international prizes. Furthermore, the University Grants Committee and the tertiary institutions will further strengthen the quality assurance mechanism, enhance the language abilities of our students, as well as upgrade the quality of teaching and scientific researches.

We are of the view that our education system should allow more participation from private bodies and we have been actively promoting the development of private schools since 1999. The development of private tertiary institutions, in our opinion, is also essential in the diversification of our tertiary education system and widen the choices of students. In this connection, the Government will provide \$4.6 million for the Hong Kong Shue Yan College (HKSYP) for it to commission validation exercises for four proposed degree programmes. The validation, if satisfactorily completed, will pave the way for the HKSYP to become a degree-awarding institution and eventually a private university.

I would like to take this opportunity to clarify some press reports on adult education recently. The Government's overall provision for the 2000-01 financial year for adult education, which also covers evening school courses run by the ED, exceeds \$81 million. This is larger than the actual expenditure in the past few years. Just as all other public expenditure, the Government has to ensure that its subventions to non-government institutions for adult education is well spent and in a cost-effective manner. In spite of our stringent scrutiny, the success rate of organizations applying for funds to organize courses in recent years is close to 80% and the number of courses receiving government subsidies has also increased.

On manpower policy, we propose to earmark an additional recurrent provision of \$300 million in the coming year for the launching of seven new initiatives to ease unemployment and encourage lifelong learning through a three-pronged approach by helping people find jobs, strengthening training and retraining and encouraging continuing education. The total recurrent expenditure on the programme area of employment in the next year will amount to \$1.6 billion, representing an increase of 18% over the past year. I have already briefed Members in detail on these seven new initiatives at the relevant Special Finance Committee meeting and meeting of the Panel on Manpower.

Now I would like to focus on an issue which is the centre of concern of many Members and that is, the employment and training prospect of low-skilled workers aged over 40 with only junior secondary education or below in the face of economic restructuring. I totally agree that as the economy becomes increasingly knowledge-based, our greatest challenge in the area of employment is how to help low-skilled workers aged over 40 with only junior secondary education or below to pursue "value-addedness" so as to enhance their employability. Although the short-term employment prospects of these elementary workers will improve as a result of our economic recovery, we have not relaxed our efforts in providing active employment assistance and training for them. Between January 1999 and February 2000, of the job-seekers who successfully found jobs through direct assistance from the Local Employment Service of the Labour Department, 11 681 were aged over 40. In other words, out of every three successful job-seekers, one belonged to this age group. As providing training for elementary workers is one of the Government's priority items, the Employees Retraining Board (ERB) was set up in 1992. The amount of grants provided by the Government to the ERB has been increasing. From April last year to the end of January this year, more than 36 800 retrainees of the

ERB were aged over 40, accounting for 55.7% of total retrainees during the period. The placement rate for retrainees aged over 40 graduating from full-time courses was as high as 74%. Many Members are concerned about the financial situation of the ERB. I would like to emphasize that the ERB has sufficient resources for all its activities this year. In fact, as at end of March this year, the balance of the Employees Retraining Fund is about \$542 million. In the ERB's estimates for 2000-01, the total expenditure is over \$410 million, representing an increase of 7.8% over the actual expenditure of last year. It is estimated that the total number of retraining places and the number of places in full-time courses designed for the unemployed in the coming year will increase by 5.6% and 16.3% to 100 000 and 50 400 respectively over last year. I can give Members my pledge that the Government will conduct a review of the long-term financial arrangements of the Employees Retraining Fund within this year.

Some Members criticized that the Budget has not taken into account the needs of older elementary workers. In actual fact, the measures to promote employment and encourage continuing education as announced in the Budget will not only benefit young school leavers, but the older elementary workers as well. For example, out of the 300 trainees in the pilot IT Assistant Course recently launched, more than one fourth are over 30. Similarly, the "Project Springboard" is not only designed for Secondary Five school leavers, adult learners can also participate and receive continuing education. Programmes under the project will be mainly skill-based, with emphasis on biliteracy and trilingualism, IT as well as certain practical subjects, with a view to preparing students for employment and further education in future. There will be full-time and part-time evening courses under the project to meet the needs of different people. Further extension of the Non-means Tested Loan Scheme will also help ensure that all adults aspiring to learn will not be deprived of the chance to pursue further education for lack of financial means.

As our economy is becoming more and more information-based, we are fully aware that it will be more and more difficult for the older elementary workers to find work in the next five to 10 years. In order to formulate medium-to-long-term strategy to enhance the employability of older workers, we have commissioned the Hong Kong Institute of Economic and Business Strategy of the University of Hong Kong to carry out a special study. It will include an analysis of the employment prospect in the labour market for the older workers and interviews with employer groups and trade associations, with a view to collecting their views on the training and retraining needs of these workers. It

is expected that the study will be completed by August this year. The results will be used to formulate strategies of training and retraining for these older workers in the longer term.

While Mr SIN Chung-kai is not here today, I do not agree with his criticism that the Education and Manpower Bureau is slow in responding to IT training. He will recall that a working group was set up immediately after our meeting with him and other representatives from the IT sector last October. With the active participation of the sector and the training institutions, we designed a brand new IT assistant training programme within two months' time. This programme will equip the trainees with the basic IT skills to enable them to work as junior IT assistant. The first three classes of the pilot course have commenced in February. As the response to the programme has been encouraging, we have already earmarked more resources to increase the number of training places from the original 170 to 300, to regularize the training course and to provide at least 1 000 training places each year in the next two years to train up more junior IT assistants to meet the needs of the market. We are also actively studying the feasibility of web-based delivery of the course so that the private sector can participate and that more people can benefit from it. We will closely monitor the placement rate of the pilot course trainees and will provide more resources to further expand the course if there is such a need in the market.

Rapid development in IT has resulted in a shortage of IT manpower supply. This is a universal phenomenon. Even in the Silicon Valley of the United States, one third of its IT personnel had to be imported from other countries. We stand ready to consider any innovative and practicable IT manpower training programme which the Mr SIN Chung-kai and other Members may propose. Over the past few years, we have been encouraging employers to place emphases on occupational safety and health and extensively promoting the self-regulatory concept through legislation. Since 1996, the Labour Department has greatly increased its manpower resources to strengthen enforcement actions. Our legislative and enforcement endeavours have now begun to take effect. There was a discernable drop in the number of accidents at work for all sectors in 1999 over the previous year. The total number of workplace accidents dropped by 16% from 63 526 to 53 263. Improvements in occupational safety was particularly evident in the construction industry, with the number of accidents dropping by 36% and the accident rate, 17%. Of course, we will not be complacent about this. Quite on the contrary, we will strive harder in the coming year to strengthen legislative and enforcement actions.

I believe that my foregoing presentation on education and manpower has clearly explained the SAR Government's commitment to these two major policy areas. Though facing a deficit Budget, we still propose additional resources for the implementation of a series of new initiatives in order to train up the necessary manpower to meet the needs of Hong Kong's social and economic developments. I trust that Members will give their full support to the measures as well as the funding proposals. Thank you, Madam President.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, we are greatly encouraged to see the support given by Honourable Members for the proposal to reorganize the trade and industry departments. Through the reorganization of the institutional framework and the investment of more resources, we will be able to promote innovation and technology, attract inward investment and improve various services for the industrial and commercial sectors. I wish to emphasize that the mission of the new Innovation and Technology Commission is to serve both the conventional and emerging industries, including the small and medium enterprises (SMEs) in all trades and sectors. The Commission will also give support to encourage them to continuously pursue innovations and make good use of new technology. As for the new Trade and Industry Department, it will provide more efficient one-stop services to conventional industries and SMEs, assist them in exploring business opportunities and meeting new challenges.

We are presently making plans for the financial and staffing arrangements for the reorganization of the institutional framework. We will also give serious consideration to the views put forward by Honourable Members. We hope that the relevant proposals can be submitted to the Finance Committee and Establishment Committee of the Legislative Council for deliberation as soon as possible.

Quite a number of Honourable Members stressed in the debate the importance of giving support to the SMEs. Doubtless the SMEs are an important linchpin of our economy. I would like to take this opportunity to reiterate our commitment to giving support to the SMEs. Our overall policy of support aims at creating a business-friendly environment. This includes maintaining a low and simple tax regime, upgrading our infrastructure, enhancing manpower training and minimizing obstacles faced by our enterprises in entering foreign markets, and so on.

In addition, through the trade and industry departments and non-government organizations like the Hong Kong Trade Development Council (TDC), the Hong Kong Productivity Council, we help SMEs meet the challenges in different business areas. To this end, the Industry Department has set up a Small and Medium Enterprises Office to step up co-ordination for the relevant activities. The Office launched a Small and Medium Enterprises Support Scheme at the end of last year to systematically list out various support measures to SMEs in all areas.

We have the support of the Small and Medium Enterprises Committee in the form of the valuable advice they give. We will continue to co-operate with the Committee and study into the issue of providing support to the development of SMEs.

Madam President, we are committed to providing support to the SMEs. At times of special needs and under specific circumstances, we will take special measures. One such example is the setting up of the Special Finance Scheme for Small and Medium Enterprises. The Scheme is one of the special measures taken to alleviate the SME cash flow problems because of the credit squeeze caused by the Asian financial turmoil of 1998. Since the launch of the Scheme, an accumulated loan guarantee of more than \$5.5 billion has been committed to facilitate SMEs in securing loans amounting to nearly \$8.8 billion. All funding of the Scheme has been fully committed in March 2000. As the Scheme has been in operation for quite some time and that the loan guarantees have been fully committed, we have undertaken a review of the continuity of the Scheme and I wish to announce the results here.

In 1999, there was a marked turn in our economy for the better. Growth in real terms for the year was 2.9% and growth for the fourth quarter was even more than 8%. Besides, growth in real terms in consumption for the past year was 1.1%, which was a change from the drop of 6.7% in 1998. Growth for this year is expected to rise sharply. Our Gross Domestic Product will register a growth of 5% in real terms while consumption will rise by 2.5%. With the economy and consumption turning for the better, the business sentiments and confidence will gradually improve, conducive to the operation and cash flow of the SMEs. There are signs that the banking sector has ample liquidity and more and more local banks and credit institutions have found the tremendous potentials in the credit market for SMEs. Hence, there are active lending activities. Some of these institutions have launched loan schemes targeted at the SMEs. All these are beneficial to the development of the financing capacity of the SMEs.

We have explained many times in this Council and to the public that when there are clear signs that the economy is recovering, there will not be any grounds for operating this Scheme and it should be terminated. With the distinct improvement of the Hong Kong economy, the Scheme has accomplished its objective of providing short-term relief to the SMEs. Therefore, after careful study, we have decided to cease accepting new applications for the Scheme with effect from 8 April, and those applications on the waiting list will be processed on a first-come-first-served basis as and when recycled funds are available. We would continue to honour our obligations for all existing guarantees under the Scheme.

I would like to stress that when we decide to terminate the Special Finance Scheme, we are in no way reducing our financial commitment to the SMEs. Therefore, we have decided that the amount of \$2.5 billion, less the expenses incurred for Scheme operation, will continue to serve as a special fund for efforts supporting the SMEs.

Although the Special Finance Scheme has come to a close, we understand the difficulties faced by the banks and SMEs when processing and applying for loans. We have looked at the matter from an economic perspective and studied into the setting up of a long-term general finance scheme for SMEs. Our findings are negative because the number of companies involved would be huge and that the implementation of a long-term and general financing scheme would not be workable and effective. This also contravenes with the principles of a free market and financial prudence which we have always upheld. It may also easily lead to a mentality on the part of the SMEs to rely on outside support, thus undermining the vitality and aggressiveness of the enterprises in the private sector. We think that the financing problem of the SMEs should be solved by means of long-term measures like the changing of the business culture of the banks and the SMEs. In this regard, we will implement a series of key measures.

With regard to banks, the Hong Kong Monetary Authority (HKMA) will continue to encourage banks to take into account the business prospects and repayment ability of clients, rather than the value of their collateral alone. The HKMA will look into the possibility of setting up a credit register. This will help give SMEs greater transparency and enhance the ability of the banks to assess the financial capacity of loan applicants. Besides, the Government will continue to reform and liberalize the financial markets in order to raise the

competitiveness of the banks and increase their capacities in risk management and credit assessment. These measures are expected to bring about a gradual improvement to the banking culture in making loans to SMEs.

In respect of the SMEs, the Government will continue to co-operate with the relevant organizations to cultivate a professional management culture among SMEs. We will set up a pilot counselling scheme for SMEs. Free counselling services will be given by experienced entrepreneurs to the operators of SMEs to help them better grasp the secrets of business management.

Moreover, we have set up a Small Entrepreneur Research Assistance Programme under the \$5 billion Innovation and Technology Fund to provide financial assistance to enterprises with sound research concepts to carry out commercial research and development. The Programme has been well received since applications for assistance are accepted. We believe that the Programme and the Applied Research Fund which provide venture capital to enterprises will help SMEs seize the opportunities brought about by innovation and technology.

In the debate, some Honourable Members mentioned the point that the Government should pay more attention to the maintaining of a level playing field for business. Some Honourable Members think that the Government should formulate comprehensive policies and legislate on fair competition. We fully endorse the idea that there should be a level playing field for business, for that is the foundation of our economic growth. It is also most conducive to the enterprising spirit of our businessmen. Therefore, we will promote competition with unreserved efforts.

Over the past two or three years, our specific work in this area includes the formulation of a Statement on Competition Policy, and the establishment of the Competition Policy Advisory Group (COMPAG) chaired by the Financial Secretary to review competition-related issues which have substantial policy or systemic implications. Various Policy Bureaux and departments have also promoted and monitored work in competition. Many new initiatives were launched during the past couple of years. Some of these have been reported in a COMPAG Report published in 1999. Another report will be published very soon.



As to whether we should legislate on competition, we think that this should be considered from the perspective of the overall business environment. Hong Kong is a small export-led economic system with a simple regulatory regime. Competition in most of the sectors is well-developed. Hong Kong is regarded as one of the most liberal economic systems in the world. We think that there is no need to legislate on some comprehensive laws on competition. Instead, it would better suit the needs of Hong Kong to adopt measures specific to individual sectors.

We shall keep a close watch of the competition situation in Hong Kong as a whole and on competition in individual sectors. I would like to emphasize here that we will adopt measures appropriate to the promotion of competition when the need arises.

Many Honourable Members mentioned in their speeches the effect of China's accession to the World Trade Organization (WTO) on Hong Kong. The event would offer both opportunities as well as challenges to the Hong Kong Special Administrative Region (SAR). That is an indisputable fact. We agree that there is a need for the SAR to prepare itself beforehand to meet the challenges and seize the opportunities. We have taken active steps on these.

The inter-departmental group headed by the Financial Secretary has been watching closely the latest developments in the talks on China's accession to the WTO with a view to assessing the impact on Hong Kong. We will also keep in close contact with the major chambers of commerce, professional bodies and other parties. In a nutshell, with the further liberalization of the mainland market and our close economic ties with the Mainland, plus our excellent competitive edges and adaptability, there will be greater growth in our economic co-operations with the Mainland. There should be great room for growth on the basis of our complementary relationship with the Mainland.

Our economist has made an assessment of the situation and it has been estimated that with China's accession to the WTO, our export together with that of the Mainland will increase by 1.3% in 2010 when compared with the present. Our Gross Domestic Product will rise by 0.5%.

The services sector is one of our strengths. Apart from being the link between mainland and overseas enterprises, we hope that with the opening up of the market for the services sector in the Mainland, this can be upgraded into a

direct provision of all kinds of important support and professional services to the Mainland. We hope that we can become a hub of high value-added services. Market potentials are great in areas such as finance, insurance, telecommunications and retail business. We have an established edge in these areas. The combination of these two factors can produce a great driving force for economic growth.

