

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 May 2000

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

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

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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 RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE 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:

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

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

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

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

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

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

MR PAUL TANG KWOK-WAI, J.P.
SECRETARY FOR THE ENVIRONMENT AND FOOD

MR STEPHEN FREDERICK FISHER
SECRETARY FOR PLANNING AND LANDS

CLERKS IN ATTENDANCE:

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

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Security and Guarding Services (Fees) (Amendment) Regulation 2000.....	134/2000
Security and Guarding Services (Licensing) (Amendment) Regulation 2000	135/2000
Mass Transit Railway Ordinance (13 of 2000) (Commencement) Notice 2000	136/2000

Other Papers

- No. 99 — Audited Statement of Accounts of the Quality Education Fund together with the Director of Audit's Report for the year ended 31 August 1999
- No. 100 — Report on the Administration of the Fire Services Welfare Fund together with the Director of Audit's Report and Audited Statement of Accounts for the year ended 31 March 1999
- No. 101 — Report by the Trustee of the Correctional Services Children's Education Trust for the period 1st September 1998 to 31st August 1999

Report of the Bills Committee on District Court (Amendment) Bill 1999

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. As the Member who will ask the first question has not yet arrived in this Chamber, we shall proceed to the second question first.

Checking of Identity Cards by Police

2. **MR MARTIN LEE** (in Cantonese): *Madam President, on the 20th day of last month, some students who participated in the procession and petition organized by the Hong Kong Federation of Students were interrogated and had their identity cards inspected by police officers on the street and inside Mass Transit Railway stations immediately after the petition was over. In this connection, will the Government inform this Council:*

- (a) *of the purpose of and use for the police's interrogating the participants of the procession and petition and inspecting their identity cards;*
- (b) *of the criteria the police adopts for random checking the identity cards of members of the public in public places; and*
- (c) *how the police handle the personal data obtained from stopping and inspecting the identity cards of members of the public in public places?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) According to the police's records, two plainclothes officers stopped and requested to check the identity cards of two females at the junction of Wellington Street and D'Aguilar Street at around 7 pm on 20 April 2000. The checks were made solely because the officers suspected the females to be illegal immigrants. The officers were on anti-burglary patrol at that time. They did not see any loudhailers being carried by the two females. Nor did they notice any signs or placards carried by them which might indicate their participation in the demonstration organized earlier by the

Hong Kong Federation of Students. They asked to check the identify cards of the two females who later claimed to have participated in the demonstration. The identity card checks in question were totally unrelated to the earlier demonstration.

- (b) In general, a police officer may invoke his power under the Immigration Ordinance (Cap. 115) or the Police Force Ordinance (Cap. 232) respectively to check the identity cards of a person who is suspected of being an illegal immigrant or acts in a suspicious manner.
- (c) Like all other personal data obtained in police operations, data obtained from identity card checks have to be handled in accordance with the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO). All practicable steps are taken to ensure that the data is accurate, retained only for as long as is necessary, and are protected against unauthorized or accidental access. In addition, the use (including disclosure or transfer) of the data is allowed only for the purpose for which it was collected or for a directly related purpose, unless the consent of the data subject is obtained, or an exemption under Part VIII of the PDPO is applicable.

MR MARTIN LEE (in Cantonese): *Madam President, according to the explanation given by the Secretary in part (a) of the main reply, the police had no reason to believe that they had participated in the demonstration organized by the Hong Kong Federation of Students, can the Government inform this Council if the police had any reasonable reasons to believe or suspect that these students were illegal immigrants?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the two plainclothes police officers were on regular anti-burglary patrol on that day. According to the law, if they suspect that a passer-by is an illegal immigrant, they are empowered to check his identity card. As the two female passers-by did not carry any signs, the two police officers did not know that they were related to the earlier demonstration.

MR MARTIN LEE (in Cantonese): *Excuse me, Madam President, the Secretary has not answered my supplementary question. I understand from the Secretary's reply that the two police officers should not know that the two female passers-by had participated in the earlier demonstration. However, my supplementary question is: Now that the Secretary has also said that their identity cards were not checked for that reason but only because the police officers suspected that they were involved in burglary, why did the police officers believe that they were involved in burglary or were illegal immigrants?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I have just said that the two police officers were on regular anti-burglary patrol and they might not only check the identity card of a passer-by when there was evident proof to arouse suspicion of burgling activities. In fact, if police officers, Immigration Department officers or other legally authorized persons find someone suspicious or suspect that he may be an illegal immigrant or overstayer, they are empowered to stop him and check his identity card. This is not at all surprising and such acts in which passers-by are stopped for checking of identity cards are performed every day.

DR YEUNG SUM (in Cantonese): *Madam President, I happened to pass by the place on that day and I saw a group of people including my students from the University of Hong Kong. I was surprised at why they were stopped by the police officers. As far as I understand it, the police officers would only stop them and inspect their identity cards if they suspected that they were illegal immigrants. However, they were obviously not illegal immigrants because they were carrying school bags and wearing T-shirts and jeans which were typical outfits of university students. Madam President, they walked in a group and some of them wore "Against Disciplinary Fees" badges and carried loudhailers, and there was no reason why the police officers did not realize that they belonged to the group. Do the police want to conduct political vetting and strike a blow at students' participation in social activities through identity card checking?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, firstly, I do not agree with Dr the Honourable YEUNG Sum's view that the police officers should not stop passers-by carrying schoolbags and dressed like students. In fact, people stopped by the police may not necessarily be illegal immigrants

but also overstayers. They may not necessarily come from the Mainland and they may have come from other regions in Asia. We need to stop them and check their identity cards. As Members know, mainland residents may not necessarily dress very differently from Hong Kong residents.

The police have given me a report on the incident. When the police officers asked to inspect the identity cards of the two students, they were unwilling to do so and asked to meet their lawyer. Soon after they had notified their lawyer, a man carrying a loudhailer and a lady who was a friend of theirs joined them, thus, they became "a group". Shortly afterwards, Dr YEUNG Sum and a lawyer arrived. Thus, Dr YEUNG saw a group of people, with one of them carrying a loudhailer when he arrived. Later, the lawyer advised the two students that the police officers were empowered to inspect their identity cards. Advised by the lawyer, the four people, I suppose Dr YEUNG should be included, handed over their identity cards to the police officers for checking. *(Laughter)*

DR YEUNG SUM (in Cantonese): *Madam President, no one asked to check my identity card.*

PRESIDENT (in Cantonese): Dr YEUNG, if you would like to speak, please do so later. You must observe the Rules of Procedure and you should not interrupt the Secretary who is speaking. Secretary, please continue.

SECRETARY FOR SECURITY (in Cantonese): Madam President, according to the information on hand, the four persons handed over their identity cards to the police officers for checking in a very co-operative manner.

DR YEUNG SUM (in Cantonese): *Madam President, I would like to clarify but please accept my apology for what I just did first.*

I would like to clarify that no one asked to check my identity card at that time. Obviously, the police report was erroneous. I hope that the Secretary would investigate this thoroughly.

PRESIDENT (in Cantonese): Dr YEUNG, please be seated. The Secretary has just said that there were four passers-by and Dr YEUNG and the lawyer arrived later. Secretary, do you have anything to add as to whether Dr YEUNG Sum was among the four persons whose identity cards were checked by the police officers?

SECRETARY FOR SECURITY (in Cantonese): Madam President, let me add something. What happened was that the police officers asked to check the identity cards of the two female passers-by first and the incident came to a pause when they said they needed to consult their lawyer. Later, a man carrying a loudhailer and a lady who claimed to be a friend of theirs arrived, then, Dr YEUNG and a lawyer arrived afterwards. The lawyer advised the two female passers-by that the two police officers were empowered to check their identity cards. He told the two passers-by that they should comply with the police officers' request and hand over their identity cards for checking. He also suggested that the man and another lady (who arrived with the man carrying a loudhailer) also to hand over their identity cards to the police officers for checking. Thus, Dr YEUNG Sum was not one of them.