Some Honourable Members have suggested increasing the number of standing organizations in the Mainland to strengthen trade ties and to enhance the promotion of professional services we can offer. On the first point, the Office of the SAR Government in Beijing, the Trade Department and the TDC have maintained close ties with the various departments in the Mainland and they will strive to disseminate the latest information on trade and economic laws, administrative measures, and so on to our businessmen. The 10 TDC offices in the Mainland have also formed a closely-knit network to provide a wide range of services to our businessmen. In view of the importance of the western part of China as a key area of future development, the TDC is actively considering the setting up of an office in Xian.

Last November, a Joint Commission on Commerce and Trade was established between the Trade and Industry Bureau of the SAR and the Ministry of Foreign Trade and Economic Co-operation of the Central Government. The Commission has served to activate high-level liaison between the Central Government and the SAR. It has enabled officials in charge of commerce and trade to exchange views on issues of common concern on a regular basis. We hope to strengthen our ties with the Mainland through such a channel and to provide a better business environment to our businessmen operating in the Mainland. Therefore, we think that for the time being, there is no need to set up more standing offices on trade and commerce in the various provinces and cities in China. However, we will keep a close watch of the developments in this regard.

I wish to emphasize again that apart from trade in commodities, the TDC also attaches great importance to the promotion of services. This includes the various professional services mentioned by many Honourable Members. As a matter of fact, since the TDC started services promotion four years ago, the promotion of professional services has been one of its key tasks. Since the sector embraces a wide range of services, the TDC has especially set up a Professional Services Advisory Committee to offer advice on professional

services and their promotion. Members of the Group include representatives from legal, accounting, engineering, real estate, management, consultancy, construction, marketing, design, surveying and arbitration fields. Demand for professional services in the Mainland has been very keen. Over the past four years, the TDC has held many trade fairs and seminars in the Mainland to promote our professional services and explore opportunities in commercial co-operation. The TDC has also published reports on special topics on the demand in the Mainland with the liberalization of the market for the services sector. These are aimed at making the professional sectors in Hong Kong more aware of the potentials in the mainland market.

The TDC has recently set up a special team to address the opportunities offered by China's accession to the WTO. The team will devise strategies to enable sectors with a leading edge to develop their markets in the Mainland.

Lastly, I would like to point out that China's accession to the WTO will not affect our status as an independent member in the WTO. In accordance with the power vested by the Basic Law, the SAR will continue to participate in the activities of the WTO under the name of China Hong Kong after the reunification. When China is admitted to the WTO, both China and China Hong Kong will become two individual members of the organization with both parties granting rights and preferential treatment to each other. Under the terms of most-favoured nation clauses, they will be required to give the same kind of rights and preferential treatment to each other as those received by other member states of the WTO. The SAR Government will strive to take part in the economic development of China while observing the stipulations of international trade agreements.

Thank you, Madam President.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, a number of Members have spoken on the state of our private buildings and put forward valuable ideas on how to improve the present state of affairs. I would like today to speak on this very important topic.

The Victoria Harbour and modern commercial buildings regularly feature in posters promoting Hong Kong. However, the conditions of buildings in the older districts give a totally different picture. Of some 50 000 buildings on the

face of our city, many once properly-designed have fallen into disrepair. Tens of thousands of unauthorized structures sit precariously upon poorly-managed buildings. Illegal building works block means of escape. Dilapidated advertisement signboards hang uneasily over our heads. The situation is really worrying.

Why is there a problem? Firstly, for too long, buildings generally lack good management and proper maintenance. Secondly, some property owners ignore the law, disregard risk to safety and proliferate illegal structures.

To tackle similar problems, the Government has established a task force to formulate a comprehensive strategy for building safety and preventive maintenance. This includes reviewing enforcement against unauthorized building works and formulating control of advertisement signs. The Government will consider all possible impetus and incentives to motivate and support those concerned to organize themselves for good management, timely maintenance and elimination of illegal structures. We are now considering measures to involve all responsible parties and professional bodies, and we shall be consulting widely. We envisage action being taken on a number of fronts. Today, I would like to outline our thoughts on this policy review.

First, for older — many pre-war — buildings, we have submitted the Urban Renewal Authority Bill and nine target areas have been identified for action. I urge Members to support the Bill and the Government's strategy for redevelopment, rehabilitation and conservation.

For existing buildings, we will give property owners our fullest support possible to help them improve building safety, management and maintenance. We will strengthen our advisory services to owners and mediate amongst them in case of disputes. In this connection, we aim to expand the scope of independent advice currently provided by quite a number of voluntary professional bodies through Building Management Resource Centres. We will issue a maintenance manual for guidance and we will review the ambit of loan funds for building safety. We will consider the need for legislation to promote timely, preventive maintenance and will also consider phasing in some kind of insurance requirements for maintaining common parts and exteriors of buildings.

For unauthorized building works and illegal rooftop structures, we will step up our firm enforcement and prosecution action overall. We will support property owners to eliminate illegal structures and guard against new illegal structures. We will also review legislation and penalties to strengthen the law against those constructing, selling and leasing unauthorized building works, in particular illegal rooftop structures. We are studying ways to ban conveyancing of illegal rooftop structures and to widen the scope for registering a charge against the land title where owners fail to remove illegal structures or to maintain their buildings.

For advertisement signboards, last year the Government put forward a scheme for registering their ownership for better control in the interest of public safety. We are formulating details of the scheme in the light of the outcome of previous consultation.

For new buildings, we take a total approach to integrate maintainability and good management throughout the entire life cycle of buildings. I have asked the Director of Lands and the Director of Buildings to look at lease conditions and building regulations to provide the best support and incentives for developers, professionals and contractors to design and construct quality buildings, to use safe, durable and maintainable materials, to contribute to a maintenance fund, and to lengthen the warranty period for latent defects. We will also re-examine guidelines on deed of mutual covenant to focus on property owners' responsibilities for building management and maintenance.

Finally, the Government also needs to improve. To enhance efficiency and effectiveness, the Buildings Department is conducting a series of review. These include revising procedures to cut red tape and to promote speedier and more effective services for property owners and building professionals. Staff of the Buildings Department will regularly review aerial photographs for early identification of illegal rooftop structures. They will also examine the feasibility of digitizing building plans to facilitate easier reference by owners and professionals.

Madam President, the Government is determined to raise the quality of private buildings in Hong Kong. We will do our level best to enforce the law. However, the Government's efforts alone cannot solve such long-standing problems. Nor can we rely entirely on legislation, enforcement or increase in resources through this Council to mobilize property owners in maintaining their

own properties and not building illegal structures. Basically, building maintenance is the responsibility of property owners. Regular maintenance benefits owners and occupants alike and helps enhance the value of their properties. In the days to come, the Government, the Legislative Council, District Councils and professional bodies must take up together the challenge of helping property owners to face up to their own responsibilities. In the coming months, the Government will be consulting widely to gather views and to identify solutions. Through public education, we hope also to awaken amongst property owners a proper sense of responsibility. When we later conduct the consultation, my colleagues and I look forward to receiving support from Members and co-operation from our community. Thank you, Madam President.

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I would like to begin by thanking Members for their support for the Budget and their understanding of my reasons for taking certain actions while refraining from others.

Members of the public and this Council have given a warm welcome to the decision not to increase any tax rates or introduce any new taxes this year. But it was the Hong Kong community, not I, who made this decision possible. Were it not for our people's resilience and hard work, we would not have seen Gross Domestic Product (GDP) growth of 8.7% in the last quarter of 1999. Nor would the stock market have rallied so strongly in the second half of the year unless our economic prospects had given investors reasons for optimism. As a result of the surge in stock values, we gained a huge windfall from the investment earnings on our fiscal reserves. This shrunk our deficit to a fraction of the figure originally estimated and vastly relieved the immediate pressure to increase existing tax rates or introduce new taxes. The people and businesses of Hong Kong should be applauded for this very satisfactory outcome.

And there is more for us to feel encouraged about. According to the latest figures, for the first two months of this year, the total export of goods grew by nearly 17% in real terms compared to the same period last year. In addition, total retail sales in January 2000 recorded a year-on-year increase of 12%. This reflects a robust pick-up in local consumer sentiment and spending power. There is no doubt that our economy is bouncing back fast and strong. Other Asian economies have also been recovering from the financial turmoil since 1999.

What distinguish Hong Kong are our sound financial and banking systems and strong fiscal position. Our remarkably adaptive and enterprising business sector has also sped up the process of our economic transformation and resharpener our competitive edge. This gives us every reason to believe that we are on the way to attaining sustainable economic growth rather than seeing merely a quick but transient turn-round. But we need to remain alert to the consequences of any adjustments in the American interest rates and stock markets. How the Japanese economy fares will also have a direct impact on our own economic performance this year. We also have to watch closely how the cross-straits situation evolves.

Maintaining the linked exchange rate system is essential if we want to move on despite all the changes around us. I have already explained the merits of the system in my Budget speech, but perhaps this important subject warrants further elaboration, if only to remove any lingering doubts in certain Members' minds. First of all, it is not true that the link has made Hong Kong suffer more than other economies during the Asian financial crisis. Indeed it was precisely because we maintained a stable currency that the community was safe from even greater harm. We need to remember that Hong Kong has no natural resources and must rely almost entirely on imports for fuel, food and most other daily necessities. Had we followed the practice of some neighbouring economies and allowed our currency to depreciate as steeply as it could, the first thing to happen would have been a sharp rise in inflation. This would have led to price hikes, making life even more difficult for the business sector and the entire community. Nor should we forget that our currency was actually a freely floating one before 1983. But at the slightest hint of an economic crisis, people started to sell the Hong Kong dollar in large quantities because they were afraid that there would be a free fall in its value under this system. This inevitably led to a nosedive of the currency, which not only exerted tremendous pressure on our banking system, but also wrecked what little confidence was left and resulted in further sales of the Hong Kong dollar. A vicious circle was thus created. This then was the reason for introducing a linked exchange system: to restore the value of our dollar, and more importantly, to salvage the confidence of the community.

The Asian financial turmoil was worse than any crisis that Hong Kong has suffered in the last 50 years. But even when conditions were the toughest, the community still had confidence in the link and there was no panic selling of our currency. Of course we could have chosen to find our way out by abandoning the link, by letting the Hong Kong dollar depreciate as it came under attack, to

wait and see what would happen. But this would have been blinding ourselves to the lessons of past setbacks and the wishes of the community. It would also have meant gambling with our economic prospects and the wealth of the people of Hong Kong. Ask me a thousand times and I will say the same: that would be reckless and totally irresponsible behaviour. Another option, if we wanted to delink and maintain a fairly stable currency environment at the same time, would be to exercise exchange control. But I need not go on. I am sure Members know that this would be going against the stipulation in the Basic Law. Doing so would seriously undermine our uniqueness as a Special Administrative Region within China. It would also be the surest way to turn our investors off. I remain firm in my belief that the price we need to pay for maintaining the link is still the smallest compared to that for any other currency arrangements. Nor am I alone in this. The International Monetary Fund has commented on more than one occasion that it is wise of us to maintain the linked exchange rate. This time-tested system has also proved to be a strong confidence-stabilizer among the people of Hong Kong as well as investors both within and outside our country alike. I do not think we should consider changing the linked exchange system before the international financial community reaches any agreement to enhance the transparency of capital flows. For any such change would only create room for speculative attacks and increase market risks. Indeed, there are many other more urgent subjects that have a rightful claim on our attention and require discussion, such as the one I am now coming to: our public finances.

To ensure that Hong Kong will be able to enjoy long-term fiscal health, we will soon begin the studies of our public finances. Many Members have expressed views on the Task Force to review our public finances and the Independent Committee to advise on new forms of broad-based taxes. Let me assure Members that I shall make one thing very clear to the Secretary for the Treasury who will lead the Task Force and the non-official who will be appointed to chair the Independent Committee: they must solicit views from this Council, from the community at large and from other interested parties in the course of their deliberations. I shall also require them to submit progress reports to me by November this year to assist my consideration of next year's Budget. The Task Force on public finances will determine whether the projected successive operating deficits up to 2002-03 are cyclical in nature or structural. I expect the Task Force to pay due regard to many factors. These include, but are not limited to the developments in our economy, the increasing trends towards globalization and electronic commerce, the continued stability of the local property market, and the growing importance of volatile investment



proceeds from our fiscal reserves to our recurrent revenue. In the light of its findings, the Task Force will consider whether the existing tax base, tax net, tax rates and types of taxes should be changed, and if so, what changes should be made under the overriding principle of maintaining a low and simple taxation regime and preserving Hong Kong's competitiveness. Within the same parameters, the Independent Committee will consider the types of broad-based taxes that might be suitable for Hong Kong should there be a need to generate additional revenue in this way. I expect the Committee, in carrying out this task, to ensure that any proposed broad-based tax is revenue-productive on a recurrent basis and is largely immune to economic cycles and the impact of electronic commerce. I also expect the Committee to have regard to the ease of introduction and cost of compliance of any proposed tax and the administrative costs involved, alongside considerations of equity.

During last week's debate, a majority of Members spoke on the Government's efforts to reduce public spending. Some said that we should raise our targets further, while many expressed concern over the impact of the Enhanced Productivity Programme (EPP) on staff and the quality of service. On the whole, Members and the community expressed support for our efforts and progress in controlling public spending. I can assure you that we will continue to do our best.

Several Members expressed worry over the adverse impact of such spending controls on welfare services. Some even alleged that we had made welfare spending the main target for funding cuts. Let me make it clear that it remains our guiding principle in public resource allocation to provide financial and service support to those who are most in need. Indeed, the growth rate of welfare spending this financial year continues to be higher than that of total government expenditure and is more than double the average growth rate of all other policy areas. It can only increase further as our population continues to age. But I think the public and Members would agree that the principles of fiscal prudence and cost-effectiveness should apply to all policy areas, including social welfare. The fact that those who are served are among the most disadvantaged in the community is no excuse for refusing to improve and make better use of public resources. Many government departments and public agencies have done an excellent job in meeting their EPP targets. I am confident that the welfare sector is capable of achieving no less. And I am sure that, like us, the community would want to see welfare agencies provide better and more cost-effective services for the needy under the proposed new funding

arrangements. The Government will take positive steps to improve communication with the concerned organizations to help them do so.

We also share Members' concern for the prospects of those in the lower-income bracket. We are determined to help the unemployed to acquire the skills they need to get jobs, and to provide the best education possible for the next generation of our community. For we believe that knowledge, not handouts, is what people need to escape poverty in a community that is free, upholds the rule of law, and provides a level playing field. We have already spent huge amounts of public money on education and training. It is now more important than ever to make sure that such resources are put to the best use and can bring real benefits to their recipients. I see this as the best guarantee of raising the earning power of all in the community.

As regards my revenue proposals for this year, I am grateful to Members for their laudable efficiency in dealing with the proposed reduction in the rate of stamp duty on stock transactions so soon after the Budget. Thanks to your efforts, we will be able to resume the Second Reading and to proceed with the Third Reading of the Revenue Bill 2000 later in today's session. Subject to its passage, the reduction will take effect this coming Friday. That will bring the stamp duty rate on stock transactions down to 0.225%, making our financial markets even more attractive to investors. One additional task that requires urgent attention is the passing of the new Securities and Futures Bill. This will provide an improved regulatory framework corresponding to market needs in the 21st century. It will be a move towards the best international standards and will further enhance our competitiveness as an international financial centre. We published this as a White Bill on 2 April for a three-month consultation exercise with Members and the market. This will allow adequate time for scrutiny of the provisions and exchange of views with the Administration. In view of the intense global competition Hong Kong faces, we really need to race against time to stay ahead. We will work closely with Members and all interested parties with a view to enacting the Bill by the end of April 2001.

Now that the Hong Kong Exchanges and Clearing Limited (HKEx) has come into being, I want to stress that it has a public function to serve the entire community and not just the interests of any selected group. I hope that it will be able to achieve three things for Hong Kong. First and foremost, it needs to give due regard to the systemic stability of the financial markets and the interests of investors, and make sure that all risks inherent in the trading, clearing and

settlement of stocks and futures are managed properly. Second, it needs to make the best use of technology in upgrading the financial infrastructure. Third, it needs to work closely together with the industry to raise the competitiveness of our markets. I am glad to learn that the HKEx Board has proposed to its participants that the minimum brokerage commission should be removed from 1 April 2002. As I mentioned in the Budget speech, any positive move from the industry towards this target will assist my consideration of a further reduction of the stock transaction stamp duty rate in future.

Finally, I would like to say a few words about the budgetary process. Since becoming Financial Secretary, I have made consultation an essential part of the annual budgetary exercise. The scope of consultation has grown larger in the past five years, with the number of individuals and professions consulted reaching a record high for the 2000-01 Budget. This has led to two results, one positive and one negative. Since we had the opportunity to listen and talk to more people from varying backgrounds and had the benefit of their views very much in our minds as we put the Budget together, the final product has enjoyed a higher level of support from the community and Members alike. This was the positive outcome of our consultation exercise. As for the negative result, there are two aspects. First, as I believed that consultation should be an occasion for two-way communication rather than monologues from either side, I did not hesitate to make known the worrying signs that we were detecting in our fiscal position. This has understandably led to all kinds of speculation and even the conclusion that we would introduce new taxes or increase tax rates immediately. When this turned out not to be the case, we were alleged to have made "intentional misleading comments" in the first place. Second, there were criticisms that we had played tricks with figures when our short-term economic and revenue position turned out to be so much better than previously thought, mainly because of rapid changes in global and local economic and financial conditions. I am grateful to those both within and outside this Council who have kindly acknowledged the difficulties of making economic projections. Let me supplement their point with three examples.

When I forecast a 0.5% GDP growth for 1999 in the Budget which we debated in March last year, it was met with overwhelming expressions of doubt and disbelief from Members, who were quick to conclude that I was over-optimistic. Earlier on today, as we read through the minutes of meeting concerned, I and my colleagues noticed that more than a dozen Members had criticized me severely for forecasting a 0.5% GDP growth for the year 1999 and

a trend growth of 3.5%. Actually, "over-optimistic" was a moderate enough comment then, for I have heard some slightly different remarks that were not just mean but rather "cruel and merciless" indeed. (*Laughter*) As it turned out, our GDP grew by an impressive 2.9% in real terms. This was far higher than I had expected. No doubt it surprised Members even more. Nevertheless, I am still very grateful to Members. Although a few of them do not agree with me that the GDP, which has grown by 2.9% over the past year, could be expected to grow by 5% this year, the remarks they made are in fact rather kind or even somewhat sympathetic.

In contrast, our fiscal deficit has turned out to be much smaller than estimated thanks to the astonishing leap in the value of Hong Kong stocks that started in the last quarter of 1999. This was unimaginable in the early months of that year. Even during the autumn of 1999, when I had started the consultation exercise, no one was able to see this surge coming our way. To my regret, those Members who criticized us for missing the mark in our deficit forecast did not appear to see the need to consider this crucial factor.

Privatization of the Mass Transit Railway Corporation (MTRC) is another case in point. As Members all know, the proceeds from this exercise will have a direct bearing on the size of our deficit. We have assumed revenues of \$15 billion from the privatization of the MTRC in the 2000-01 Estimates. However, the actual amount of proceeds and the extent to which our estimated deficit for the year could be reduced will depend to a great extent on market sentiment on the day. If, for whatever reason, the income was half of the assumed amount, then our estimated deficit of \$ 6.2 billion for 2000-01 would shoot up to around \$14 billion. But if the proceeds were 50% more than assumed, the deficit would disappear immediately, turning our books from red to black. Indeed the MTRC and I would be deeply grateful if any Member could shed some light on the final figure.

But I am encouraged by the fact that most Members agree with us that there are potential problems with our recurrent revenue which need urgent tackling. This shows that they too believe that it is important for the Government to remain alert to problems that may arise and to act promptly to forestall them.

On balance, I still believe that widening the consultation net and engaging in two-way communication is a worthy course to take despite the risks involved. After all, the public have the right to know about their government's principles in managing public finances and its current thinking, and the Government has a duty to respond to the community's views and aspirations. Criticisms arising from imaginary wolves and wolf-criers, fair or unfair, are not going to dampen our determination to continue to listen and to explain our thoughts. Returning from the land of Aesop to the real world, you will find us ready to step up communication and exchange of views further. And we intend to do this in the same pragmatic and open manner.

Finally, may I thank you all again for sharing your thoughts with us so generously both before and after the Budget was announced. With the whole community — the Government and the public — working more closely together, I am sure the budgetary process can only improve further in the years ahead, and the contents of future Budgets will accord even more fully with the long-term interests of Hong Kong.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Appropriation Bill 2000 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.

(Members raised their hands)

Miss Emily LAU rose to claim a division.

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

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

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

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

Miss Cyd HO, Mr LEUNG Yiu-chung and Miss Emily LAU voted against the motion.

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

THE PRESIDENT announced that there were 52 Members present, 48 were in favour of the motion and three against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Appropriation Bill 2000.

Council went into Committee.

**Committee Stage**

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

**APPROPRIATION BILL 2000**

**CHAIRMAN** (in Cantonese): We are to consider the schedule first in accordance with Rule 68 of the Rules of Procedure.

I now propose the question to you and that is: That the sums for the following heads stand part of the schedule.

**CLERK** (in Cantonese): Heads 21 to 31, 35, 37, 39, 40, 42 to 51, 53, 55, 56, 58, 60, 62, 63, 70, 72, 73, 74, 76, 78, 80, 82, 90, 91, 92, 94, 95, 96, 98, 100, 106, 110, 112, 114, 115, 116, 118, 120, 121, 130, 136, 142 to 154, 160, 162, 163, 166, 168, 170, 173 to 177, 180, 181, 184, 186, 188, 190 and 194.

**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 sums for the heads stated stand part of the schedule. 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): Head 122.

**MR JAMES TO** (in Cantonese): Madam Chairman, I move that head 122 be reduced by \$64,040,000 in respect of subhead 000 as set out in the paper circularized to Members.

First of all, I would like to briefly explain that the \$64,000,000 in question is actually provision for meeting the costs of the 100 or so staff of the Complaints Against Police Office (CAPO). Members of the public have demanded the establishment of an independent CAPO for many years. In 1993, the former Legislative Council passed a motion urging the Administration to replace the CAPO within the existing establishment of the Police Force and set up an independent body to deal with complaints against the police and carry out investigation.

Over the past few years, though the Administration has taken some improvement measures, it has still failed to restore the creditability of the CAPO. The independence and impartiality of the CAPO are still seriously doubted. Members of the public have been greatly shocked by the recent incident involving LIN Qiao-ying and are suspicious that elements of coercion may be involved. However, from their actual experience, members of the public also know that the incidence of such cases in the Police Force is definitely far higher than that in the Immigration Department, only that most of these allegations are classified by the CAPO as unsubstantiated, and only a small number of them is considered substantiated.

What is more ironic is the handling of LEE Ka-ming's case. Eighteen-year old young man LEE Ka-ming died suddenly while under detention at the Sheung Shui Police Station. The Coroner's Court ruled that the cause of his death was questionable, and members of the public also felt that this case should require further investigation. However, under the existing mechanism, the case can only be passed back to the police for investigation.

The CAPO incurs an annual expenditure of some \$60 million, employing some 180 staff members. But its investigation findings often fail to satisfy the public; its findings are markedly different from the abuses of police powers experienced by the public; it has failed to live up to public expectations of the public, and it has failed to build up its public creditability. That being the case,



from the perspective of financial resources utilization, the CAPO has not only failed to achieve any cost-effectiveness, but also wasted manpower resources, wasted the valuable time and efforts of its investigation officers and complainants. Thus, it can be said that all its expenditure has been washed down the drain.

Some members of the public have said to me that though it is best to abolish the CAPO, because despite its establishment of more than a hundred people, its investigation work has achieved "nothing" at all. They think that it will be more useful to release the police officers of the CAPO and deploy them on beat duties, for this may help reduce the number of "head bashing" robbery cases. Some cynical members of the public even refer to the CAPO as a "prevention of complaints against police office", an "office on delaying complaints against the police", and "anti-complaint office", or even an "office for abuses of police powers" or "office of shielding abuses of police powers".

Perhaps some people may argue that even if we are not convinced that the investigation of the CAPO is independent and impartial, there is still the Independent Police Complaints Council (IPCC) to hold the CAPO in check. However, Honourable colleagues may recall that even the IPCC also once proposed that the CAPO should be headed by someone from outside the police, so as to enhance its impartiality and independence, but the Administration was adamant in its opposition. As a matter of fact, the power of the IPCC is greatly restricted. Though the IPCC can request the CAPO to submit case information and meet with witnesses, it is not empowered to reopen any investigation to find out the truth and do justice to the aggrieved, even if it is unhappy about the investigation findings of the CAPO.

The former Legislative Council did try to remedy this situation. In 1997, in the course of scrutinizing the Independent Police Complaints Council Bill, the former Legislative Council proposed an amendment to the effect that the IPCC should have the authority to initiate an independent investigation into a case if it were not happy with the investigation findings of the CAPO. Unfortunately, this proposal was met with the strong opposition from the Administration. The Administration even withdrew the Bill after the relevant amendment was carried at the Committee stage, even when this meant common ruin. The Administration's neglect of strong public demands and its blatant attempt to stop Members from remedying the defects of the complaints against police mechanism angered both Legislative Council Members and the public.

During the Budget debate of last year, I warned that if the Administration did not introduce changes, I would be forced to move amendments to delete the expenditure item on the CAPO. Finally, in conclusion, I would like to point out that issues like whether the CAPO should be independent, whether it is capable of finding out the truth and whether it is credible cannot be solved just by introducing piecemeal amendments. I do not believe that such an unfair and incredible system can last forever. I hereby urge Members to support my amendment.

**Mr James TO moved the following motion:**

"That head 122 be reduced by \$64,040,000 in respect of subhead 000."

**MR GARY CHENG** (in Cantonese): Madam Chairman, first of all, I have to declare that I am one of the Vice-Chairmen of the Independent Police Complaints Council (IPCC).

Mr James TO talked about the operation of the CAPO just now. I must say that even under the existing complaint mechanism, the final decision of a case is not made by the CAPO alone. As mentioned by Mr TO, though the IPCC is not empowered to conduct its own investigation, its mere existence can already produce a monitoring effect. I think it is unfair to criticize the CAPO for not being impartial just because the number of substantiated complaints has been small. The fact is that a majority, or even an overwhelming majority, of the complaints received by the CAPO are about matters which cannot be pursued. Since complainants can lodge complaints at no cost at all, they may forget all about their complaints soon after a while, or they may simply decide not to pursue their complaints any further.

Mr James TO said that some members of the public have come to regard the CAPO as a mechanism that prevents or delays public complaints against the police, but I believe that the operation of the IPCC will not allow this to happen. In fact, judging from past experience, I can see no evidence of the IPCC allowing the CAPO to delay or prevent public complaints. If the allegation were true, it would have become another case that we have to pursue.

We should admit the fact that both the CAPO and the IPCC have made improvements in their operation. For example, the number of observers in the IPCC has been increased, and we can take part in the investigation process of the CAPO, and attend all its hearings. The IPCC has never held back any action, and it has always dealt seriously and responsibly with all cases which it finds problematic.

For the above reasons, my colleagues in the Democratic Alliance for the Betterment of Hong Kong and I will vote against the amendment of Mr James TO today.

As regards the other subhead on reward and special services, I am not going to give any comments now, and will do so later on.

**MRS SELINA CHOW** (in Cantonese): Madam President, the Liberal Party has all along supported in principle the mechanism whereby the IPCC monitors complaints against police officers while the CAPO takes charge of the specific follow-up work and investigation.

I believe that there is no ideal mechanism for handling complaints and complainants are never completely satisfied. It is only natural that there will be cases in which someone is dissatisfied with the results of the complaints.

Just now I listened carefully to Mr James TO's speech. In fact, we have been well aware of his views on the current arrangement, so there is nothing new about the points made by him today. The former Legislative Council held in-depth discussions about the issue in 1996 and I was then involved in the discussion as to how the various arrangements of the IPCC could be improved. At that time, I made some suggestions which did achieve some results. Up till now, I can definitely say that the situation is better after improvements have been made.

The Liberal Party believes that the current arrangement is not going too far as described by Mr James TO (I beg his pardon for my saying so), who considers the office to be devoid of credibility and must inevitably be dissolved. If today this Council passes this amendment revoking the relevant provision, the CAPO will be forced to dissolve and the public will immediately lose the channel for filing complaints. Without the manpower to conduct the investigations, the

IPCC will have no way of exercising supervision. The channel for complaints available to the public will disappear immediately. I cannot help but wonder whether so doing is in the interest of the public.

Madam President, the Council has a responsibility to monitor the work of the Government on behalf of the public. It is indisputably correct for us to request government departments to make improvements. However, we must do so in a responsible manner, rather than sparing no efforts to take extreme measures or resort to tricks that are detrimental to public interest simply to achieve a certain purpose. Since the Liberal Party cannot agree with Mr James TO's views on the IPCC or his approach of risking everything on one attempt just because the Government has rejected his proposal, we will vote against his amendment.

**DR LEONG CHE-HUNG:** Madam Chairman, I rise to speak on the Committee stage amendment to the Appropriation Bill as moved by the Honourable James TO, in respect of subhead 000 that deals with the operation expenses of the police. This amendment, in essence, cancels the financial allocation to the Complaints Against Police Office (CAPO).

Madam Chairman, the current infrastructure for dealing with complaints against police is of two levels. All complaints are investigated by the CAPO, and their results will be vetted by an independent body — the Independent Police Complaints Council (IPCC). While the members of the CAPO are all selected from within the Police Force under the chairmanship of a senior police officer directly responsible and accountable to the Commissioner of Police, the IPCC, on the other hand, derives its membership from the community. And I must declare my interest at this point in time that I am one of the vice-chairmen of the IPCC. The function of the IPCC is to vet the CAPO's reports. It by itself has no direct investigative power. It may be noted that while improvement to both the CAPO and the IPCC is necessary, the machinery has so far worked well.

What would be the result of cancelling the CAPO? As a start, we would need another machine to do the job. It may be said that the burden could fall on the IPCC's shoulders. Regrettably, the IPCC is not or may not be ready to take up the job yet. As a start, the IPCC is not armed with manpower or expertise to conduct direct and meaningful investigations.

Secondly, the IPCC is currently a non-statutory body. In this aspect, the Government has only itself to blame for withdrawing the IPCC Bill in 1997 at the Third Reading, kissing good-bye to turning this important body into an independent body by statute. Regrettably too, in spite of public call, the Government has not moved in its wisdom to introduce such a bill, something that the IPCC and the community have fervently been looking forward to.

Madam Chairman, while I personally stand firm on the advantage of granting investigative power to the IPCC, I do believe, after all these years of participating in the police complaints process, that the majority of the preliminary investigations are more effectively done by expertise from within the Police Force itself.

Madam Chairman, in spite of the fact that the IPCC Bill was lost by the wayside, the IPCC did seek to introduce improvement in its activities to provide better accountability to the public. Let me just cite a few changes and examples.

Firstly, the IPCC has introduced an observers scheme where both IPCC members and appointed non-IPCC members (whom we call "lay observers") often attend the CAPO's investigative process without prior notice. In 1999, for example, some 40 observation visits were made by either IPCC members or lay observers.