MR CHAN KAM-LAM (in Cantonese): *Madam President, we know that police officers will usually stop suspicious people on the street to check their identity cards. Can the Secretary inform us of the number of illegal immigrants, overstayers or suspects found by the police officers through checking of identity cards of people for a certain period in the past, and does the Secretary have the relevant figures?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I have some figures on stopping people for checking of identity cards by the police. There were around 1.4 million man-times in 1997-98; 1.84 million man-times in 1998-99 and over 2.3 million man-times in 1999-2000. I have inquired with the police but they do not have figures indicating the number of times that they have found holders of fake identity cards or impersonation through stopping passers-by for checking of identity cards. But they have figures indicating the number of wanted or missing persons found. The police found 9 325 wanted or missing persons through stopping people for checking of identity cards in 1997-98, 13 731 in 1998-99 and 15 216 in 1999-2000.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the suspicious part of the whole incident is why had plainclothes officers stopped people for checking of identity cards? Why were they on anti-burglary patrol? Does it mean that plainclothes officers on anti-burglary patrol would often stop passers-by for checking of identity cards? The focus is that the police officers were not performing the duties of illegal immigrant interception but on anti-burglary patrol. The Secretary has just given some figures. How many of these duties were performed by plainclothes officers and how many by uniformed police officers? Is it unusual for plainclothes police officers to perform such duties?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the over 1 million man-times I just mentioned are not categorized in plainclothes officers and uniformed officers. This is not surprising at all. Members must be aware that the police maintain law and order and are on patrol on the street. Apart from uniformed officers we usually see — we need uniformed officers on patrol to achieve deterrent effect and the public takes this seriously — we also need plainclothes officers to perform such duties. As Members know, the crime rate has slightly risen in recent years and there has been a more sizable rise in the crime rate of burglary. No doubt, the number of burglary cases has increased, thus, plainclothes officers have to be on anti-burglary patrol more often, which is not surprising at all.

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

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has not given the categorized figures and I hope that she can give us a written reply on this. She has also failed to answer why the police officers were on anti-burglary patrol without cause on that day. Was it because there was a burglary nearby or do the police send anti-burglary patrol teams on the street without cause?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, we can make an inquiry with the police concerning the figures requested by Mr LEE, but I doubt if they have such categorized figures. (Annex I)

I do not agree with Mr LEE that the action was taken without cause. In fact, these actions must and should be taken frequently. We only worry that the public may think that we have taken not enough of such actions.

MR HOWARD YOUNG: *Madam President, in reply to the Honourable CHAN Kam-lam's question earlier on, the Secretary for Security has indicated a 1% success rate in finding people whom the police are looking for through checking of identity cards. However, she was unable to give us any information on the number of illegal immigrants found by the police, which I believe is another reason for this patrol being effective. Can the Secretary for Security tell us, in view of the percentage of success rate quoted to Mr CHAN and also the lack of other statistics, whether this type of operation in sourcing out illegal immigrants has a deterrent effect, and whether it is necessary for Hong Kong to continue with this type of operation and that is not being abused?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, although I have no figures on hand that indicate the number of times the police found fake identity card holders and illegal immigrants or Vietnamese refugees involved in impersonation through checking of identity cards, as far as I know, many such people have been found by the police through checking of identity cards. I believe Members also know, and even the press has reported, that illegal immigrants and overstayers have been found as a result of checking of identity cards from time to time.

I would inquire with the police if they categorize the relevant figures, but I believe the police may not categorize such figures at present because of the limitations of the existing computer systems of the police. At present, when a police officer stops a passer-by, if no problem is found after checking his identity card and photograph, in order not to disturb people, the officer may not make further inquiry with the Regional Command and Control Centre. The checking process will come to an end if he is not in doubt. However, if the police officer is in doubt, he may make an inquiry with the Regional Command and Control Centre and the computer search made at the Centre will mainly give the officer information such as whether the identity card number and name of the passer-by tally. Certainly, the police officer has to observe with his naked eye whether the passer-by looks the same. At present, the computer information of the police mainly tells the police officer whether the passer-by is wanted, especially whether he is a dangerous person, a person with propensity to violence or a missing person. Given the design of the computer systems, I believe the police

do not have information on how many illegal immigrants have been found through checking of identity cards. After the computer systems of the police have been updated in the future, the police will have more comprehensive information. Yet, I will still make an inquiry with the police in this regard. (Annex II)

MR JAMES TO (in Cantonese): *Madam President, can the Government confirm this act of inspection of identity cards either on the street or inside Mass Transit Railway stations (the Secretary's reply has not covered the situation inside Mass Transit Railway stations) is unrelated to the demonstration in which the group of people have participated? If the passers-by are only stopped for checking by the police officers by coincidence, can the Secretary confirm that the names of these people will not appear in the information system of the Crime and Security Department?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I am also gravely concerned about whether the police officers have checked the identity cards of passers-by inside the Central Mass Transit Railway station, so I have made an inquiry with the police. Having looked up all records, they confirmed that no record showed that police officers had stopped passers-by inside the Central Mass Transit Railway station for checking of identity cards in the afternoon on 20 April. If an inquiry is made with the computer system of the Regional Command and Control Centre when a passer-by is stopped for checking of identity card, not only the computer but also the notebook of the police officer concerned will have a record. The police have also assured me that they did not stop passers-by for checking of identity cards inside the Central Mass Transit Railway station.

I would also like to say that, as I have just replied, the police officers who stopped the students for checking of identity cards are plainclothes officers of the anti-burglary team, not officers of the Crime and Security Department. In accordance with the Personal Data (Privacy) Ordinance, every person stopped by a police officer for checking of identity card can collect from the police a record of checking of identity card by the police officer on that day according to the said Ordinance. The police have also assured me that these records will not be used as proof in prosecution in connection with the demonstration on that day, and this is unrelated to the work of the Crime and Security Department.

MR JAMES TO (in Cantonese): *Madam President, the Secretary has not answered part of my supplementary question. Can the police confirm that the record of the checking on that day will not be input into the information system or become retrievable information in the information system of the Crime and Security Department? If the passers-by concerned were stopped for checking purely in relation to anti-burglary work, can the police confirm this?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, I can only say that I think that the Honourable James TO has very strong imagination. I do not see why it is necessary to hand over the information to the Crime and Security Department for input into its information system or why the Department has to input into its information system the information on stopping two female passers-by for checking of identity cards. I can only tell Mr TO that the police will definitely not do so, nor do they need to do so.*

PRESIDENT (in Cantonese): *We have spent more than 18 minutes on this question. Although some Members still want to follow this up, I believe you can do so through other channels.*

Preserving Views of the Ridgelines along Victoria Harbour

3. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, regarding the means to preserve the views of the ridgelines along both sides of the Victoria Harbour, will the Government inform this Council:*

- (a) *whether, since the relocation of the airport from Kowloon City, there are newly or almost completed buildings located in areas where height restriction had previously been in force for aviation safety reasons which are blocking or will block the view of the ridgelines of the Lion Rock; and*
- (b) *whether there are policies or concrete plans for retaining the visibility of the Kowloon ridgelines from the former HMS Tamar of the Admiralty on Hong Kong Island; if so, of the details; if not, the reasons for that?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, the visibility of the Lion Rock ridges depends largely on the vantage point of the viewer. Given the height of the Lion Rock, its ridgelines can be seen from some districts in Kowloon and from many areas on the northern side of Hong Kong Island. However, given the short distance between Central and Tsim Sha Tsui, the Lion Rock ridgelines are mostly blocked by highrise developments in Kowloon when viewed from the vantage point of the Queen's Pier or from the waterfront next to the Tamar site. These developments were mainly approved or built before the relocation of the airport.

At present, there is no specific legislation or statutory control for the protection of the visibility of the ridgelines. However, for developments that require planning approval, the Town Planning Board (TPB) will take into account the possible impact of such developments on the visibility of the ridgelines.

In view of growing public concerns about urban design in Hong Kong, the Planning Department has commissioned a consultancy study on urban design for Hong Kong. During the public consultation on preliminary urban design concepts earlier this year, the Department received diverse views on the issue of the protection of the visibility of the ridgelines. While there is general support for the principle of preserving the visibility of the ridgelines, there are reservations about height restrictions and planning controls which might constrain design creativity.

The consultants are currently formulating a set of urban design guidelines for Hong Kong in the light of public comments. We aim to draw up a set of guidelines which are appropriate to Hong Kong. We intend to consult the public again by the end of this year.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, my main question today consists of two parts. The first part is on the problems arising after the relocation of the Kai Tak Airport. Owing to the height restrictions imposed on buildings near the old airport in the past, the magnificent ridgelines of the Lion Rock used to be visible from all vantage points in Kowloon. Unfortunately, following the relocation of the airport, it now seems that the Government no longer pays any more attention to this. For example, as a result of the Rhythm Garden development, we can no longer see the Lion Rock when travelling along*

the East Kowloon Corridor. Therefore, Madam President, I hope that the Government can answer the first part of my main question directly — that is, since the relocation of the airport, are there any newly or almost completed buildings which are blocking or will block the visibility of the ridgelines of the Lion Rock?