Secondly, the IPCC does interview witnesses, although this was done after the CAPO has submitted its initial reports on those specific cases. In 1998, for example, we invited witnesses for two cases. In 1999, we invited witnesses for three cases to give evidence. Regrettably, in one case each year, the witnesses failed to attend. Perhaps it would be timely to appeal to the public that to enable justice to be done, they should not shun from coming forward to give evidence. Furthermore, giving evidence, when it is due, must be the responsibility of a good citizen.

But, Madam Chairman, are there no possible improvement needed for the complaints against police handling machinery?

As a start, let me stress that the Government should, without delay, reintroduce the IPCC Bill to create a proper statutory body with "teeth". There is no reason, too, why such body cannot be given some investigative power, although the bulk should fall within the role of the CAPO.

As for the CAPO, it has been a recommendation of the IPCC that it should be under the direction of a civilian head. This was the recommendation of the IPCC in 1993. The IPCC reiterated its stand in 1997 in a paper to the Bills Committee studying the IPCC Bill. And as far as I am aware, the IPCC has not altered its stand.

Madam Chairman, while improvements are in dire need for both the CAPO and the IPCC to give more confidence to the public, cancelling the CAPO at this point or perhaps even in the future may not be the best way forward.

With these remarks, Madam Chairman, I cannot support the amendment, but would urge the Government to take real action, in deed and not just in word, to improve the complaints against police handling machinery.

Madam Chairman, my Honourable friend on my left side, Mr Eric LI, who is also a vice-chairman of the IPCC, is in a quiet but pensive mood today. He has expressed that he would not speak but would go along with my remarks.

Thank you.

**MISS CYD HO** (in Cantonese): Madam Chairman, I speak in support of Mr James TO's amendment.

The lack of checks on the excessive powers of the police has always been the concern of the public in relation to our law enforcement agencies. In light of the recent rapid advancements in technology, the police are trying to expand their powers accordingly in order to combat criminal activities effectively. For example, the Legislative Council has been recently examining the need to allow law enforcement officers to take DNA samples from suspects under detention and to set up a DNA database. The Government has even proposed to introduce new smart identity cards which will bear biological features such as photographs, fingerprints, genes and so on of Members of the public. This series of action will help expand the powers of law enforcement officers substantially.

However, in spite of the increase in powers, no progress has been made with respect to the setting up of an effective mechanism to exercise checks and balance and handle complaints. As a result, there has been a much greater chance for law enforcement officers to abuse their powers. We can even say that there are no redress channels for the public.

Although the police have reiterated that the IPCC is an effective monitoring and checking mechanism, the suggestions made by the IPCC actually lack legal effect. Sometimes we can even find the police ignoring the IPCC's suggestions and the IPCC failing to take any follow-up action owing to its limited powers. One well-known case is that during the change of sovereignty, the police played Beethoven music to subdue the voices of protestors in a demonstration. Subsequently, complaints against a senior police officer responsible for the action at that time, Mr LEE Ming-kwai, were received. While the CAPO considered there had been no problem, the IPCC held a different view and considered the allegation that there had been an abuse of power in unreasonable circumstances was well-founded. However, there was nothing we could do for the Commissioner of Police insisted that it was reasonable for the police to play the music. Finally, the IPCC submitted a report to the Chief Executive, but no further follow-up action has been taken. Moreover, no police officer has been punished in any form as a result of this. We can thus see that the IPCC has inadequate power.

On the other hand, even if some cases of complaints being substantiated, the IPCC is powerless to comment or review the disciplinary punishments imposed by the Police Force. According to a report compiled by the IPCC, over the past two years, the police have only given four police officers involved so-called "advice" or reprimand in eight substantiated complaints against police officers for having assaulted suspects or members of the public. Not a single police officer was subject to criminal charges. Even the IPCC found it impossible to do anything with respect to the authorities' extreme leniency towards the police officers involved.

Apart from having no power, the IPCC is also faced with the problem of limited resources. According to the IPCC's report, the IPCC, with an establishment only 26 people inclusive of the Secretary, is required to deal with more than 4 000 cases of allegations against the Police Force every year. There are four units, comprising a total of eight staff, responsible for vetting the investigation of complaints. In 1998, for example, the IPCC endorsed 4 200

allegations. In other words, each unit was required to review nearly three allegations each day. To cope with such a huge workload with such a negligible amount of resources and manpower, no guarantee can indeed be given as far as quality is concerned. In contrast to the 186-strong establishment of the CAPO with an annual expenditure of over \$600 million, the IPCC can hardly compare with it whether in terms of manpower or resources. It is virtually impossible for the IPCC to effectively exercise checks and balances and monitor the work of the CAPO.

The Administration has mentioned that it will re-table the Independent Police Complaints Council Bill to the next Legislative Council in a bid to grant the IPCC a statutory status. Of course, we welcome this legislative proposal. However, we should not forget that this is a belated commitment. Perhaps Members may recall that in 1997 after Members had successfully passed the amendments in relation to the investigative power of the IPCC, the Government made an unprecedented move of withdrawing the Independent Police Complaints Council Bill, thereby giving rise to the current situation. Therefore, if the Administration should re-table the relevant Bill in the next term of the Legislative Council, I hope Honourable colleagues in the next Legislative Council can exercise extreme care in granting more power to the IPCC under the Bill.

Madam Chairman, just now some colleagues expressed their disagreement with Mr James TO's way of handling the matter. Over the past few years, Mr TO has endeavoured to hold discussions with the Government in this Council through various communication channels. However, what he has done is like "squeezing toothpaste" for the Government will only do a bit more when being pressed year on year. For example, it may only be able to give some explanation but without much detail at a meeting. Today Mr TO has indeed adopted the approach of "burning his boats". I hope this approach can force the Government to give us a more well-intentioned response.

Thank you, Madam Chairman.

**MISS MARGARET NG:** Madam Chairman, I am grateful to the Honourable James TO for raising this amendment. The aim of this is directed at the public confidence in the channel for complaining against the police. The reason why the public has so little confidence in it is very simple — it is the police



investigating themselves. Madam Chairman, in my practice, I know exactly how little confidence the public has in this sort of system. It is manifested in a number of witnesses who withdraw at the last moment because they do not believe that this will be a fair process.

Madam Chairman, it may be that the lack of confidence is ill-founded. The fact may be that it is fair. But as a matter of fact, because the police lack transparency, and because it is a matter of them investigating themselves, the public has little confidence. It has been raised many times that there should be an dependent investigation of complaints against police. We heard a number of excuses. First, some say that only the police has the expertise to investigate such matters, which is obviously not true. The Independent Commission Against Corruption (ICAC) is a signal example of non-police officers investigating police officers. Further, looking at the complaints against police officers, a large number of them are of a very simple nature, I do not believe that the police are the only people who can carry out such investigations. Second, we are told that this would affect the morale of the police. But why should that be? When the ICAC was being established, some said that the establishment of the ICAC would undermine the morale of the police. This has turned out to be not true. On the contrary, the fact that corrupt police officers are being dealt with mercilessly has increased the morale of the police as a whole. So I do not see that this would be a problem.

Moreover, we are looking at a world when the public expects a lot of accountability. Look at the professions which are supposed to be self-regulating. On our disciplinary tribunals, there are lay people. They can complain against us if we should, following preliminary investigations, come to the view that there is no substance in the complaint, there is a direct route to the Chief Justice. He can take it up. He can command that this be investigated and that disciplinary hearing be instituted. We have borne this with stoicism. Because we know that although many of these complaints are ill-founded, coming from people who, for one reason or another, are not happy or feel frustrated, we know that this system requires public confidence which requires a certain degree of transparency. I am sure that if there is an independent body doing the investigation, after initial discomfort, the police would also see that this is to their advantage.

Madam Chairman, we have also been told that because of the presence of the Independent Police Complaints Council (IPCC), a measure of independence and a measure of checks and balances putting in that is sufficient. I sincerely hope that this very hard-working and well-meaning body will not be used as an excuse for further improvement.

I say this because, first of all, it has been pointed out already that the IPCC is not even a statutory body. It is not a statutory body because the Government withdrew the Bill just before the Third Reading, when it was introduced on the last occasion just before 1 July 1997. The Government withdrew this Bill because the Legislative Council passed amendments to it which gave slightly more teeth to the IPCC. I was a member of the Bills Committee, I recalled very well how you have to fight tooth and nail for the slightest increase of even facilities and support, such as an independent secretariat, a little bit more money, an independent council and things like that. You have to fight tooth and nail for it. And yet when we asked slightly more, and we happened to pass it, without warning, the Bill was withdrawn from the Legislative Council.

Why was this? I believe, Madam Chairman, that the real reason is that this Government is afraid that if you allow the police to be investigated by anyone other than themselves, the police will not accept it. And they would have a problem of stability arising from refusal of the police to take command from the Government. I think that it is because of this sort of threat that the Government does not think that it would be a politic thing to do to allow this to happen to the police.

Now, the Secretary for Security says, in her letter asking us to oppose Mr James TO's amendments, that a bill for a statutory IPCC will be introduced. I will believe it when I see it. Further, I will believe it when I see what powers will be given to the IPCC, so that it could even function effectively, sufficiently and independently. It has been said that whatever the shortcomings of the Complaints Against Police Office (CAPO), it is there, it is better than nothing. I beg to disagree with that. A useless and misleading CAPO is worse than none. Thus, although this is a drastic step proposed by Mr James TO — Madam Chairman, I do not usually support very drastic measures — on this occasion, I am afraid that I feel obliged to support him.

Thank you, Madam Chairman.

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

**MISS EMILY LAU** (in Cantonese): Madam Chairman, I rise to speak in support of the amendment moved by Mr James TO.

In order not to waste everyone's time, I will not repeat views already expressed by Honourable Members, as everyone wants to go home after the vote. However, I have to express my support for Mr TO. Just as everyone, Mr TO knows the amendment does not stand a chance to pass. Nevertheless, why does he still do the same thing repeatedly? Madam Chairman, it is because we hope to pass a message to the public and express our disagreement with the existing mechanism that complaints against the police are handled by the CAPO.

Being an elected Member, I know the number of complaints against the police that my office receives every month. The Government knows it well, too, because I will refer the relevant cases to them. Nevertheless, it is useless to refer these cases to the Government, because every time I refer them to the Secretary or the Commissioner, they will be forwarded to the CAPO for further investigation. Consequently, most of the cases are declared ill-founded after investigations that last one or two years.

A moment ago, Mr Gary CHENG, Vice-Chairman of the IPCC said that no follow-up actions could be taken in many of these cases. Madam Chairman, perhaps it is true. However, the problem is that most people have no confidence in the CAPO. I think the Government should take the matter into consideration from this aspect. When a certain organization is set up, it may be doing its job very well, but when there is no result, something must have gone wrong. In fact, many people have no confidence in the CAPO. Whenever I tell the complainants that I will refer their cases to the CAPO, they will say that is meaningless because they have already visited the CAPO. They consider it meaningless even if they write to the Secretary or the Commissioner. It is because they have no confidence at all. They only think that we will help them when they turn to us for help.

But what authority do we have to investigate the police? We do not even have the authority to investigate civil servants. If we are Justices of the Peace, we are entitled to visit prisons. But if we are to make an investigation, what authority should we have? And how much support should we get? Madam Chairman, you and I know that the only thing we can do is to refer the relevant cases to the executive, but the only feedback is the distrust from the public.

I have also received complaints against other government departments, but none of them showed the same kind of profound distrust of the CAPO. None of the complaints on other departments such as the Housing Department or the Immigration Department resembled the complaints against the CAPO. Madam Chairman, perhaps you may say that we have too many police officers, maybe that is something true, and they are often in close contact with the public. However, why is there an impression that the public are so displeased with the CAPO? Perhaps not every member of the public has this feeling, and only those being framed would deeply believe that their complaints will not be treated impartially. As a result, some people may consider Mr TO's effort futile, because the amendment will surely be negated. Nevertheless, I believe that the public's voice of fury should be heard.

Considering Mr Gary CHENG's remark that no follow-up action could be taken in most cases, I think that shows all the more that we ought to let an independent organization carry out the investigation work. After the investigation, the organization may inform the public that there is no problem as investigations have been carried out. Even if the public may not be happy with the outcome of investigation, they should have more confidence as the investigation is carried out by an independent organization. The existing mechanism is not independent as all investigations are conducted behind closed doors. Very often, the public will be informed that everything is in order, then the public will consider that they are just being deceived. I do not know when the Administration will be determined to address this problem.

Madam Chairman, I would like to stress something, something which I have pointed out before, and that is, the entire Police Force is not subject to any regulation. Even as influential as the Independent Commission Against Corruption, it is monitored by several external committees. However, the Police Force has no such mechanism at all, except the IPCC which is monitoring the CAPO. As there are no seats for external representatives on all the committees in the Police Force, I would like to know if the Police Force are free to do anything they like?

Thank you, Madam Chairman.

**MR ALBERT HO** (in Cantonese): Madam Chairman, why we are so eager to fight for the independence of the CAPO? The reason is that the independence of the CAPO is vitally important to the protection of civil rights. Firstly, of all the disciplined forces, the police are most frequent in contact with the public. Secondly, because of their duties, it is very likely that the police may have to resort to legitimate and reasonable use of force. Thirdly, owing to the hardship of their work, the police are prone to employ force when there is no strong case for it or even adopt improper means to achieve some objectives otherwise hard to accomplish. Under such circumstances, it is absolutely necessary for us to effect more comprehensive supervision over the Police Force, or even enforce an appropriate checks and balances mechanism. Being a Member of this Council for many years, just as Miss Emily LAU has said, I have referred a number of complaint cases at a district level to the CAPO. However, we often see many complainants turn from being suspicious into being disappointed, and even being caught in utter despair in the end. For many years, the CAPO continues to make people feel that it lacks impartiality, transparency and independence, resulting in a total loss of confidence among the public. Many people are reluctant to follow up complaint cases and unwilling to assist the CAPO to make further investigations, because they are disappointed and desperate and have lost all their confidence after they have given a statement at the CAPO.

Madam Chairman, I think it is mainly due to a structural problem. If we can make changes, I believe a number of internal procedures and the related culture should go through fundamental changes, and that will bring the function of the CAPO into full play and restore public confidence. Whilst some Honourable colleagues have said a while ago that we have already an extremely independent organization, that is, the IPCC, I would like to reiterate that, no matter how well IPCC can do, how independent it is, or how many respectable public figures it has, it cannot replace the CAPO. It is because the IPCC is not given powers to initiate investigations, to have access to exhibits and witnesses, and above all, to handle complaints. As a result, how can it bring its function into full play without the essential information supplied by the CAPO and its wholehearted support? It cannot make up for the major shortcoming of the existing CAPO. Some Members said that if we adopt radical actions today such as to abolish the CAPO, the public shall have nowhere to air their grievances. The biggest fallacy of such a comment is the assumption that we have an "avenue of redress" at present. However, this so-called "avenue of redress" performs

practically no functions at all. Instead, we had better demolish this avenue and form a new channel to handle complaints. That would be a more proper way. We do not want to create any false impression to mislead the public that we really have an independent and effective "avenue of redress", as it is absolutely not true in reality. We want the Government to face the reality by dissolving the CAPO, and to establish a new and credible channel with public recognition which will handle complaints against the police. It is not only an irresponsible act, but also an act that will give better protection to the rights of the public. It is also a defence of the good reputation of the law-abiding and dedicated majority within the Police Force. With these remarks, I support Mr TO's amendment.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I believe I do not have to declare any interest. Although I was the Vice-Chairman of the IPCC from 1993 to 1995, I do not have any connection with the IPCC now. But I remember that during my term as the Vice-Chairman, the IPCC had conducted studies and sent delegations to other parts of the world to study their police monitoring systems. Consequently, an amendment bill was formulated in 1997.

Basically, police monitoring systems around the world can be divided into several categories: police actions are subject to internal monitoring through institutions such as the "internal affairs" of the United States, or monitoring by independent bodies, or internal investigation subject to an independent statutory or non-statutory committee. At that time, the Government considered it more appropriate to make the IPCC a statutory body, so it withdrew the amended bill at the Third Reading. Opinions differ as to whether the Government's withdrawal was right or wrong. If the Government withdrew the bill for it considered that an independent body would be a downright catastrophe, then the Government was just trying to prevent something worse from happening. But personally, I tend to support the establishment of an independent body to monitor the Police Force.

In this connection, I respect the perseverance of Mr James TO over the years and I also respect Miss Margaret NG's analysis. However, owing to the fact that it requires the collective decision of Members of this Council as to what is right and what is wrong, I think it is more appropriate if we can discuss this subject in a motion debate. If the Government is willing to introduce a bill, and

if the proposals of the bill are different from those in the mind of many Members, then, with the permission of the President, amendments can be proposed to set up another monitoring body. With the permission of the President, it could be a more appropriate channel because we would then be able to conduct a comprehensive review of the system. However, to disband the CAPO by cancelling the provision of some \$60 million for subhead 000 under head 122, that is, the provision for the CAPO, in the debate on the Appropriation Bill 2000 will close all avenues for redress, just as Mr Albert HO pointed out in his earlier criticisms. I generally agree that it would deprive us of one channel to make complaints. If we opine that the success rate of the CAPO is zero, and that the CAPO is always partial to the Police Force and shows favouritism towards police officers in dealing with complaints, and if this is the case, then the abolition of the CAPO should not be discussed here and now. Instead, we should cast a vote of no confidence in the entire police administration, not only seeking to cancel the provision for the CAPO.

In fact, I consider it inappropriate to move this resolution today because if it is passed — but I believe that the mover and supporters of this resolution know that this is unlikely to happen — or if Members like me are finally convinced to throw weight behind the resolution, and this financial provision of over \$60 million is really called off, then the CAPO would cease to exist tomorrow, in which case all the complaints being processed and new cases would come to a standstill. Certainly, we may ask the Government to take immediate remedial measures by setting up a new organization to replace the CAPO, but I do not know how long it would take. The Government might be able to come up with proposals very quickly, but Members might reject them. If the Government proposed to set up a statutory body, then legislation must be drawn up to provide for this. While I support the setting up of an independent body to handle complaints against the police, we must bear in mind that it is April now and our term of office will expire by the end of June. It means that we have to enact the relevant legislation within this period of time and what is more, we must also seek approval from the Finance Committee before a new system can be put in place to handle all of the new and old complaints against the police. Therefore, under these circumstances, I cannot support this resolution today.

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

(No Member indicated a wish to speak)

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, the Government opposes strongly the amendment moved by Mr James TO that head 122 be reduced by \$64,040,000 in respect of subhead 000, which is the operating cost of the Police Force, so as to delete the financial provision earmarked for the CAPO. I believe it is out of his dissatisfaction with the existing police complaint system that Mr James TO has put forward this proposal. While Mr TO says he is burning his boats in moving this amendment, I believe this strategy should be best described as a "benefiting nobody" measure.

We have already discussed the police complaint system for many times on a number of occasions. To both the CAPO staff who have been conscientiously investigating into the complaints received and the members of the IPCC, it is grossly unfair to insist that the existing system is good for nothing and must be abolished. All along, Mr TO has been criticizing the existing police complaint system for unfairness; besides, he has also been insisting on establishing an independent CAPO or that the IPCC be vested with the power to conduct independent investigations where appropriate. As such, I need to first explain to Honourable Members how the existing system operates to enable Members to have a more comprehensive understanding of the situation.

To begin with, under the existing system, all complaints against police officers will be handled by the CAPO. To ensure the thoroughness and impartiality of the investigations, the CAPO and other sections responsible for front-line actions or other operations are under the command of different bureaux and commanders of the Police Force. With regard to each of the complaint cases received, the CAPO will submit detailed reports of the investigations conducted to the IPCC for scrutiny. Although the IPCC does not have any independent power of investigation, it could require the CAPO to submit any information and document relating to the cases concerned for examination, or meet with witnesses to clarify any points of doubt. Apart from that, members of the IPCC could also observe in person the investigation work of the CAPO. In the event that the IPCC is not satisfied with the investigations conducted by the CAPO, the IPCC may question the CAPO and require it to provide further explanation or to reopen investigation into the complaint cases concerned. Moreover, the IPCC could also refer the complaint cases to the Chief Executive together with its recommendations.



In 1999, the CAPO has revised the investigation outcome of 48 cases on the advice of the IPCC. As regards the queries raised by the IPCC and accepted by the CAPO, the ratio has been rising continuously from 29.8% in 1996 to 61.2% in 1999. For these reasons, I hold that the existing police complaint system is a fair and effective system which is constantly improving. In addition to drawing upon the expertise of police officers and their exceptional understanding of the work of the Police Force to conduct inquiries into the complaint cases received, an effective mechanism of checks and balances is also established under the existing system to ensure that all complaint cases will be investigated in a fair and thorough manner.

Moreover, to further enhance the transparency and credibility of the existing system, we have also implemented a series of improvement measures over the past few years, including making some of the regular meetings between the IPCC and the CAPO open to the public. As regards the subcommittee set up by the IPCC to monitor serious complaint cases, apart from requiring the CAPO to submit monthly progress reports on serious complaint cases specified, it may also raise questions in relation to the reports or meet with the witnesses concerned without awaiting the investigation results of the CAPO.

On the other hand, we have also further extended the Observers Scheme since September last year to appoint former members of the IPCC and other community leaders as observers. Either by prior arrangement or as an impromptu visit, these observers will be observing in person the investigation work conducted by the CAPO, including meetings with witnesses, complainants and the police officers under complaint; as well as conducting site visits to collect evidence. From this month onwards we will have a total of close to 60 observers including the incumbent IPCC members; as such, the monitoring role of the IPCC could be enhanced considerably.

Just now many Members have expressed their views on the question of whether or not the IPCC is capable of monitoring independently the investigation work of the CAPO. Here I should like to provide the following information for Members' reference. After we have implemented a number of improvement measures, the IPCC Chairman, Mr Robert TANG, has recently expressed his view in the RTHK programme "Letter to Hong Kong" that although the IPCC did not have any power to conduct independent investigation, it could still raise

its views to the CAPO, question the investigation results of the CAPO, as well as meet with the witnesses concerned. As referred to by Mr Robert TANG, through the various measures introduced, the IPCC has to a certain extent been vested with some investigation power and function. When interviewed by the mass media recently, Mr TANG also expressed his views as to whether a fully independent body is really needed to monitor the work of the CAPO in strict compliance with the principle of impartiality and thoroughness. I think his view is valuable reference for us. According to Mr TANG, this is a very complicated issue, since the IPCC will develop into a very large department requiring injections of substantial resources if it is to conduct independent investigations. Even if the IPCC should be provided with ample resources, it still has to take into account the question of efficiency. Moreover, will the Police Force co-operate with the IPCC then? While an independent CAPO is certainly a good idea in principle, whether or not it will really be as good as expected is an issue the conclusion of which could hardly be made at the moment. So, these are the valuable views of an independent person, and I think they make useful reference.

There has been a view that only a rather small proportion of the complaints received by the CAPO will be accepted eventually. As pointed out by Mr Gary CHENG just now, actually the majority of the complaints received by the CAPO are either about matters which cannot be pursued or were withdrawn later. In 1999, almost 40% of the cases vetted by the IPCC were such complaints. One common reason of withdrawal is that it was in a momentary burst of anger that the complainants had lodged their complaints, which were very minor in nature. On the part of the CAPO, it will of course inquire the complainant concerned of his reason for withdrawing the complaint. In the event that the CAPO considers the complaint case could be established, it will continue with the investigation work and inform the complainant duly. As regards complaints which cannot be pursued, they are mainly attributable to the fact that the identity of the complainants concerned cannot be confirmed on the basis of the information they provide, or that the complainants are unwilling to co-operate. Moreover, of the various complaints received, an overwhelming majority are very minor in nature (such as poor manner, use of foul language and misconduct). In 1999, more than 30% of the cases vetted by the IPCC were such complaints. Therefore, the claim that it is more cost-effective to establish an independent CAPO or to have the IPCC commission investigators to investigate cases should indeed be open to

discussion. After deducting the number of cases which have been withdrawn or the investigation of which cannot be pursued with, the proportion of complaints that were substantiated upon investigation by the IPCC rose to 16.7% last year.

The argument put forward by Mr TO in opposing the existing police complaint system is based completely on his distrust of the Police force, and on his belief that police officers will certainly practise favouritism and protect their colleagues. In fact, the police officers at large are more distressed by the bad deeds of their colleagues which are detrimental to the reputation of the Police Force; they certainly will not accept those black sheep.

Since we already have in place an effective police complaint system, I believe it should be more practicable and cost-effective to continuously improve on the existing system than introducing radical changes. If the relevant provision should be revoked, the CAPO will cease to operate from tomorrow onward. This is an irresponsible act against the interest of the public as we will not be able to accept complaints from the public for a certain period of time. On the other hand, we have undertaken to submit to the next Legislative Council a bill on the IPCC providing for its status as a statutory body. Members of the Legislative Council as well as the public could then discuss further the police complaint system.

Last but not least, I need to stress again that the revocation of the relevant financial provision would destroy the existing police complaint system which has been proven effective, thereby depriving the people of an avenue to redress their grievances. So, this is completely not in line with the public interest. For this reason, I earnestly urge Members to support the Government and vote against Mr TO's amendment.

**MR JAMES TO** (in Cantonese): Madam Chairman, I understand that we are scrutinizing the Budget rather than having a motion debate today, but if we think that some grants are useless and a waste of money, why should we approve of these grants?

The Secretary for Security has just said that the CAPO has always been effective and she is extremely confident in the CAPO, and if we abolish the CAPO, it shows our lack of confidence in the police. Many Members present are elected Members and they have frequent contact with the public and the police. Perhaps I should give an example first. A few years ago, I received a complaint against a policeman. The complainant was a retired Detective Station Sergeant who had worked as a policeman for decades. He approached me after his son had been beaten by police officers. I suggested that he should approach the CAPO, but he told me that what happened might be a retribution. When he was a Detective Station Sergeant, he had beaten the sons of other people. Some of them were innocent, but some were beaten for the sake of investigation of cases. Under the existing system, he said, unless the CAPO becomes independent, otherwise it is impossible to find out the truth. Why? Many policemen find the CAPO very troublesome because they are often asked to make a statement. However, the CAPO will not necessarily harbour or distrust policemen, on the contrary, it very often understands and sympathizes with them. As the CAPO adopts different attitudes towards policemen under complaint and complainants, in which cases can we find out the truth? The Secretary for Security has just said that we can find out the truth in some cases. What are these cases? Are we not able to dig out the truth in all cases? Neither is this the case. Let me give some examples.

Firstly, for the purpose of investigating into triad activities, an anti-triad unit detective posed as a "gold hair scoundrel" and got along with triad members. But he was mistaken as a triad member by another team of policemen under the Organized Crime and Triad Bureau and he was arrested and beaten. Why did the CAPO finally find out the truth? It is because the dispute involved the anti-triad unit and the Organized Crime and Triad Bureau, thus, the CAPO must find out the truth.

Secondly, an off-duty officer of the Customs and Excise Department witnessed an innocent person being assaulted. Although the off-duty Customs officer had not violated the law, to stop the police, he was also beaten by the Emergency Unit Officers. The truth of the case was finally ascertained because the Custom and Excise Department would like to see to it that justice is done to the officer concerned. Can justice be done to the general public? Does the CAPO have credibility? I am grateful to the Members who have just spoken.

Even though they do not support my motion, they have at least expressed their views and asked the Government to improve the existing system. Yet, I am very disappointed because some Members have not mentioned these reform proposals at all. Does it mean that they really believe that the existing system has no problems? As Miss Margaret NG has said, it is extreme to raise this point in a Budget debate; if not, will the Government tell us that it will introduce a bill in relation to the IPCC next year? I have been asking this question since 1997, and I have sent an open letter to the Government in February. Will the Government carry out a reform if it is not forced to do so? If Mr Andrew WONG and Dr LEONG Che-hung have not proposed this, will the bill concerning the IPCC cover the right to investigate complaints?

Regardless of how Honourable colleagues deal with this motion, I hope that we will be able to give the Government a clear message that this system will not have credibility in future. Last but not least, I proposed a motion in this regard in 1993. When the then Secretary for Security, Mr ASPREY, lobbied Members and told them that the system was operating well, there was no problem and it only needed some changes, a few appointed Members who have now left office were so angry that they voted for the independence of the CAPO. I believe we will have another chance to discuss this issue in future and I hope that even though Members do not support it, they will abstain from voting to show their attitude. Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

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

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

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

Functional Constituencies:

Mr Michael HO, Miss Margaret NG, Mr CHEUNG Man-kwong and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, 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 Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Geographical Constituencies and Election Committee:

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

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 13 were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**MR JAMES TO** (in Cantonese): Madam President, I move that head 122 be reduced by \$105,621,000 in respect of subhead 103, as set out in the paper circularized to Members.

Perhaps I need to explain what are included under this item. In fact, I proposed the same motion last year so I will just explain it briefly. Head 122 refers to the Police Force, and subhead 103 is classified as "rewards and special services". It is actually very difficult for me to explain it because the reason why I have proposed to reduce this item of financial provision is that I do not know what it is all about. As Members can see from the Administration's letter to persuade Members to vote against this motion, this expenditure, which included rewards, fees for informers and charges for procuring and maintaining some equipment, is of a confidential nature. Earlier on, I proposed that the provision for the Complaints Against Police Office be reduced because I consider that this spending is not worth it so it should be reduced. But for this item, I proposed a reduction mainly because I do not know what are included under it, so I cannot support it. The Government stated that it included rewards and fees for informers, which are payments given as rewards both openly and secretly. But what do "charges for procuring and maintaining some equipment" refer to? The Government said that some of the general expenses under this item were mentioned in a briefing session for Members held at the end of April last year. But in fact, Members who attended the briefing session will all agree that we

only heard of some concepts and the nomenclature of some items without knowing what these items actually refer to. Of course, I am not asking the Government to provide us with such information as the names of informers and the fees payable to them. I certainly will not ask these questions. Members who have some knowledge of security matters will not make such requests. All I am asking the Administration is whether it can provide a breakdown of this item which costs over \$100 million, I repeat, \$100 million. For instance, \$30 million or \$40 million for informers' fees. How much will be spent on manpower? How much will be spent on equipment? Yet, the Government has all along refused to provide information on the major subheads under this item of expenditure.

Members may note that the Secretary for Security has said something new recently. She undertook that after the completion of the legislation concerning interception of communications, the Administration would in due course give an account of the information that could be disclosed in this regard. While I can be considered as conversant with this subject matter, I am at a loss as to what she meant. Could it be that this financial provision of \$100 million is related to interception of communications? I guess there must be some sort of connection between them. Otherwise, the Administration will not have to wait until the completion of the legislation concerning interception of communications before it will examine what information can be revealed. But is it that all of this \$100 million is related to interception of communications? What is the proportion that is related to it? Why is it linked with interception of communications? The legislation concerning interception of communications was already enacted as early as in 1997 which was more than three years ago, but no report has been made on the review so far. As I began to follow up subhead 103 some five or six years ago, it should not have anything to do with interception of communications. But why is it linked with interception of communications all of a sudden now? We all know that these expenditures are mysterious and confidential. But then, what is our greatest concern? Our greatest concern is: How much does it cost for the manpower and equipment involved? Why do we ask for information about the major subheads? It is because we can at least have an idea about them and through these subheads, we can monitor whether manpower has been increased specifically in some areas, whether eavesdropping equipment has been increased considerably, and whether the capability of eavesdropping has been greatly strengthened. The Government said that such information could not be made public and that providing information about major subheads would make the details known to the public and would let the cat out of the bag. This is questionable. I call on the Government to explain to us why the disclosure of major subheads would undermine its operational efficiency?