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, as explained in my main reply, the visibility of the Lion Rock to anyone looking towards Kowloon or looking at it from places in Kowloon will largely depend on the vantage point of the viewer. This is because the visibility of the ridgelines of the Lion Rock actually depends largely on the distance between the Lion Rock and the viewer, the height of the Lion Rock and whether or not there are any high-rise buildings between them. No doubt, after the relocation of the airport, owing to a number of new housing developments, the visibility of the Lion Rock from some specific locations has been blocked. However, in the absence of any specific vantage points that can help us make an assessment, we are unable to answer this question.

MR FRED LI (in Cantonese): *Madam President, there will be three major housing development projects in Kowloon East in the future. For reasons of these projects, the Government will level some green hills or construct some 40-storeyed buildings on the foothills. The studies relating to these projects were undertaken by the Government, and subsequent approval from the TPB was obtained. May I ask why the visibility of the ridgelines was not taken into consideration in the process?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, our consultant is still studying the issue of how we can protect the visibility of the ridgelines in the future. When it comes to this, one possibility is to formulate some regulatory measures for future reclamation projects, so as to ensure the visibility of the ridgelines after development. Besides, in the designs of future parks, such as the new central park in southeastern Kowloon, we may also include viewing corridors, from where people can look at the ridgelines of the Lion Rock above. Or, whenever any sizeable plot is made available for integrated planning following urban renewal, we may also study how best to protect the visibility of the ridgelines during the planning process.

For the development projects submitted to the TPB for approval in the interim, the TPB will consider their effects on the visibility of the ridgelines. There were cases in the past in which the TPB actually imposed restrictions to protect the visibility of the ridgelines.

MR NG LEUNG-SING (in Cantonese): *Madam President, it is mentioned in the last paragraph of the Secretary's main reply that following public consultation, a set of urban design guidelines appropriate to Hong Kong will be formulated. May I ask what factors will be used to determine the appropriateness or otherwise of the guidelines in question? Will the Government make known to the public all those factors which it thinks make any guidelines appropriate to Hong Kong?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): *Madam President, as a matter of fact, the view of the ridgelines of Hong Kong from both sides of the Victoria Harbour can be described as very good, and this is also a natural endowment of Hong Kong. So, in the course of formulating urban design guidelines in the future, we will place emphasis on whether or not these guidelines can help us protect the visibility of the ridgelines, whether from Kowloon to Hong Kong Island, or from Hong Kong Island to Kowloon, or from places in Kowloon to the Lion Rock. To achieve this purpose, many factors and measures can be considered. As mentioned in my main reply, height restrictions and regulatory measures are some of the possible measures. However, we have not yet come up with any final decision, as we also wish to ensure that any policy finally implemented will not restrict the design creativity of architects and the future urban renewal and other development projects in Hong Kong. We will have to wait until the consultant completes its report and comes up with some indicators before we come back to the public for consultation. We will not make any final decisions on these guidelines before listening to the views from different sides.*

DR RAYMOND HO (in Cantonese): *Madam President, according to the Secretary, the consultant is now conducting a study on the urban design of Hong Kong, and the TPB will, in the interim, consider the effects of individual development projects on the visibility of the ridgelines. In the remaining months before the consultant completes its report, will the Government issue some guidelines to the TPB on the factors that it should consider when vetting private development projects?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, the TPB is the body responsible for vetting and approving development projects requiring planning approval. In the course of doing so, it will consider many different factors. As far as these factors are concerned, it is worth noting that the height of a building may well give it a unique character and may in turn help improve the skyline of Hong Kong. There are many high-rise buildings in Hong Kong, and they are all architecturally unique in one way or another. The TPB will consider many different factors before it makes any decision, one example being whether or not a certain development project will block the visibility of the ridgelines. We have not issued any statutory guidelines to the TPB so far.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, my supplementary question is similar to the one asked by Dr the Honourable Raymond HO. As people living in Hong Kong, we are familiar with the Lion Rock and find its ridgelines very magnificent. When we are travelling along the East Kowloon Corridor, we can often have a very good view of its ridgelines. However, following the removal of the airport, our rich natural landscape, including the view of the ridgelines, has been gradually spoiled. When answering my main question, the Secretary said that there would be another public consultation exercise at the end of this year. At the beginning of this year, when the Government announced its views on urban planning, it said that it had the intention of protecting the visibility of the ridgelines. Since the Government has such an intention, will it adopt some special measures in the interim to the implementation of any finalized guidelines, so as to protect the visibility of all the ridgelines in our city, especially those of our magnificent Lion Rock?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, although we do not have any statutory requirements on protecting the visibility of the ridgelines, the TPB will still consider such a need when vetting and approving development projects requiring planning approval. As I mentioned a moment ago, there were many past cases in which the TPB actually reduced the height of buildings proposed in the projects concerned for the sake of protecting the visibility of the ridgelines. As part of its attempts to protect the visibility of the ridgelines of the Lion Rock and Kowloon Peak, the Government plans to construct two viewing corridors in southeastern Kowloon, where residents can enjoy the view of the ridgelines as much as possible.

DR RAYMOND HO (in Cantonese): *Madam President, the view of ridgelines may well be a major tourist attraction. So, will the Government instruct the consultant that when it studies the design of the promenade park, it should ensure that the Lion Rock ridgelines can be visible from everywhere within the park, or at least from a considerable area within the park? Will the Planning Department issue such a guideline to the consultant?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): *Madam President, as I mentioned just now, given the short distance between Tsim Sha Tsui and Central, the visibility of Kowloon from the Queen's Pier or the waterfront off the Tamar site is now almost blocked by high-rise buildings in Kowloon. That is why we cannot do anything much around this particular area. However, if people look towards Kowloon from places like the Quarry Bay Park, the Victoria Park and the Sun Yat San Memorial Park, they can still get quite a good and complete view of the ridgelines, because the Lion Rock is quite high and the distance between it and the three parks are longer. When we design new parks in the future, in particular the new central park in southeastern Kowloon where there will be two viewing corridors, we will seek to protect the visibility of the ridgelines.*

PRESIDENT (in Cantonese): *Mr Howard YOUNG, do you wish to ask a supplementary question?*

MR HOWARD YOUNG (in Cantonese): *Madam President, the local residents can of course enjoy the view of the ridgelines in our parks, but tourists, who seldom visit our parks, also love such a view. Apart from making it possible for people to enjoy viewing the ridgelines in parks, will the Government consider the idea of setting up viewing corridors in some popular tourist spots, such as places near the harbour, so that tourists can also enjoy the view of the ridgelines?*

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, yes, the Peak is an example. Owing to the relatively high altitude of the Peak, people looking from there towards Kowloon can get a very good view of the ridgelines in Kowloon, and the view on the Victoria Harbour is excellent too. That is why the Peak should be a very good vantage point. As for other tourist spots, we will also consider the possibility of protecting the visibility of the ridgelines as much as possible. However, if a tourist spot is situated in downtown areas, it may be more difficult for us to do anything, because even if the buildings in Kowloon are not so high, the visibility of the ridgelines may still be blocked by buildings nearby.

Emergency Services of Water Supplies Department

4. **MR CHAN WING-CHAN** (in Cantonese): *Madam President, in the early hours of the 4th this month, an underground potable water pipe in Cheung Sha Wan burst. The outpour of water and mud caused serious flooding and as a result, traffic in the vicinity was disrupted for several hours during the peak hours in the morning. In this connection, will the Government inform this Council:*

- (a) *of the reasons for the bursting of the relevant water pipe;*
- (b) *whether the Water Supplies Department (WSD) staff providing emergency services outside office hours are on shift duty or on-call at home; and*
- (c) *whether underground potable water pipes are regularly inspected, maintained and replaced; if so, of the details; if not, the reasons for that?*

SECRETARY FOR WORKS (in Cantonese): Madam President, my reply is as follows:

- (a) All potable water pipes currently in use in Hong Kong are properly designed and are durable under normal circumstances. Experience shows that pipe burst may be caused by road works and public utility trenching works, deep trenching works, excessive loading of

vehicles, vibration, underground soil movement, pipe corrosion induced by underground soil and ageing of the pipe itself.

The potable pipe that burst underneath Cheung Sha Wan Road on 4 May was an asbestos cement pipe 300 mm in diameter laid around 20 years ago. While a pipe can generally last up to 50 years under normal conditions, older designs, such as asbestos cement ones, may have a service life of barely 20 years, if conditions are less favourable.

Although asbestos cement pipes can withstand the pre-designed water pressure, they are more vulnerable than ductile iron pipes or steel pipes if they have problems with the foundation or when they are subject to external interference. For those reasons, the WSD has ceased to use asbestos cement pipes for many years and has been phasing out the existing ones.

It is very difficult to pinpoint the real cause of the pipe burst because gushing water washed mud from the ground and there is no way to find out what the underground conditions were before the bursting occurred. However, in the light of past experience and upon examining the mode of pipe failure, we believe that it was probably caused by the ageing of the pipe itself or its connection, and by the partial loss of support as a result of soil loosening. The burst section has been replaced with stronger ductile iron pipe, while the loosened soil was removed and replaced by better soil to support the pipe.

- (b) The WSD has emergency standby gangs stationed at designated spots for call duties, both during and outside normal office hours.

Outside normal office hours, 10 standby gangs are stationed at the WSD's regional offices and depots throughout the territory, namely two at the Hong Kong and Islands Regional Office, two at the Mong Kok Office, and one at each of the following: Mainland South East Regional Office, Fanling Depot, Tai Po Depot, Yuen Long Depot, Mui Wo Waterworks Depot and Lamma Island Depot.

All the emergency standby gangs are properly accommodated at the WSD's depots and regional offices, and the size of each gang is determined according to the service area and the location of WSD facilities.

Upon receipt of a report of pipe burst, the WSD's Customer Telephone Enquiry Centre will notify the region concerned. The staff on duty will arrive at the scene as soon as possible to turn off the gate valves so that the outflow of water can be stemmed without delay. In the process, the WSD staff will have to locate the burst pipe and the exact location of the gate valves. Besides, they have to take into account the area involved and the number of households affected by the suspension of water supply. The number and size of gate valves that need to be turned off will depend on the actual situation. Sometimes the valve pit covers are submerged in water and debris and thus cannot be opened. Under such circumstances, the workers will have to take a longer time to turn off more valves that are further away and a larger area will therefore be affected.

After the flow has been stemmed, the maintenance term contractor of the WSD will immediately carry out the repair works under the instruction of the WSD staff. The contractor will resume the supply of water as soon as possible and restore the scene back to normal condition.

Before carrying out emergency remedial works, the WSD engineers will examine the severity of the burst pipe and the extent of the damage to its surroundings. Consideration will also be given as to whether the burst section has to be replaced. If the suspension of water supply exceeds six hours or a large number of households are affected, the WSD will activate the public standpipe or mobilize a water truck to provide temporary water supply to the affected households within three hours.

In this incident, an emergency standby gang had just finished handling a case of pipe burst in Hamilton Street, Mong Kok. Upon receipt of a report of pipe burst in Cheung Sha Wan Road, the gang polished off the work and rushed to the scene in 25 minutes. As some of the valve pit covers were covered with water and debris and

thus could not be opened, several main gate valves at more distant locations had to be turned off to put the inflow under control. The water stored at the downstream side of the water mains flowed backwards because the system itself was filled with water. Under such circumstances, the gate valves of other branch distribution mains had to be closed to completely stem the flow.

- (c) It is the WSD's current practice to replace old water pipes annually to reduce the risk of bursting and leakage. The WSD staff normally conducts inspection on underground pipes to decide whether old pipes should be replaced when excavation works are being undertaken under other projects. Such a measure allows redeployment of resources for replacement works in a more cost-effective way. Of course, those pipes with high frequency of bursting will be included in the replacement programme. The WSD also regularly monitors the progress of other works, including road works and underground utility works (such as drainage, gas pipes and electric cables), undertaken in the vicinity of its pipes. If the WSD staff detects any works which may cause damage to the water pipes nearby, they will give warning and ask the authorities concerned to take adequate protective measures.

The WSD has produced a number of educational and promotional publications such as "Guidelines for Excavation near Water Mains" for distribution to contractors and the authorities concerned, reminding them to take appropriate measures to protect water pipes at the work sites when road works are undertaken.

Underground pipes are subject to regular leak tests while main valves are under frequent inspection and operation. Any defects found will be rectified and leaking pipes will be replaced as soon as possible.

Leak tests on pipes are also conducted regularly throughout the territory by the Leakage Detection Unit of the WSD. The testing frequency depends on the leakage record of individual pipe sections and their respective monitoring zones. Leak tests are normally carried out on an average of once every 12 months in each monitoring zone. For pipes with a longer service age or

monitoring zones with a higher leakage record, leak tests will be conducted more frequently. Rehabilitation and improvement works will be undertaken for pipes with high frequency of bursting or leakage.

The WSD investigates and examines the cause of each pipe burst incident so that preventive measures may be taken. If the burst is caused by external factors, it is not necessary to replace the whole pipe, and reinforcing the protection for the affected section will suffice, such as enveloping the pipe with concrete. Such practice aims at redeploying resources for replacement works in a more cost-effective way. On the other hand, if the burst is due to ageing of the pipe, the WSD will consider including the affected section of the pipe in the replacement programme.

In Hong Kong, there is an underground pipework network of about 6 100 km in length supplying potable water and salt water to the whole territory. Along with the development of the urban area and the new towns, about 42% of the pipes were laid 30 years ago or even earlier and their design life will soon expire.

The WSD completed the Underground Asset Management Study in late 1997. It was proposed in the study that aged water pipes of about 3 050 km in length should be replaced/rehabilitated in phases within 20 years to prevent further deterioration of the water supply network. The estimated cost of the whole project is around \$11 billion. It is expected that the number of pipe failures can be reduced by 60% after the completion of the programme.

PRESIDENT (in Cantonese): Honourable Members, since the Secretary has used more than 10 minutes on his main reply, I will allow you more than 15 minutes for supplementary questions.

MR CHAN WING-CHAN (in Cantonese): *Madam President, apart from the case of pipe burst in Cheung Sha Wan Road, the Secretary has also referred to a case of pipe burst in Mong Kok in answering my main question. In this connection, could the Secretary inform this Council whether the Government has*

better testing, repair and maintenance methods for water pipes, which could help prevent the water pipes from bursting so frequently? In addition, in the event of pipe burst in the future, could better measures be adopted to have the water pipes repaired within a shorter time, so as not to affect the residents nearby on the one hand and to avoid causing any traffic congestion on the other?

SECRETARY FOR WORKS (in Cantonese): Madam President, as I said just now, actually there are many reasons leading to pipe burst. Apart from external reasons, ageing of the pipe itself is also one possible cause. With regard to the ageing of pipes, just now I have already said that we plan to replace or repair aged water pipes of about 3 050 km in length in phases within 20 years. But since there are so many water pipes that need to be replaced, I have also mentioned in the main reply that we would immediately replace those ageing water pipes with high frequency of leaking.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, recently there have been frequent cases in which pipe burst paralyzed the traffic nearby. In this connection, could the Secretary inform this Council whether he has on hand any information on the number of pipe burst cases in the past three years; and whether the Government would replace the water pipes concerned more expeditiously? Moreover, just now the Secretary said it would take 20 years to replace the ageing water pipes, could the Secretary inform this Council whether he considers 20 years to be too long a period?*

SECRETARY FOR WORKS (in Cantonese): Madam President, according to the information available, there are about 1 800 cases of pipe burst in a year, which is about five cases a day. Certainly, the figure would be even bigger if cases of leakage should be counted together. As regards the replacement works of water pipes, given the considerable amount of resources required and the large number of water pipes that need to be replaced, we must complete the replacement works in phases. I consider the existing phased water pipe replacement programme to be the best option.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, I personally have been twice affected by cases of pipe burst, for the same water pipe has burst twice at the same place within a week. As a result, I have to carry buckets of water more than a dozen storeys up and still could not take a bath for several days. Could the Secretary inform this Council whether the repeated cases of pipe burst are attributable to the fact that the repair works have been contracted out? In order to maximize profit, contractors would repair only a part rather than the entire section of the water pipe concerned, and thus causing the water pipe to burst again. The two cases of pipe burst I have experienced are a good example. Could the Secretary inform this Council whether there is any problem with the contracting out system of the Government in this respect?*