We did ask the Government to explain this in camera but the Government was reluctant and unable to accede to this request, resolutely refusing to further divide this item up. We are most concerned about whether this financial provision would eventually be used not to serve the public, but to do dirty work, such as exercising political surveillance and control. No one can guarantee against this for this provision is like a mysterious "black hole".

Last year, we asked for a reduction of expenditures under this item. In its reply to Members, the Government stated that this was not a one-off expenditure but a recurrent one and that it would lodge a funding application with us next year so this \$100 million would have to be voted anyway. The Government added that it would discuss and thoroughly study the matter with us in this year to see how the transparency of this item could be enhanced and what information could be provided in the long term. This undertaking is put down in the record of proceedings of the meeting. However, the Secretary for Security did not approach me for discussion in this year. I do not know if she had approached other Members or you, Madam President. But from what I have learned, the Secretary for Security has not approached Members of other camps or political parties. I wonder if the Secretary for Security thinks that she can simply renege on the promises that she made last year. But that was what she said in her speech in response to Members last year. Now that she undertook yet again to give a detailed explanation after completing the legislation on interception of communications. This shows that the Administration has always resorted to stalling tactics, delaying the matter from this year to the year after next and then further delaying it to the completion of the legislation on interception of communications. But as the legislation on interception of communications may be related to Article 23 of the Basic Law, it is likely that this matter will be shelved indefinitely.

What is the Government going to do to give us an explanation? Last year we proposed a motion and pointed out that elected representatives in overseas parliamentary assemblies are basically allowed to monitor confidential expenditures, say, expenditures for national defence, military or intelligence work. The Government, however, responded that this was not the case and that while they could monitor these expenditures, there were conditions attached, for instance, they might be required to make declarations, observe the rule of confidentiality or undergo background vetting. In this connection, the Government can discuss with us if there is the need to do these things. But up to now, the Government has just remained indifferent and unresponsive for it knows how to obtain support and raise opposition in this Council.

However, this will not be the end of the matter. Why? Just as Miss Cyd HO said earlier on, the Government is now drafting sensitive offences such as subversion, sedition and secession under Article 23 of the Basic Law. As the Government refused to apply to the Court for the interception of communications, the legislation has long been deferred for enforcement despite its enactment more than three years ago. Now that the Government has proposed to obtain DNA information of criminals. This is only the first step and the future development remains unknown. Furthermore, the use of biological codes for identity cards can record a lot of information, and all forms of surveillance will be conducted by electronic means. What news do we have lately? Recently, the Government has plans to put monitoring equipment and close-circuit televisions inside many major facilities and at crowded places. The Government did not discuss with this Council this significant policy. According to the Government, the placement of cameras at these locations cannot photograph the crowds but it is uncertain as to whether or not they can perform this function since no one has been shown to these cameras. I have been shown to the equipment used for controlling and monitoring road traffic at the Transport Department. Those equipment should primarily be used to monitor road traffic and not to monitor the crowds or to see the face of individuals. But when I asked the operator to zoom in, I found that one can actually see the face of an individual person through the equipment. The face of individual pedestrians within the area that the camera focused on can be clearly seen. These equipment can also be used to assist in law enforcement. Government officials explained later that there are one million close-circuit televisions in Britain. So, compared to Britain, there is just a very small number of close-circuit televisions in Hong Kong and the equipment will be used only when crowds of people are formed. Judging from the above, is it that the Government should give us a more responsible explanation on this item?

Will those Members who intend to support the Government and give a green light to this item feel worried about the situation? Is it also their hope that the Government will improve the transparency in this regard so as to assure us that Hong Kong will remain a society which upholds equality and human rights? It does not matter if Members support me or not. As I said just now, I hope that Members can express their views on this matter, or tell us whether they are worried. Otherwise, the Government will just mark time and simply leave the matter unsettled. As to when the Interception of Communications Ordinance and Article 23 of the Basic Law will come into operation, we have no idea at all and the Government will not discuss it with us either. I hope that Members can speak on this so that the Government will know that we are concerned about this.

**Mr James TO moved the following motion:**

"That head 122 be reduced by \$105,621,000 in respect of subhead 103."

**MISS MARGARET NG:** Madam Chairman, secrecy is abominable in an open society. Of course, some secrecy is unavoidable. But whether secrecy is necessary in a particular case should be anxiously examined. Yet it is not the case with the Secretary for Security. She feels no compunction at all, perhaps resting in the comfort that we cannot make her do what she does not want to do.

In the letter that she sent to us persuading us not to support the Honourable James TO, she says, "I explained that before disclosing certain sensitive information, the Government had to consider carefully and thoroughly the comprehensive safeguards to be taken in enhancing transparency and accountability. I also undertook that after completing the review of the legislation concerning interception of communications, we would in due course give an account of the information in this area that could be disclosed."

Thus, there is to be a thorough and careful review. Mr James TO just told us that he has been after the same information for the last six years, and any review could have already taken place. But it has not taken place. The Secretary refers to the legislation concerning interception of communications. One of the reasons why I feel so strongly drawn to Mr James TO's amendment is that without disclosure, because of this ordinance, we really do not know how much money is spent on telephone tapping which would have been unlawful, but for the fact that the Secretary for Security has refused to allow the ordinance to come into effect. I certainly have some reservations about allowing something unlawful to continue to take place. No satisfactory explanation has been given as to why the ordinance has still not come into effect despite having been enacted for more than three years. I remember that the question was raised in the Legislative Council not so long ago, but the answer was extremely evasive.

Again, Madam Chairman, I realize that to vote for a reduction in expenditure is a drastic step. But again, I am inclined to think that drastic action is necessary, because Mr James TO is very modest in his request. He did not ask for extensive or precise disclosure. And yet, this was rebuffed. It seems to me quite clear that the Secretary for Security, in turning down, really says, "I am contemptuous of your request, but so what?" It is clear that we

cannot force her to do what she does not want to do. But I certainly do not want to connive by acting in self-contempt.

Hence, Madam Chairman, I am driven to the conclusion that perhaps I really have to vote in favour of Mr James TO's amendment. Thank you.

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, the security of society, especially certain areas relating to the combat of crime, is highly sensitive. If we want to effectively combat crime, to uphold the rule of law and to maintain social order, we have to give the law enforcement agencies adequate powers and autonomy so that they have a free hand in dealing with criminals. I agree that the law enforcement agencies must be held accountable to the public, and that there is much room for improvement in the existing mechanism. However, we have to understand that if we inflexibly apply the standards of openness, accountability and transparency of the average government department to each area of the law enforcement agencies, the law enforcers will not be able to carry out certain crime combatting duties that require secrecy. Moreover, the safety of those people who help them might also be threatened. Therefore, we must strike a suitable balance between effective law enforcement and accountability to the public.

If the Police Force are to effectively combat crime, the gathering of intelligence would be indispensable. Intelligence gathering requires a high degree of secrecy. If anything leaks out, not only will the law enforcement action fail, the people involved may also be in danger. So, it is not for no reason that the senior management of the Police Force refuses to publicly account for the expenditure on intelligence gathering, which is the so-called informers' fees. Moreover, there are verification procedures for such expenditure and it has to be audited by the Director of Audit each year. That is why the Liberal Party opposes Mr James TO's attempt to force the Police Force to disclose what the relevant item of expenditure is about by slashing the Police Force's expenditure on intelligence gathering. We must understand that intelligence gathering is impossible without money. The slashing of the relevant expenditure will gravely impact on the Police Force's ability to combat crime. This is by no means wise, nor is it in the interest of the public. However, in order to enhance credibility in this respect, the Police Force might make reference to the Operations Review Committee of the Independent Commission Against Corruption (I am sure Miss Margaret NG knows this very

well) to see if a similar mechanism can be established to enhance the Police Force's accountability.

**MISS CHOY SO-YUK** (in Cantonese): Madam Chairman, informers are extremely important to the Police Force if it is to establish an effective intelligence network. Since informers take a great risk in gathering and providing intelligence, it is reasonable for them to receive some reward. Abolishing the informers' fees will affect the informers' willingness to gather and provide intelligence, add to the difficulty of recruiting informers, and even undermine the accuracy of the intelligence. In the end, it will increase both the difficulty of and the risk in combating crime for the police, to the detriment of public order and safety.

We understand that the issues involved in informers' fees are very sensitive, and that the disclosure of the relevant information may raise the alertness of criminals and endanger the lives of informers. Therefore, the Hong Kong Progressive Alliance cannot support Mr James TO's amendment. On the other hand, these fees are after all public funds. As the representative of the public, the Legislative Council has the power and function to examine the Government's Budget according to the Basic Law. Naturally it also has a duty to monitor the uses of the public funds to see whether they are in the public interest. Therefore, I agree that the Government should promptly review the information disclosure criteria as a whole and give an account in camera of the information that is not detrimental to the safety and interest of the public to the Legislative Council under suitable circumstances. In my view, this arrangement for ensuring accountability would strike a better balance between the Legislative Council's right to information and the Administration's need to enforce the law.

Madam Chairman, I so submit.

**MR GARY CHENG** (in Cantonese): Madam Chairman, the more we talk about this sensitive issue, that is, the use of those sums of money, the more we want to know. I would like to know what the money is used for and members of the public are also more and more curious. However, in my view, the public's right to information must not interfere with effective law enforcement. A balance must be struck between them.

Just now, Mr James TO said that we were not asking the Government to list the names of witnesses or reveal how much money was paid and to whom. Unless we cast a vote of no confidence in the Government today, we have to give ample room and necessary power to the Government or the security departments for carrying out security work. Mr James TO cited some examples earlier. However, if those things are done by every government or if they are improvements to enhance efficiency in keeping with technological development, I fail to see why we should not do the same. DNA seems to be a world trend now. The Government of the Special Administrative Region (SAR) is not the only one considering the use of smart ID cards. If we consider these matters together, it may seem that the security departments of the SAR Government are doing many things to exercise control over the people. If those things are very unusual, we certainly should ask why they are doing them. But the truth is, they are being done in many other countries and we are just slower and less modernized than they are.

Therefore, even though I would very much like to know what the money is used for, I understand that we cannot ask too much in order not to jeopardize the effectiveness and operation of the Government's security work. I would like to know when and where the police will begin their raids in Mong Kok tonight and which dens they will raid. I would also like to know how many informers there are in Hong Kong. But if we wish to know these, it would mean that we have no trust in the Government and we want to take over the work.

Under what circumstances can the Government tell us about these expenditures? Is it true that the Government cannot say anything or tell us anything? I remember that in the last briefing of the Finance Committee, officials of the Security Bureau explained briefly why they could not tell us anything. The Government explained that the reason why they could not disclose the information was that criminals might know the routine in the Government's security departments. On that occasion, Mr TO said that the Government did not disclose the information in the meeting in camera either. I did not attend the last meeting held in camera in April last year. I hope officials of the Security Bureau will tell us later whether those subheads were really not mentioned at that meeting. As far as I know, the Government probably did not give any figures but it did mention the subheads, that is, the Government gave some reasons why the relevant information could not be disclosed.

Under what circumstances can the Government give us the relevant information, whether to satisfy our curiosity or because we have the right to know? If it cannot do so now, when can it disclose the relevant information? As far as I know, some overseas parliaments can obtain such information in confidence and within very restricted circles, such as in specified committees. Can we do this in Hong Kong? If yes, when would it be done? If the Government can answer our questions, it will dispel the doubts of the public.

In any case, as many colleagues said during the debate on the last amendment, slashing the expenditure is not a very good way to express doubt and raise objection. Of course, I would also like to know the circumstances under which we can play a monitoring role as Members and how the public can learn about things they should or are allowed to know to the greatest extent.

Due to the reasons I have just given, Members of the Democratic Alliance for the Betterment of Hong Kong and I cannot support Mr TO's amendment.

Thank you, Madam Chairman.

**MISS CYD HO** (in Cantonese): Madam Chairman, I really do not know how to comment on this issue. Even if we call it a black box affair, it would not at all be appropriate for no one knows whether it is a box, a case, a bottle or a can. However, as a Member, if I have to blindly approve of a grant of nearly \$100 million without quite knowing its use, I would find it very irregular indeed.

The Government has all along stressed that the nature of this expenditure is confidential and therefore its use cannot be revealed to the public. In seeming earnest, the Government says that disclosure will affect police actions in combatting crime. However, in some democratic countries, such information can be obtained on the Internet. In the example of Canada cited by Mr TO, the number of staff is listed according to sex and race, out of equal opportunities consideration. This is on a more superficial level. Let us look at the webpage of MI5 of the United Kingdom. Apart from disclosing information on the number of staff, their sex and age make-up and expenditure, the items of expenditure are also made public: 30.5% of the expenditure is for combatting terrorist activities in Northern Ireland; 22.5% is for combatting international terrorist activities; espionage accounts for 20.5% while security accounts for 11.5%. Disclosing these figures is no big deal to them. Why is it that they can still operate after disclosing these big figures while we dare not disclose anything for fear of collapsing immediately afterwards? In terms of

interception of communications, under British law, the warrant is issued by the executive authorities, that is, the Minister of State for the Home Department, without having to go through the Judiciary. Even so, they have a commissioner for the interception of communications to deal with public complaints so that the public has a channel to review whether the warrants have been issued properly. Each year, the figures related to the interception of communications will also be published for public reference. What is wrong with such an arrangement? The Federal Bureau of Investigation of the United States also makes similar information public and accounts to the public how much staff and training and the amount of resources that are put into anti-terrorist activities. This shows that in other democratic countries, information related to national defence, national security, domestic anti-terrorist activities and organizations for combatting crime can be disclosed, yet, we regard it as extremely sensitive information.

Earlier, the Chief Executive said in Canada that Hong Kong was one of the most democratic cities in Asia and stressed in particular the importance of the accountability of the Government of the Special Administrative Region (SAR) to the public. However, why is it so afraid in this area and does not even dare to disclose some figures? It is not because we are "nosy" or curious that we wish to find out as Mr Gary CHENG has suggested. It is because we are worried that this sum of money might be used in infiltrating political organizations and conducting surveillance by the Government. We also wish to know how the information obtained by this expenditure will relate to the enactment of local legislation under Article 23 of the Basic Law in future, and whether there is infringement on privacy and human rights. Mr James TO is not asking for detailed information or figures. He merely wants information on some broad subheads so that we can peep into the "black hole" through a tiny needle's eye. Yet, even this is rejected by the Government.

When we discussed the issue about the Complaints Against Police Office, we could still "squeeze out" some information. However, we cannot get any information on this issue. Madam Chairman, if the Administration cannot even provide information on broad subheads and tell us the number of interceptions of communications that has been made annually, I really cannot support this provision. Personally, I very much respect Mr TO for his perseverance and the efforts he has made over the years. Therefore, I will support his amendment.

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



**MISS EMILY LAU** (in Cantonese): Madam Chairman, I speak in support of Mr James TO's amendment. I would like to put it clearly that we in the Frontier do not want the enforcement agencies to encounter difficulties in the process of enforcement, we would like to give them assistance and we do not want such incidents to happen. However, we and many colleagues, including those of the Democratic Alliance for the Betterment of Hong Kong, hope that the enforcement agencies will work with transparency and accountability. Madam Chairman, I attended the relevant briefing session last April but I did not think I was any more wiser when I left the Police Headquarters. The briefing covered how to combat offenders and the triads but I could get such information even if I did not attend the briefing. Therefore, just like a few other Members, I suspected if the enforcement agencies were doing some secret acts.