SECRETARY FOR WORKS (in Cantonese): *Madam President, basically the situation has nothing to do with contracting out. As a matter of fact, burst pipes will be dealt with in two stages. Stage one is certainly to turn off the gate valve to stem the outflow of water, and stage two is to replace the damaged water pipe. As regards the length of the water pipe to be replaced, it would normally be determined by WSD staff. As I said earlier, for many water pipes, particularly those in the old areas, a rather large section of their entire length has become aged. For this reason, after a certain section has burst, while the same section will not burst again, another section nearby would burst soon afterwards.*

MR ALBERT HO (in Cantonese): *Madam President, I believe the Secretary is also aware that the case of pipe burst in Cheung Sha Wan Road caused grave impacts, as tens of bus routes had to suspend services while members of the public were forced to abandon the buses and went to the Mass Transit Railway (MTR) stations on foot. After the incident, I met with representatives from the WSD and the Transport Department (TD). We then found out that Cheung Sha Wan Road had not been included as red or pink coloured trunk routes during the planning process. As a result, when the water pipe burst, the WSD staff were all busy repairing the pipe and therefore did not notify the TD. If Cheung Sha Wan Road had been included as a trunk road, the WSD would notify the TD via the inter-departmental mechanism. It was fortunate that a TD staff member succeeded in collecting the relevant information slightly after 6.00 am and then notify the police and other relevant government departments as well as the MTR Corporation to work together in dealing with the emergency.*

Madam President, may I ask the Secretary on what criteria are roads included as red or pink coloured trunk roads? Given the changes in traffic conditions, is it not time for the Government to re-classify the roads concerned? I was really surprised to find that Cheung Sha Wan Road was not classified as a red or pink coloured trunk road. Moreover, I have found that the roads of many major areas are not classified as red coloured trunk roads either. In this connection, could the Secretary inform this Council whether the Government would consider re-classifying certain roads as red or pink coloured trunk roads, so that in the event of any similar incidents in the future, the WSD could immediately notify all government departments concerned such as the TD? Moreover, so doing would also be helpful to determining the priority for replacing the ageing water pipes.

SECRETARY FOR WORKS (in Cantonese): Madam President, regarding the question of which roads should be included as red or pink coloured trunk roads, it would depend mainly on the traffic volume and the importance of the roads concerned. As regards the case of pipe burst in Cheung Sha Wan Road, according to my understanding, actually the traffic policemen informed the TD at 7.04 am, and the TD in turn notified the various radio stations by 7.14 am to announce that Cheung Sha Wan Road might need to be closed.

In the case of pipe burst in Cheung Sha Wan Road, the comparatively more severe impact should be attributable to the fact that a very large hole was found under the burst pipe. Since it was then unknown whether the large hole would pose any road safety risk, we needed to dig up a larger area to examine the extent of influence of the hole. For safety reasons, we had to close several lanes. Having discovered that the hole would only affect the two nearest lanes, we immediately re-opened the two fast lanes on the farthest side. As a matter of fact, we re-opened all the lanes by 9.30 am. Nevertheless, drawing on the experience in this incident, we now understand that cases of pipe burst would also impact on traffic conditions gravely. As regards the water pipe concerned, actually we had already turned off the gate valves before 5.00 am. For this reason, there was no water flooding the ground. It was because of the large hole discovered that we had to close an entire lane. We consider it necessary to review the situation with the TD, the Traffic Wing of the Police Force, and the Highways Department, with a view to minimizing the impacts as far as possible in the event of any similar incidents in the future.

MR ALBERT HO (in Cantonese): *Madam President, the thrust of my supplementary was on whether it was necessary to re-classify the roads concerned as red or pink coloured trunk roads. I was really surprised to learn that Cheung Sha Wan Road had not been classified as a red or pink coloured trunk road. The water pipe had already burst by 4.00 am, but according to the Secretary, the TD was informed of the case at around 7.00 am. Many New Territories West residents were already on their way by various modes of road transport by 7.00 am, but then when they reached Cheung Sha Wan Road, the road was closed, they could not but leave the vehicles and walk on foot*

PRESIDENT (in Cantonese): Mr Albert HO is very much concerned about this matter. However, this is the question time, Honourable Members should not spend so much time expressing their views.

SECRETARY FOR WORKS (in Cantonese): Madam President, we will raise the Honourable Member's view at the inter-departmental meeting for consideration, with a view to finding out whether there is any need for the existing road classification arrangement to be reviewed.

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Last supplementary question.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, could the Secretary inform this Council whether he has assessed if it is enough to have only 10 emergency standby gangs; and whether it is reasonable for the gang to take 25 minutes to rush to the scene?*

SECRETARY FOR WORKS (in Cantonese): Madam President, as I said before, there are about 1 800 cases of pipe burst in a year, or slightly less than 500 cases in a quarter. As to the 10 emergency standby gangs to which I referred earlier, they were standby gangs stationed outside normal office hours. As a matter of fact, even outside normal office hours, we usually have more than 10 standby gangs on station to deal with emergency cases. As to the arrival time of the gangs concerned, normally the gangs need to make some preparation

before rushing to the scene as quickly as possible. In this connection, our performance pledge is to arrive at the scene in 30 minutes. Hence, it is within our pledged arrival time when the relevant gang rushed to the scene in 25 minutes.

Determination of Franchised Bus Fares

5. **MR ANDREW CHENG** (in Cantonese): *Madam President, at present, in stipulating the fares of franchized bus routes, the authority concerned classifies individual routes into groups before considering such factors as journey distance and whether air-conditioned buses should be deployed to provide services. In this connection, will the Government inform this Council of:*

- (a) *the criteria used for determining the respective groups to which the individual routes operated by the Kowloon Motor Bus Company (1933) Limited (KMB) belong, especially in regard to Kowloon urban routes, New Territories urban routes, New Territories rural routes or New Territories recreation routes;*
- (b) *the criteria used for determining the respective groups to which individual routes operated by other franchized bus companies belong, in regard to urban routes, suburban routes, New Territories routes or recreation routes; and*
- (c) *the time when these criteria were first adopted and whether it will review these criteria; if so, of the timetable; if not, the reasons for that?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, in determining the fares of franchised bus routes, the following factors will be taken into account:*

- (a) *journey distance of the route — the fare scales of franchized bus companies are divided into distance bands and different fares may be charged according to different distance bands;*

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- (b) service nature of the route — there may be a fare differential for routes of a special service nature. For example, a higher fare may be charged for the following services:
- (i) Express routes — the fares may be higher to reflect the added value for the time saving because of shorter journey time;
 - (ii) Cross harbour routes — there would be a fare premium for routes passing through the cross harbour tunnels; and
 - (iii) Recreation routes and Racecourse routes — these are special services and the fares may be higher to reflect the cost of providing the services;
- (c) geographical areas to be served by the route — routes serving different geographical areas may have different characteristics and hence the cost of the service may be different. For example, routes serving the Mid-Levels on Hong Kong Island have higher operating costs as the service is run at a gradient. A higher fare may be charged to reflect the cost factor;
- (d) bus type to be deployed — the cost of providing air-conditioned services is higher than non-air-conditioned services and therefore the fares for air-conditioned routes may be higher;
- (e) passenger demand pattern — different fares may be charged for different routes to reflect the cost of providing the particular service. For example:
- (i) rural routes which mainly serve remote areas in the New Territories where the population is relatively low may charge higher fares than urban routes; and
 - (ii) the passenger demand pattern of cross harbour routes from the New Territories including new towns is different from that of cross harbour routes from Kowloon and this would have cost implications. Generally speaking, cross harbour routes from the New Territories and new towns have the following characteristics which would increase the cost of

providing the services, and hence the fares of these routes may be higher:

- the routes have fewer short distance passengers;
 - the passenger demand during non-peak period is very low compared with other cross harbour routes; and
 - for the peak period, only one bound has a high demand and the reverse bound has very few passengers; and
- (f) other relevant considerations, including the historical development of the fare scale of different route groups.

On the basis of the above factors, franchised bus routes are classified into different route groups under the bus fare scale to reflect the route characteristics and to facilitate easy identification of the route types. At present, the routes of the KMB are classified into 25 route groups under its bus fare scale, whereas the routes of the New World First Bus Services Limited (First Bus) and Citybus Limited are classified into 11 and 13 route groups respectively.

Route groups have existed since the early years of franchised bus operation. The existing groupings are developed over the years in line with the development of Hong Kong and they are reviewed from time to time. For example, the delineation of route groups for the Hong Kong Island service as applied to the China Motor Bus Company Limited before its bus franchise ended was reviewed in 1998, as a result of which the classification of the relevant route groups has been simplified under the bus fare scale of the First Bus. We will continue to examine the possibility of further simplifying the route groupings when the opportunity arises.

MR ANDREW CHENG (in Cantonese): *Madam President, some of the new towns served by buses of the New Territories urban routes, such as Tseung Kwan O, are very near to the urban areas and the population of Tseung Kwan O has reached 260 000 now. According to the classification of groups of bus routes which in turn determines the fares, our conservative estimates are that the fares paid by each passenger for each journey taken are higher than the fares for the Kowloon urban routes by \$3. Will the Government consider re-grouping the*

bus routes which serve the new towns such as Tseung Kwan O and place them under those Kowloon urban routes so as to lessen the financial burden of the public?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I have explained in the main reply that there are different factors determining the fares of franchised bus routes. The basic fares for all bus routes serving the new towns (including Tseung Kwan O) are similar. Fares for bus routes serving new towns such as Tseung Kwan O are based on criteria more or less similar to those in routes serving other new towns. But as the passenger demand patterns are different, there is some difference in the fares of bus routes in the new towns and in the urban areas. Hence there is a difference between the fares for the Tseung Kwan O routes and the urban routes. However, the criteria used for stipulating the fares for Tseung Kwan O and other new towns are basically similar.

MISS CYD HO (in Cantonese): *Madam President, the third paragraph of the main reply states that the Administration will continue to examine the possibility of further simplifying the route groupings. But will this lead to some unfairness? As the Secretary has mentioned earlier, the fares for the Tseung Kwan O routes and routes serving other new towns, such as Tuen Mun, are similar, but the journey distance of these two route groups is very different but they are charged fares of the same route groups. Will the Government consider making a review of this unfair situation?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, difference in journey distance will certainly lead to differences in bus fares, but as I have said, the criteria, not the actual amount of fares, for routes in this group, are similar. We would certainly hope to simplify the route groupings, but it will do no good to revise fares for specific routes in this process, and it may even lead to unfavourable results. On the other hand, if revisions are made on the route groupings as a whole, then it may be beneficial to most of the passengers. Having said that, revisions will be made only when the opportunity and need arise. We will not revise the fares simply for the sake of simplifying the route groupings, for this will cause confusion to the fare structure.

MRS MIRIAM LAU (in Cantonese): *Madam President, the first paragraph of the main reply says that suburban routes, New Territories routes and routes serving the new towns charge higher fares to reflect the cost of providing the services. However, there is often a situation of different bus routes subsidizing each other. Will the Government require the bus companies to reduce the fares for those routes which have a higher operating cost and to subsidize these routes by other routes with a lower operating cost?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, when bus companies are to revise their fares, the Transport Department will not just consider the criteria used to determine fares in existing route groups, but also the bus fare scale for that company as a whole. However, the criteria for individual route groups will be used as a basis for the adjustment of fares.

MR ANDREW WONG (in Cantonese): *Madam President, it sounds very odd to me that there are 25 route groups for the KMB, but only 11 and 13 route groups respectively for the First Bus and Citybus. Why is there such a difference? As a matter of fact, the delineation of route groups has been in existence since the beginning of franchised bus services, did the KMB use to have more route groups in the past than at the present, or vice versa? Does the existing number of route groups represent an increase or decrease? Though the Secretary has stated that the route groupings will be simplified, it is a fact that route groups are increasing all the time. Would it be pointless if there are too many route groups? Will the bus companies offer all kinds of reasons to support their argument that certain routes must charge a higher fare?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I do not have any information on the historical development of the routes of the KMB on hand, but I am sure that the number of route groups at present is more than that in the past. The simplest example is the recreation groups. I think when the KMB started its service in 1933, there might not be any group of recreation routes, though I may need to confirm that. The new route groupings indeed reflect the developments of the territory at different points in time and so new services are provided. If the criteria used in stipulating the fares of new

services cannot be based on the criteria used for existing route groups, then the bus company concerned will need to draw up some new criteria. Another good example for this is the Racecourse routes. Before the construction of the Shatin race course, the KMB did not have any route groups for Racecourse routes. So the number of existing route groups is definitely more than that in the past and this reflects the new services provided.

PRESIDENT (in Cantonese): Mr WONG, the Secretary has not answered your supplementary question, has he?

MR ANDREW WONG (in Cantonese): *Excuse me, Madam President, may I ask something in addition to what I have asked?*

PRESIDENT (in addition): Mr WONG, if you are not following up any part of the supplementary question you have just raised, then you will have to wait for your turn.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, for those workers with a low income, bus fares are an important factor which they will consider when they want to seek a job away from the district in which they live. Does the Transport Bureau or the Government have any economic considerations in this respect? When the Government discusses fares with the bus companies, does it require the bus companies to consider any economic factors? Take the bus fares for routes running from Tuen Mun, Yuen Long, Fanling or Sheung Shui to Central as an example, there may be a long journey distance, but the fares should be relatively cheaper.*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, on the charging of fares by modes of public transport, one of the factors that need to be considered is certainly the affordability of the passengers. So in the determination of fares, the bus companies will consider the affordability of the passengers whom they serve.

MR ANDREW CHENG (in Cantonese): *Madam President, it is an irrefutable fact that bus fares for New Territories urban routes are higher than those for the Kowloon urban routes. The Secretary said in his main reply that those routes serving the new towns have a longer journey distance, that there are less bus stops in between the terminals and passengers boarding the buses other than in the terminals, and passenger demand during non-peak period is very low and concentrated during the peak period. As the Secretary said in the main reply that a review will be made, my supplementary question is: If there are some New Territories urban routes which have a shorter journey distance and that the passenger volume is not concentrated during the peak period, then would the Secretary consider not using geographical boundaries as a basis for making the review so that people living in the new towns may not have to pay higher fares?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the supplementary questions raised by some Honourable Members are made from the perspective of the passengers. That is fair enough. But please do not forget that bus companies will need to get cost benefits in providing such services. If not, these services cannot be provided. The Transport Department should ensure that bus companies will minimize their costs and that the fares determined should be affordable. So if there are any adjustments in fares, including the switching of route groups or revision of fares, the Government will need to take many factors into account. These will include the actual costs of the operators, the affordability of the passengers, as well as the competition from other modes of transport. Only after these are weighed against each other that new fares are determined.

MISS EMILY LAU (in Cantonese): *Madam President, on the complaints lodged by the public against the charging of excessive fares by the bus companies, is the Secretary aware of which of the new towns receive most of this kind of complaints? Is the Secretary aware of the grievances aired by the residents of Tseung Kwan O?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I do not have a breakdown of the complaint figures at hand, I can give a written reply if that is needed, though. (Annex III)

MR ANDREW WONG (in Cantonese): *Madam President, this is not following up the question which I have asked. I really want to know about the historical development of the KMB and the route groupings of the other two bus companies so that we can know the criteria for determining bus fares. If the Secretary does not have any information on this at hand, may I have a written reply? This will enable us to know how the Administration handles the fares for the Tseung Kwan O routes and whether it is exactly the same as when it handles routes serving other new towns. Thus a lot of problems can be solved. Could the Secretary give an oral reply to the second part of this question and give a written reply to the first part?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I do not really know what the first and the second parts are. Could the Honourable Member put the supplementary question in a more concrete way before I try to give an answer?

PRESIDENT (in Cantonese): Could Mr WONG explain briefly on that?

MR ANDREW WONG (in Cantonese): *Madam President, the first part is on the historical development of the route groupings of the KMB and what are the 25 route groups in the KMB and the 11 and 13 route groups in the other two bus companies, and what the criteria used to stipulate the fares are. I would also like the Secretary to give an immediate answer to the second part of the question, that is, whether the route group to which the routes serving Tseung Kwan O belong is the same as that of the routes serving the other new towns.*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the second part of the question is very easy to answer and I have in fact answered it. The fares for the Tseung Kwan O routes are stipulated under the same criteria as the other routes serving the new towns and so they are basically the same as the routes for other new towns. As for information on the route groupings of the KMB, though I have some related information at hand, I would have to give a written reply since the figures and breakdowns are very detailed. Moreover, I also have information on the other two bus companies at hand. But since Honourable Members may not be able to catch the figures so clearly if I am to

read them out, so I would prefer to give a written reply. (Annex IV) As for the historical development of the route groupings of the KMB, I would try to inquire with the KMB on that or to look for information available in the Transport Department. However, it may be rather difficult if we are to make a detailed analysis of this or to trace back to the information in 1933.