Madam Chairman, the word "secret" implies there would be a public outcry when the truth is exposed. Madam Chairman, you may recall that I was personally involved once. A few years ago, when Mr Alex TSUI attended the hearing at the Legislative Council, he wantonly revealed the inside story and that there was eavesdropping. I wonder if that was true because all of us including the Chairman had no way of finding out the truth. Before the handover of our sovereignty, I believe that Members in this Chamber might be the targets of eavesdropping. The times have changed and some other people may become the targets in another era. Yet, Hong Kong is not a police community and whatever permitted by law can be put into practice, thus, the Government should make grants for this purpose. However, transparency and accountability are essential as many Members have just said. I do not understand why the Legislative Council cannot especially set up a committee to monitor the Police Force in this respect. However, we should not only lay emphasis on this but also the comprehensive monitoring of the Police Force.

Mrs Selina CHOW has just mentioned the Independent Commission Against Corruption (ICAC). The ICAC is actually a body at a lower level and its monitoring mechanism comprises meetings behind closed doors by independent people appointed by the Chief Executive. But this is not the case with the Police Force. We note that the report published by the Law Reform Commission on interception of communications a few years ago states clearly that interception of communications violates the International Covenant on Civil and Political Rights. We all know that but still we attended the relevant United Nations hearing thickskinnedly. Even though the United Nations had indicated time and again that this violated the International Covenant, we still declined to make efforts in this regard. This issue was brought up once again last November, but when the Chief Executive visited Canada and the United States,

he still told people that we highly respected human rights and the rule of law. If these matters are discussed in the United Nations again, what would they say?

Madam Chairman, Mr James TO's amendment is doomed to fail. For structural reasons, most colleagues in this Council will not support him. However, I want to convey a message once again, that is, some elected Members of this Council do not approve of the Government's practice because they wonder whom the \$100 million grant of the Government monitors, tracks and investigates. Even if we disregard Article 23 of the Basic Law, how would the information collected by eavesdropping be used? Why is it that nobody gives us an account of this? Should Legislative Council Members close their eyes and make the grant for the enforcement agencies to do so?

Madam Chairman, senior officials present may also be the targets of eavesdropping, but the problem lies in the time and target. Such activities are carried out in all countries and I am not saying that our executive authority has done so but if the executive authority does not give us an account of this, how can we guess that they have not done so? Why can it not give us an account? Some Members have said that these activities cannot be accounted for openly, I understand this but I wonder if we can set up a special committee so that the Administration can give this committee an account in confidence. Such a special committee should be set up by the legislature while the Administration should give the committee an account of the relevant activities it has carried out to show that what the Administration did has not violated the laws of Hong Kong and the international covenants on human rights that apply to Hong Kong. If the Administration can do so, I believe everybody will be relieved.

The Government says it will give an open account altogether upon the completion of a review on the implementation of the Interception of Communications Ordinance. Will the Government give us an account of the names of some people who have been eavesdropped, including the name of the Chairman? How much information will it give? Madam Chairman, as you may also understand, the Administration is not even able to answer the question asked by a Member about the instances of eavesdropping, needless to say matters that make a stir such as making public the names. All these make people very suspicious. Is the Administration hiding up anything or is there anything it cannot let people know? As Miss HO has said, such information is actually accessible on-line in some places, so, is Hong Kong really a police community?

Thank you, Madam Chairman.

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

(No Member responded)

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, first of all, I wish to respond to Mr James TO and Miss Emily LAU, who claimed a moment ago that at the briefing on "reward and special services" held in camera in April last year, the Government did not actually disclose the uses of the funds concerned. I wish to clarify that this allegation is entirely unfounded. The records of the Government show that although the meeting was a closed meeting, the police actually disclosed the uses relating to as many as 11 expenditure items on that day. So, the allegation that the police failed to disclose the uses of the funds is definitely not unfounded. And, it is also not true that the police have given only a simple account of how the uses of these funds are to be monitored. In terms of transparency, over the several years since the reunification, we have actually been disclosing a lot more information about the uses of these funds than before. I am sure that Mr James TO, who has been following this issue so doggedly for years, and who has dealt with successive Secretaries for Security before and after the reunification, should know very well that we have in fact been disclosing much more information than before. Last year, the information we disclosed to the Legislative Council related to as many as 11 items, and at a special meeting of the Finance Committee held on 21 February this year, the Commissioner of Police also disclosed openly that there were as many as 1 000 items of informers' fees last year. All this shows that the transparency of our work has actually been increased very substantially.

Having said that, I must admit that unlike the Internet report of the MI 5 of the United Kingdom, we do not have a budget breakdown, stating the respective percentage of expenses on anti-terrorism, counter-espionage and protective security, for example. I admit this. However, I also hope that Members can look at all this information from the overall perspective. Are democracies like the United Kingdom and the United States really so highly transparent as they purport to be? Regarding the problem of having to strike a difficult balance between a high degree of transparency on the one hand and the ability of the government to combat crimes and protect national security on the other, have they really been able to work out an easy solution? The MI 5 report mentioned by Miss Cyd HO gives a breakdown of its budget, and Mr James TO also asked us to follow suit during the debate last year.

However, do Members know how many years of careful consideration and evolution had passed before the British Government finally decided to give such a breakdown? Eighty years in total. The MI 5 was established in 1909, mainly because of the imminent World War I. It was established by a young British military officer called "K" with responsibility for assisting the country in gathering intelligence. This organization thereafter operated in secret, without any legislative control, and without any accountability too. It was only after 80 long years, in 1989, that the United Kingdom finally enacted the Secret Service Security Act to accord a statutory status to MI 5. And, it was not until 1993, that is, 84 years after the establishment of the MI 5, that the United Kingdom Government — the government of a democracy admired so much by some Members of this Council — finally decided to give a percentage breakdown of just a small fraction of the MI 5 budget. And, that came only after 84 years of consideration. My purpose of bringing out this point is of course not so much to say that the SAR Government is also going to spend 84 years on that. On the contrary, I can assure Members that we will be far more efficient; we will not need 80 years for sure, not even eight years perhaps. My only purpose is to point out the complexity of this issue. Members all know that all governments will engage in interception of communications, and they all pay informers' fees. The former Hong Kong Government before the reunification did not start to study this issue until as late as end 1996 when it published a White Bill. Following the reunification, despite the many urgent tasks before us, such as the right of abode issue, we have still, as I told Members last year, established an inter-departmental group on interception of communications to study how we can strike a balance between public security needs and transparency and accountability. At the meeting of the Finance Committee held on 21 February, I did ask Members to wait for the completion of the review conducted by the inter-departmental group and seek to find out why such work should be related to interception of communications. But did I actually mean that informers' fees were to be used for interception of communications, as misinterpreted by Mr James TO? This was certainly not what I really meant. What I really meant to say was that the Interception of Communications Ordinance would involve many issues which required detailed studies. And, I must now add that some of these issues are similar to the one we are dealing with today, that is, the voting of funds for "reward and special services", in the sense that for all these issues, we must strike a balance between the security needs of the Government on the one hand and transparency and accountability on the other. We will need to conduct a comprehensive and detailed study, and after we have studied all these issues as a whole basket, we will certainly give Members a thorough account. This is a solemn undertaking, and I hope Members can appreciate our sincerity.

Also, when some Members spoke a moment ago (I do not know whether I have misinterpreted what they said), they commented that there was a need to question the Government on this, to threaten it, once every year. This tactic is somewhat like "squeezing toothpaste from its tube". In other words, they think that every year, after Members have questioned the Government, it will release a bit more information. I wish to point out, first, that this is certainly not true in the case of the debate on the Complaints Against Police Office (CAPO), because Mr James TO did not ask for the deletion of this item of provision last year. Access to the information about the CAPO is entirely open, and all that can be released has been released already. As for the provision for "reward and special services", similarly, all the information that can be released has basically been released. The 11 items in question are an example; I already gave a detailed account of them last year, and the closed-door meeting this year was held before the completion of the comprehensive review, so I simply could not add more items. As for informers' fees, the Commissioner of Police has already mentioned on many public occasions all the information that can be released without compromising our work. Therefore, there is simply no truth in the "toothpaste" theory, meaning that it is simply not true to say that Members have to question the Government once every year, or even to propose the deletion of the funding request as a kind of pressure, before the Government is willing to disclose a bit more information. Our principle is very positive; we are prepared to increase the transparency of the Government in respect of such secret work, but we will do that only after thorough consideration, after striking a proper balance, and after ensuring that this will not undermine the ability of the Government to uphold public security and combat crimes. Besides, we have also made an open commitment to take positive actions in this respect. After the completion of our work, we will certainly come back to Members for a comprehensive account.

With such a commitment, I hope that Members can support the Government and vote against the motion of Mr James TO. The reason is that if this motion is passed, this provision of \$100 million will be deleted tomorrow, and the Government will have no funds to pay any informers' fees. The impact on combating crime and intelligence work for security reasons is just all too obvious.

Lastly, I can assure Members that the Government has never engaged in any political surveillance. In other words, the Government has never kept any members of the public and Members under any surveillance because of their political stands. We did not do that in the past, we do not do that now, and we will never do that in the future. As soon as we complete the comprehensive review, we will definitely give a comprehensive account to Members.

With these remarks, Madam Chairman, I hope that Members can support the Government and vote against the motion of James TO.

**MR JAMES TO** (in Cantonese): Madam President, let me respond briefly to the Secretary for Security's last remarks first. I do not quite understand why the Secretary said that she would certainly do no such thing in future. It may be that if she is asked to do such things in future, she may resign in anger and therefore will have nothing to do with such things. However, can she undertake on behalf of the Government that such things will not be done? When legislation is enacted in accordance with Article 23 of the Basic Law in future, do we not need someone to be responsible for such things in Hong Kong?

Maybe I should talk about what "informers' fees" are first. "Informers' fees" are paid for combatting and preventing crime. What is meant by "prevention of crime"? Under the present legislation on assembly, holding an assembly without prior application constitutes an offence. If someone by the name of "Short-haired" has held an assembly without prior application, the police will ask "informers" or the "paparazzi" to follow "Short-haired" to see if he will hold an assembly again without prior application. This is prevention of crime and gathering intelligence in order to prevent crime. Should we call it crime monitoring or prevention of crime? The informers' fees can serve such purposes. If someone tries to form a society without informing the Commissioner of Police, it will also constitute an offence. No matter whether the society is formed in the name of some sect, interest group, or to mark someone's birthday or the anniversary of someone's death, if it is formed without prior application, it constitutes an offence. If money was paid because the police had asked "informers" or the "paparazzi" to watch or follow someone, the Director of Audit will consider the sums to be properly spent when doing the audit, since they were spent for the prescribed purposes. Actually, "informers' fees" cover a very wide scope.

Perhaps I should also talk about what is not covered in the \$100 million provision. Someone might ask me how do I know. I know because in the information given in the past, the Government has already revealed what is not covered in the \$100 million. It all relates to more sensitive work. For instance, some 400 staff members of the security departments are paid from another sum of \$100 million allocated to them separately (that is, their remuneration is not included in the \$100 million now under discussion). Besides, the technical support section has more than 100 people responsible for tapping and blasting who are employed with an additional funding of over \$40 million, which is not taken from the \$100 million. There is also the Criminal Intelligence Bureau, nicknamed the "paparazzi". In the past, it purchased some radio equipment with encryption function with some \$100 million, also not accounted under the above-mentioned \$100 million. Thus, there are many funds for carrying out some dirty or irregular businesses. However, I certainly believe that most of the money is spent on crime prevention that we hope the police will carry out, such as the prevention of crimes like robbery, kidnapping, rape and drug trafficking. I believe most of the money is spent on such work. The question is, one cannot account for how this \$100 million is spent. Do the "informers' fees" account for \$30 million or \$40 million? I believe that people who understand this matter will know that the greatest portion of the "informers' fees" goes into narcotics investigations. But how much is paid approximately? It can surely be calculated.

What about the history behind this annual expenditure of \$100 million? The entire Special Branch used to be financed by this sum. However, the Government now tells us another thing. It says that the \$100 million covers 11 items of expenditure which are only generally described. They include the prevention of crime and informers' fees, as I explained just now, as well as the purchase of new equipment. However, what kind of equipment is this? Tapping equipment is not included, since it has been revealed that such equipment is paid from other sources. So far, we have no idea what items are included in this expenditure. I wonder if the Secretary for Security knows. I suspect she does not know. I hope she can tell me that she does. If she does, I hope more officials know about it too. I wonder if Mr Donald TSANG who controls the over \$200 billion of expenditure knows. Does Secretary Elsie LEUNG know? Can Chief Secretary for Administration Anson CHAN be informed too? If more officials know about his, we will be less worried. Perhaps if the answer is that they know about it, Members of this Council might be less worried.

Let me quote what the Secretary for Security said last year: "As certain Members said just now, this is not a one-off expenditure but a recurrent one. We will still be discussing this in the Legislative Council next year". The Secretary had foresight. She knew that if this matter was not dealt with once and for all, the discussion would continue. She would be facing the same question. She also said that "I can assure Members that there will be dialogues and I hope that we can study the issue together in order to find out how to enhance the accountability of such confidential work in the long run." A year has gone by. Has the Government conducted any discussion, dialogue or examined the matter with Members? The answer is no. The Interception of Communications Ordinance does not provide any information, nor does subhead 103. When can we get any information? Under these circumstances, we cannot be convinced that the \$100 million is spent properly or in accordance with the people's wishes, or that it does not involve any dirty businesses.

On this basis, I am very glad that Members have made some proposals such as a secrecy committee. Over the past two years, more and more Members have expressed the view that this item should be revealed or monitored in some form while maintaining secrecy. I hope the Secretary can listen to their views.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.



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

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

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

Functional Constituencies:

Mr Michael HO, Miss Margaret NG, Mr CHEUNG Man-kwong and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, 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 Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Geographical Constituencies and Election Committee:

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

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 13 were in favour of the amendment and 13 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 122 stand part of the schedule.

**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 sum for head 122 stand part of the schedule. 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): I now put the question to you and that is: That the schedule stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(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): We will now consider the clauses of the Bill. I now propose the question to you and that is: That the following clauses stand part of the Bill.

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

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bill**

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

### **APPROPRIATION BILL 2000**

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the

Appropriation Bill 2000

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Appropriation Bill 2000 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.

(Members raised their hands)

Miss Emily LAU rose to claim a division.

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

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

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

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

Miss Cyd HO, Mr LEUNG Yiu-chung and Miss Emily LAU voted against the motion.

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

THE PRESIDENT announced that there were 52 Members present, 48 were in favour of the motion and three against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Appropriation Bill 2000.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Employees' Compensation (Amendment) Bill 2000.

**EMPLOYEES' COMPENSATION (AMENDMENT) BILL 2000****Resumption of debate on Second Reading which was moved on 16 February 2000**

**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 Employees' Compensation (Amendment) Bill 2000 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): Employees' Compensation (Amendment) Bill 2000.

Council went into Committee.

**Committee Stage**

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

**EMPLOYEES' COMPENSATION (AMENDMENT) BILL 2000**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Employees' Compensation (Amendment) Bill 2000.

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

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

**Third Reading of Bill**

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

**EMPLOYEES' COMPENSATION (AMENDMENT) BILL 2000**

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

Employees' Compensation (Amendment) Bill 2000

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Employees' Compensation (Amendment) Bill 2000 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): Employees' Compensation (Amendment) Bill 2000.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Revenue Bill 2000.



**REVENUE BILL 2000****Resumption of debate on Second Reading which was moved on 15 March 2000**

**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 Revenue Bill 2000 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): Revenue Bill 2000.

Council went into Committee.