PRESIDENT (in Cantonese): The last supplementary question.

MISS CYD HO (in Cantonese): *Madam President, in stipulating the fares for franchised bus routes, the Chief Executive in Council would set a ceiling, but as we know, this ceiling will only be 20% above the present fares charged by the bus companies. So when the public demands that fares be reduced, the bus companies would say that their fares are still 20% away from the ceiling. In this regard, will the authorities study into the issue of whether or not this ceiling is practical and if so, that it should be adjusted downwards?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the increase in fares approved by the Government is compulsory on the bus companies. Irrespective of competition or other commercial reasons, if the rate of the increase in bus fares has not reached the ceiling, the bus company will still need to make an application to the Government and any increase in fares can be implemented only after obtaining our approval. Once the ceiling is set, bus companies may not reduce their fares at any time they want. Honourable Members may query why the Government will not permit even a reduction in fares. The problem is that when bus companies make an application on the fares and the target limit in the first place, we need to ensure that the principle of fairness is adhered to. In other words, fares for different routes are determined according to the scope of service and the target passengers to be served. If a bus company wishes to revise its fares, we will consider the application before giving our approval. In no way can bus companies reduce the fares at their will.

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

MISS CYD HO (in Cantonese): *Madam President, the supplementary question which I have just asked is about the ceiling on bus fares prescribed by the Chief Executive in Council and that should there be a 20% gap between the ceiling and the actual fares charged, would it appear that the ceiling is not a practical one?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, that sounds simple. A ceiling on fares has been set after an increase in fares. When another bus company makes an application to revise the fares before the next time when fare increases are permitted and that application has gained our approval, then when the former bus company wishes to apply for an increase in fares, we will need to look at the entire scenario. The results may be a downward revision or that the application will be assessed differently.*

Redundancy Scheme of China Light and Power Company Limited

6. **MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, regarding the redundancy scheme announced by the China Light and Power Company Limited (CLP) in late March and the prevention of redundancy by franchised public utility companies, will the Government inform this Council:*

- (a) *of the government departments involved in mediating the labour dispute arising from the CLP's redundancy act and the mediation process and outcome thereof;*
- (b) *whether contingency measures have been drawn up to minimize the inconvenience to the industrial and commercial sectors and the general public when problems with electricity supply arise due to the industrial actions of the CLP staff; and*
- (c) *whether the Government has asked the CLP and other franchised public utility companies to avoid large-scale redundancy; if not, whether it will consider including such terms in new franchise agreements; if it will not, of the rationale for that?*

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

- (a) Following the CLP's announcement of its departure scheme in late March this year, the Labour Department took the initiative to shuttle between the management and staff side of the CLP to give advice and encourage communication between them. Direct dialogue was established and the matter was resolved. In the process of mediation, the Labour Department also provided a variety of services for the staff of the CLP, including setting up a telephone hotline to answer their inquiries on labour rights under the relevant legislation, assigning special counters at ten of its job centres for the provision of employment services to the affected staff, and deploying a team of officers to the outplacement service centre established by the CLP to provide affected staff with career counselling as well as on-site registration for placement service.
- (b) The CLP has put in place contingency plans to cope with problems that may occur in its supply system. The CLP's generation and distribution systems are highly automated and equipped with reserve generation units and alternative circuits for minimizing any impact that may be caused by problems in the supply system. If there is any problem with staff availability, the CLP may redeploy its staff to handle contingencies and if necessary seek external support, including seeking assistance from its contractors, to ensure normal supply of electricity as far as possible. The CLP also has arrangements with the Hongkong Electric Company Limited and the power authorities of Guangdong on mutual assistance in case of need. Moreover, the CLP has in place a load management programme for ensuring that essential facilities like hospitals would have priority in electricity supply if necessary. The Electrical and Mechanical Services Department will also maintain close liaison with the power companies and closely monitor the operation of their supply systems.
- (c) The CLP does not have any franchise under its Scheme of Control Agreement (SCA) with the Government. The objective of the SCA is to ensure that the power company would provide reliable electricity supply to the public at a reasonable price while allowing

its shareholders to earn a reasonable return on their investment. Under the SCA, the power company is responsible for the reliability of electricity supply. However, as a commercial entity, the power company can formulate and implement its own human resources policy so that it could maintain reliable electricity supply and at the same time optimize the use of its resources and enhance its productivity with a view to keeping tariff as low as possible.

According to information provided by the relevant bureau, franchise agreements between the Government and public utility companies primarily aim at ensuring the provision of sufficient and reliable services by the franchisees. As in the case of the power companies, these franchisees formulate and implement their own human resources policies.

For the above reasons, we consider it inappropriate to include terms on avoidance of large-scale redundancy in the franchise agreements with public utility companies or SCAs with the power companies.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, in seeking to increase its profit, the CLP has resorted to cutting its staff, thus causing the unemployment rate to rise. It has no sense of commitment to society. If the CLP's profit increases substantially due to its redundancy act, will the Government request the CLP to reduce the tariff it charges the public?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, actually, I already explained that the CLP has to maximize its cost-effectiveness. As Members know, with advanced technology, many tasks, such as meter reading and tariff collection, are automated. The kind of staff required now is very much different from that in the past, since these processes do not require a lot of manpower. If we lay down arbitrarily that power companies cannot cut staff or have to keep a certain number of staff, it would probably not help to enhance cost-effectiveness. Instead, it would only serve to increase the costs of operation, which will ultimately be borne by users, since these costs will reflect on the tariff rates. Since the return of the power companies is regulated by their respective SCAs, they cannot make an excessive profit, even if costs can be cut. Of course, any decrease in profit will ultimately reflect on the tariff as well.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, as far as I know, the redundancy scheme of the CLP is not targeted at meter readers or tariff collectors, but at a lot of experienced technical staff. If so, how will the Government ensure that the company can continue to provide a stable electricity supply and how will safety be guaranteed?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I am sure the Honourable TAM Yiu-chung and Members are very much concerned about a reliable supply of electricity, which is extremely important to the community. We are also highly concerned about this. Actually, with regard to the financial schemes and development schemes submitted by the power companies each year, we will consider whether there is adequate staff to provide services. As I explained just now and as Mr TAM certainly knows, with advanced technology, the generation of electricity does not require much manpower. However, the daily maintenance is another matter.

The Electrical and Mechanical Services Department is all the time monitoring the relevant operations. In fact, the reliability of electricity supply of the two power companies in Hong Kong is comparable to that in other big cities. I can also tell Mr TAM that we are very much concerned about this issue and will monitor the relevant operations. As Members can see from the past record, our electricity supply is very reliable.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, in answering the Honourable CHAN Kwok-keung's main question, the Government seemed to imply that the CLP is very good to its staff. The CLP is certainly much better than the Seibu Department Store under Dickson Concepts led by Dickson POON, which still has employees on strike today. This is because the latter is even meaner and more unreasonable. What I wish to say is, faced with such restructuring, especially the restructuring of a public utility company due to technological development and overall restructuring, the only solution seems to be "redundancy", as the Secretary said just now. However, as suggested by Mr TAM just now, can we think of another way to help people to weather the crisis, such as by upgrading their skills, instead of letting employees bear the entire consequences of the technological restructuring?*

PRESIDENT (in Cantonese): Which Secretary will tackle this supplementary?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, perhaps let me try to answer the Honourable Miss CHAN Yuen-yan's supplementary question. Of course, I fully appreciate Miss CHAN's views as a trade union leader and I know that the CLP staff are extremely responsible. We know this from the fact that they have never organized any major industrial action in the past. I believe the most important thing is the communication between the management and its staff. Miss CHAN was absolutely right. I am sure no one likes to dismiss staff unnecessarily. If skills upgrading and retraining can solve the problem, we very much agree that the relevant companies should take these measures. Actually, we have talked to the CLP and they stated clearly that they did take those steps, such as retraining and transfer as mentioned by Miss CHAN just now. We and the Labour Department will continue to keep in touch with CLP in this connection and we hope they will continue to do so.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, just now, the Secretary said that the CLP had to cut staff probably because its productivity was enhanced through technology. However, I wish to remind the Secretary that the redundancy acts of some organizations may have something to do with another department under the Secretary, that is, the Post Office. The tariff collection work of the CLP has been contracted out to the Post Office. If it goes on like this, all public utility companies may have to cut staff. Will the Post Office review its services in this respect, in order not to aid and abet other companies in their redundancy acts?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I understand the Honourable Member's views very well. However, I do not think we should blame it all on the Post Office. Even if the Post Office does not provide the relevant service, people can still pay the electricity tariff simply by telephone. Members will recall that several Members who are present have urged the Post Office to provide more of such services in order to generate more revenue and thus reduce the need for the increase of postage. As we very much respect Members' views, we have already done so. I do not think we can say that this will cause certain companies to reduce their staff.