**Committee Stage**

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

**REVENUE BILL 2000**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Revenue Bill 2000.

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

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

**Third Reading of Bill**

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

**REVENUE BILL 2000**

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

Revenue Bill 2000

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue Bill 2000 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Revenue Bill 2000.

**MOTION**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Factories and Industrial Undertakings Ordinance.

**PROPOSED RESOLUTION UNDER THE FACTORIES AND INDUSTRIAL UNDERTAKINGS ORDINANCE**

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

The Regulation seeks to provide for the training and certification requirements for operators of specified loadshifting machines (operators). Loadshifting machines refer to machines used to move a mass sideways, upwards or downwards. The common ones are excavators and loaders used in the construction industry and forklift trucks used in warehouses and cargo terminals.

Existing legislation does not specify the details of training for such operators. As a result, there is no standard on the qualification of the instructors or the contents of the training. Operators, in general, do not have a high level of safety awareness. Between 1994 and 1998, a total of 22 workers were killed in accidents involving specified loadshifting machines.

The Regulation provides that the responsible person of a specified loadshifting machine shall ensure that the machine is operated by a person aged 18 or above; the responsible person shall make provisions for the operator to attend training courses recognized by the Commissioner for Labour before assigning him to operate a specified loadshifting machine. Upon completion of the training, employees will be issued a certificate which is valid for a period of five to 10 years. The cost of training shall be borne by employers. As regards the construction industry, we propose to collect a levy from the industry to meet the training cost. We also propose that the Regulation should come into operation 18 months after enactment so as to allow existing operators to be trained and certified before the Regulation becomes effective.

Major training providers such as the Construction Industry Training Authority, the Vocational Training Council and the Occupational Safety and Health Council have expressed that additional related courses will be organized after the enactment of the Regulation. Some employers and trade associations also indicated that they would employ their own instructors to conduct related in-house training courses.

I am pleased to note that many employers, trade associations and training providers have put forward their views and expressed support for our legislative intent while the Subcommittee was studying the Regulation. Some Members are still worried about the length of the grace period. However, with the support and co-operation of all parties, we are confident that training for serving operators will be completed within 18 months. The Labour Department will closely monitor the progress and will report back to the Panel on Manpower in due course.

Madam President, the legislative intent of the Regulation is to provide for the enforcement of mandatory training for operators of loadshifting machines to protect their safety as well as the safety of those working with them. I urge Honourable Members to support my motion and pass the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation into law.

Thank you, Madam President.

**The Secretary for Education and Manpower moved the following motion:**

"That the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation, made by the Commissioner for Labour on 25 February 2000, be approved."

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

**MRS MIRIAM LAU** (in Cantonese): Madam President, I would like to speak in my capacity of the Chairman of the Subcommittee on Factories and Industrial Undertakings (Loadshifting Machinery) Regulation.

The Subcommittee supported the principle of the Regulation, that is, the contractor or owner of a loadshifting machine shall ensure that the machine is operated by a qualified person who has received relevant training. The Subcommittee has held six meetings with respect to the provisions of the Regulation and arrangements for the relevant training, and consulted industries and organizations affected by the Regulation to better understand the

arrangements in relation to the enforcement of mandatory safety training and the legal liabilities of employers and employees with regard to the provision or completion of training.

As a report on the deliberations of the Subcommittee has been submitted to the House Committee on 18 February, I would only report on the key points of discussion today.

The Subcommittee concerned mainly with whether the training arrangements are adequate in coping with the needs of the industries and whether the training costs are reasonable, so as to avoid posing a heavy burden on workers and employers.

The Subcommittee noted that the Construction Industry Training Authority (CITA) will be responsible for providing training for operators of earth-moving machines. In addition, the number of training places it provides for new recruits and for a two-day refresher course should be able to meet the demand of the construction industry. As regards the training demand of forklift truck operators, the Government's projected figures differed considerably from the estimate made by the people in the industries. In this respect, the Subcommittee asked the Labour Department to conduct a more accurate survey on the training demand. According to the findings of the survey conducted by the Labour Department, the majority of forklift truck operators are employed by large companies, which are mostly willing to provide in-house training for their staff. Only a small percentage of operators are employed by smaller establishments which have to rely on training provided by outside bodies. The Administration believes that the 3 700 training places provided by the Vocational Training Council (VTC), the Occupational Safety and Health Council (OSHC) and the Harbour Transportation Workers General Union (HTWGU) within the 18-month grace period should be sufficient for meeting the demand.

Members of the Subcommittee have expressed grave concern with the high training fees charged by the refresher courses organized by the CITA, VTC and OHSC. They therefore urged the Administration to discuss with these institutions ways to reduce the fees, which might include subsidizing part of the costs by the Government, hiring full-time instructors, providing low-cost training venues and so on. After discussion, the CITA advised that each trainee would be charged approximately \$1,200 for attending a two-day refresher course organized for the construction industry. However, the fees would be paid by

the employers in most circumstances. As for the refresher course fees for forklift truck operators, they have even dropped substantially from \$2,280 to \$850. The significant fee reduction has been resulted from hiring full-time instructors, purchasing (instead of hiring) forklift trucks for training and the provision of a suitable site at Kai Tak by the Government for training purposes. This arrangement was welcomed by the Subcommittee, which has expressed gratitude particularly to the OHSC for its co-operation.

The Subcommittee also noted that some serving operators would have completed the relevant courses run by the CITA and VTC before the Regulation formally takes effect. On the request of members of the Subcommittee, the Government has agreed in principle to give retrospective recognition to qualifications awarded upon the completion of courses subject to their meeting the specified requirements.

In the draft Regulation tabled by the Administration, the definition of "responsible person" and the responsibilities of such a person were ambiguous. The Subcommittee has thus discussed with the Government in detail the legal liabilities the "responsible person" should bear under different circumstances.

The Administration explained that, under the Regulation, the "responsible person" includes the "contractor responsible for the site". However, some members of the Subcommittee pointed out that in cases of subcontracting, the contractor may be unable to control whether a machinery operator meets the specified requirements. Members also pointed out that the wordings of the definition of "responsible person" and of his legal liabilities under sections 2, 3 and 4 of the drafted Regulation are far from clear. For instance, it is not certain as to whether the "responsible person" is legally obliged to provide continuous training for his employee until he succeeds in obtaining the relevant certificate.

After discussions, the Administration accepted the recommendation of the Subcommittee and agreed to introduce amendments to the definition of "responsible person" and his legal liabilities, as well as making explicit provisions to allow the "responsible person" to put forward a "reasonable excuse" under section 8 in respect of the offences and penalties in sections 3 and 4. According to the Administration, a contractor can discharge his obligation under the proposed Regulation if he can prove that he has exercised due diligence and has put in place a mechanism to ensure compliance. As for the "responsible person", he is only required to provide training for his employee who is

instructed by him to operate a loadshifting machine. If the employee fails to obtain a certificate in the first attempt, the responsible person will have to arrange for the employee to attend an additional course.

The Administration's acceptance of the Subcommittee's recommendation and the introduction of amendments to the provisions of the Regulation are welcomed by the Subcommittee. The Subcommittee supports the Administration in proposing a resolution under the Regulation today.

Madam President, I so submit. Thank you.

**MR CHAN WING-CHAN** (in Cantonese): Madam President, the incidence rate of industrial accidents, particularly those of the construction industry, in Hong Kong has all along been high. For instance, the recent explosion of oxy-acetylene equipment has resulted in a number of casualties. It is really tragic that the lives of workers, in the abyss of untold sufferings, are unprotected at all!

The Factories and Industrial Undertakings (Loadshifting Machinery) Regulation has provided for the introduction of mandatory training for operators of excavators, bulldozers and forklift trucks used in the construction industry and at warehouses, cargo terminals and so on. Both the Hong Kong Federation of Trade Unions and the Democratic Alliance for the Betterment of Hong Kong support the spirit of the Regulation in enhancing the abilities and operational safety of the operators.

As a matter of fact, even if the operation of machinery is very simple, accidents will easily occur if no attention is paid to safety. Information has revealed that, between 1994 and 1998, nine and six workers were killed in accidents involving the operation of bulldozers and earth-moving machinery respectively on construction sites; three were killed in accidents involving forklift trucks. Last year, an accident involving a forklift truck took place in the warehouse of a supermarket. As a result, a worker who has one of his feet run over by a forklift truck became disabled permanently. It is therefore extremely important for workers to receive safety and technical training in order to reduce the incidence of industrial accidents.



This Regulation aims precisely at regulating through legislation the provision of training to operators of bulldozers, excavators and forklift trucks. In future, all operators of loadshifting machinery must complete the recognized training course and pass the examination before they are allowed to operate relevant machinery. The contents of the loadshifting machinery course include sharing of operational experiences with trainees and giving them a better understanding of the actual operational situation so as to raise their safety awareness. We will therefore support the passage of the Regulation.

In the course of deliberation, people in the industry repeatedly reflected to the Administration that up to 4 000 to 5 000 people would need to receive training. However, the Administration has all along been insisting that only 2 000-odd people require such training. This shows that there is a considerable gap between the estimates made by the Administration and by the industry. Of course, we hope the estimate made by the Government is accurate so that sufficient resources will be available for training the number of workers as estimated by the Government. Apart from this, are the training costs too high? Will the Administration take care of those financially vulnerable workers and relieve their burdens? We would also like to call on the Government to monitor the training closely and provide appropriate resources or co-ordinate by way of legislation as and when necessary.

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

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

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I support the resolution moved by the Secretary for Education and Manpower on behalf of the Hong Kong Confederation of Trade Unions.

The Administration has undeniably adopted a more proactive approach in formulating regulation relating to industrial safety in recent years. Nevertheless, with an increasingly complicated legislative procedure and the requirement of the employees to pass the examination and obtain the certificate before commencing work, there are two areas that the Government must address.

First, as there has been an increasingly high demand for a system to safeguard industrial safety, it is extremely doubtful as to whether the Government can take enforcement action effectively. Should the Government fail to strengthen manpower for the enforcement accordingly, a number of safety regulations might serve as an ornamental tool only. While the Government might end up caring for the enactment of legislation only, employees in the construction industry might do something totally different. The Government should therefore step up inspection of industrial undertakings and construction sites to ensure that all employers are acting in compliance with the law.

Second, while employees engaging in dangerous work processes are required to first pass the examination and obtain the certificate, the Government should not give the employers a wrong impression that they are not required to bear any responsibilities of improving industrial safety and that they can pass all the responsibilities onto the employees. I would like to reiterate that the employers will still be required to bear the major responsibilities of, in particular, improving the safety of the working environment, monitoring work procedures, training various categories of workers and so on. These are the responsibilities that employers must bear. At the same time, the Government is obliged to continue to play its monitoring role. With these remarks, Madam President, I support the resolution.

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

(No Member responded)

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I would like to thank Members for their views. I do not have anything to add.

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTION**

**PRESIDENT** (in Cantonese): Members' motion. Proposed resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

## **PROPOSED RESOLUTION UNDER ARTICLE 75 OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA**

**MRS SELINA CHOW** (in Cantonese): Madam President, I move the resolution under my name to amend the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region as printed on the Appendix of the Agenda.

These proposed amendments made by the Committee on Rules of Procedure (the Committee) to the Rules of Procedure concern mainly with the speaking arrangements in respect of motion debates. Currently, a motion debate is usually concluded by the reply made by the mover of a motion. However, as it has not been clearly provided for in the Rules of Procedure that Members will be disallowed from speaking after the mover of a motion has made his reply, the President cannot, as far as procedure is concerned, disallow

Members who have not yet spoken in the motion debate to speak after the mover of the motion has made his reply. In order to improve the relevant procedural arrangements, the Committee studied this matter and consulted all Members by way of consultation paper.

The Committee noted that most Members incline to disallow Members from speaking after the mover of a motion has made his reply. But in view of the concerns expressed by some Members and in order to prevent the mover of the motion to introduce new points in his reply, the Committee decided to conduct an in-depth study of ways to confine the contents of the speech made by the mover of the motion. After discussion, the Committee considered that the reply of the mover of the motion shall be confined to matters raised during the debate and that the reply shall close the debate. Even when no reply is made, the debate shall be deemed to have come to an end and no other Members shall be allowed to speak. To this end, the Committee proposed to amend Rule 33. As the arrangements for making a reply is not applicable to a committee of the whole Council, the reference to reply shall be confined to Council Proceedings.

In addition, for the purpose of encouraging designated public officers to speak both at the start and near the end of a debate, the Committee proposed to provide in Rule 38 that the designated public officers may speak a second time upon a Member's motion.

The Committee also took the opportunity to propose amendments to the requirement on the giving of notice with respect to a Motion of Thanks. In this regard, the Committee proposed making amendments to Rule 13 to require Members to, before moving a Motion of Thanks and its amendment, give prior notice to give other Members sufficient time to deliberate the motion and its amendment. This can also ensure that a joint debate on the Motion and its amendment can be conducted smoothly. The Committee proposed that the notice requirement for questions, that is, seven clear days, be adopted for the Motion of Thanks, and the standard five clear days' notice requirement for an amendment to a motion, be adopted for an amendment to the Motion of Thanks.

I urge Members to support my resolution on making amendments to the Rules of Procedure.

Thank you, Madam President.

**Mrs Selina CHOW moved the following motion:**

"That the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended -

(1) in Rule 13 -

(a) in subrule (1) -

(i) by repealing "without notice";

(ii) by adding at the end -

"The motion shall not be moved unless notice of it has been given not less than seven clear days before the day on which the motion is to be considered by the Council:

Provided that the President may in his discretion dispense with such notice.";

(b) in subrule (3), by repealing "and may be moved without notice";

(c) by adding -

"(4) No amendment shall be moved to the motion described in subrule (2) unless -

(a) notice of the amendment has been given not later than five clear days before the day on which the motion is to be considered by the Council; or

(b) the President gives leave to dispense with notice of the amendment.";

(2) in Rule 33 -

(a) by adding -

"(3A) When no more Member indicates his intention to speak in a debate in the Council, the President shall call upon the mover of the motion to speak in reply. The reply, if so made, shall be confined to matters raised during the debate.";

(b) by repealing subrule (4) and substituting -

"(4) After the mover of a motion has made his reply, or in the event that there is no reply, the debate comes to a close. The President shall forthwith put the question on the motion, or on the motion as amended, to the Council for its decision.

(5) When no or no more Member indicates his intention to speak in a committee of the whole Council, the Chairman shall forthwith put the question on the motion, or on the motion as amended, to the committee of the whole Council for its decision.

(6) No Member may speak on the question after it has been put to the Council or a committee of the whole Council for decision by the President or Chairman.";

(3) in Rule 34 -

(a) by adding -

"(5A) In the Council the mover of an amendment shall not have the right of reply.";

- (b) in subrule (6), by repealing "When no more Members wish" and substituting "When no or more Member indicates his intention";
- (c) by adding -
  - "(7) No Member may speak on the question after it has been put to the Council or a committee of the whole Council for decision by the President or Chairman.";
- (4) in Rule 37(1)(a), by repealing "38(4) (Occasions when a Member may Speak more than once))" and substituting "33(3A) (Manner of Debating Motions))";
- (5) in Rule 38 -
  - (a) in subrule (1) -
    - (i) by repealing "Save with the leave of the President, a" and substituting "A";
    - (ii) in paragraph (d), by repealing "as provided in subrule (4)" and substituting "at the end of the debate on the motion";
    - (iii) by repealing paragraph (e);
    - (iv) by adding -
      - "(f) upon a Member's motion as provided in subrule (8); or
      - (g) with the leave of the President.";
  - (b) by repealing subrules (4), (6) and (7);
  - (c) by adding -
    - "(8) A designated public officer may speak a second time upon a Member's motion.".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW, 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 Mrs Selina CHOW, 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.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 12 April 2000.

*Adjourned accordingly at Seven o'clock.*