PRESIDENT (in Cantonese): First question.

Improvements to Train Services

1. **MR ANDREW WONG** (in Cantonese): *First of all, I must apologize to the President for being late. I am grateful to the President for allowing me to ask Question 1 after Question 6.*

Madam President, regarding improvements to train services, will the Government inform this Council whether it will request the Kowloon-Canton Railway Corporation (KCRC) to:

- (a) install retrofitting platform screen doors at railway stations to enhance passenger safety;*
- (b) install air-conditioning systems on railway platforms to provide passengers with a more comfortable environment while waiting for trains in summer; and*
- (c) construct roof covers above the rails between platforms so that passengers need not open their umbrellas while boarding and getting off the train on rainy days?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, this question consists of three parts, so my reply will take a bit longer. But I think it should take less than 10 minutes.

Although platform screen doors could enhance passenger safety, it is not a prerequisite for safe railway operation. Upon our request, the KCRC has undertaken a consultancy study on installing platform screen doors to the East Rail. The KCRC's consultancy study has identified a series of technical and operational difficulties in installing platform screen doors to the East Rail, including the following:

- (a) Nine of the 13 East Rail stations have curved platform edges, which means wider gaps of variable widths between trains and platform edges. Retrofitting platform screen doors may obscure such gaps from sight and increase the risk of passengers falling into such gaps.
- (b) East Rail trains are driven manually under the current signalling system, and there will be problems with synchronizing the train doors and platform screen doors accurately when the trains arrive at the station platform, hence affecting operational efficiency of the railway system.
- (c) Retrofitting platform screen doors involves substantial alterations to the stations and will have considerable impact on the platform operation, even if works are only carried out during the night time.
- (d) East Rail stations are on open ground and hence there will not be any benefits of energy savings in terms of air-conditioning, which could offset some of the costs involved in retrofitting platform screen doors.

The KCRC's existing station platform management schemes and crowd control measures on station platform have a very good safety record and the Corporation does not consider it cost-effective to install platform screen doors to the East Rail.

At present, air-conditioning is provided to the queuing area on the Lo Wu station platform to cater for cross-boundary passengers because these passengers normally have to queue for some time before they enter the terminal building. Installing air-conditioning to other East Rail station platforms which are all on open ground will involve turning the station platforms into a fully-enclosed structure. Given the East Rail currently runs a train frequency of between three minutes and five minutes, the KCRC does not consider the short passenger waiting time on station platform justifies the substantial capital and recurrent resources in installing air-conditioning facilities to existing East Rail station platforms.

At present, the platforms of four East Rail stations have roof covers which form either part of the station building (for example, Hung Hom station) or property development (for example, Mong Kok). Other East Rail stations are installed with platform awnings which only leave a distance of about 0.9 m between the awnings and the train cars. While the awnings could physically be extended to bridge this gap, this would narrow the distance between the edge of the extended awnings and the overhead power lines to less than the minimum clearance of 2.75 m. Alternatively, providing new roof cover well above the overhead power lines would involve substantial modification of station structures, and therefore great disruption and inconvenience to passengers. Therefore, for safety and cost reasons, the KCRC cannot include the construction of roof covers above the rails as a priority improvement project.

MR ANDREW WONG (in Cantonese): *Madam President, my main question asked whether the Government would request the KCRC to carry out the engineering works stated in parts (a), (b) and (c) of the main question. But in his reply to part (a) of the main question, the Secretary said that the KCRC does not consider it cost-effective to install platform screen doors to the East Rail; in his reply to part (b), he said the KCRC does not think there are sufficient justifications; and in his reply to part (c), he said the KCRC cannot include the construction of roof covers above the rails as a priority improvement project. The Government did not state its position. I hope its purpose is to leave itself room for manoeuvre.*

If the stations can be developed in the form of a building, all the three facilities could then be made possible. May I ask the Secretary if the Government has plans to request the KCRC to develop the stations in the form of shopping arcades or town centres, thereby making the three projects feasible?

SECRETARY FOR TRANSPORT (in Cantonese): I will refer this proposal for the reference of the KCRC. However, if a particular station has potentials for the development of superstructures, the KCRC will basically utilize them, and this arrangement is also made for quite a number of stations. Yet, there are stations which do not have such potentials either geographically or in terms of commercial viability, so it is impossible to develop structures with no commercial activity above these stations.

DR RAYMOND HO (in Cantonese): *Madam President, just now the Secretary said that some stations have curved platform edges, which means wider gaps of variable widths between trains and platform edges. Some of the gaps now are already fairly wide. If trains of not only nine but 12 carriages are used in future, will the widths of the gaps be even less safe? Can the KCRC consider straightening the platform edges? Is this structurally feasible?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, I trust that the railway experts would certainly avoid these technical problems if this was feasible technically. In fact, a characteristic of the East Rail is that several types of trains can run on its rails at the same time. Apart from the KCRC's services between Kowloon and the New Territories, there are also services of freight trains and through trains. So, the East Rail has to cater for several types of trains at the same time, and the widths of these trains are slightly different from one and other. For instance, the width of a freight train is certainly different from that of a passenger train. Therefore, as the platforms and the rails have to cater for the practical needs of different types of trains, the gaps at some platforms are inconsistent and the matter cannot be oversimplified.*

DR TANG SIU-TONG (in Cantonese): *Madam President, the East Rail does not have these facilities for it was commissioned a long time ago. What about the design of the West Rail? Will these facilities be installed?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, basically, the West Rail stations will mostly be enclosed structures. So, at least, the stations of the West Rail will certainly be built as enclosed structures.*

MR HOWARD YOUNG (in Cantonese): *Madam President, although the Secretary had spoken for four minutes, he had only said "No" for three times. So, his reply should not have taken so long.*

The Secretary said that it is not feasible to extend the awnings to keep out rain for this is not in conformity with the safety standard of having a clearance of

2.75 m. If such awnings used for sheltering passengers from rain when boarding or alighting from the train are installed only at where the train doors open when the train pulls over at the station — my observation is that the doors mostly open at the same places — may I ask if this is also not in conformity with the safety standard that the Secretary spoke of just now so they cannot be extended this way either?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the widening or elevation of awnings to keep out rain and shelter the public from the sun and rain that I spoke of just now has to do with facilities inside the station. Such facilities are not required at all along the rails between stations for no one will be waiting to board a train there and the train will not stop either.

MR ANDREW CHENG (in Cantonese): *Madam President, in the third paragraph of the main reply the Secretary quoted the view of the KCRC that the KCRC does not consider it cost-effective to install platform screen doors to the East Rail. What is the position of the Government? Does it accept such a reply? I think the Government must state its position over the safety of lives vis-a-vis the fact that it is not cost-effective. The installation of platform screen doors will obviously protect the safety of passengers' lives to a very large extent. In view of the reason given by the KCRC based on cost-effectiveness, and given the so-called technical difficulties detailed in parts (a), (b), (c) and (d), is it that the Secretary has come to the view that no changes whatsoever can be made?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, in my main reply I already made it clear at the outset that although platform screen doors could enhance passenger safety, it is not a prerequisite for safe railway operation. Our position is that if any railway facility obviously threatens the safety of passengers, we will definitely not allow it. However, the installation of platform screen doors is not a prerequisite for the operation of railway systems worldwide. If the retrofitting of platform screen doors can make passengers feel safer psychologically, we would certainly encourage the two railway corporations to consider it. Yet, we must also take account of the physical environment, the exorbitant costs involved, and so on. Technically speaking, it is in fact extremely difficult to retrofit platform screen doors after a railway has

already come into operation — this is actually what the Mass Transit Railway Corporation (MTRC) is doing now. The MTRC is the first railway company in the world trying to retrofit platform screen doors after the completion of railway stations where platform screen doors are not installed originally. This is a highly difficult task, technically speaking. While the MTRC has to deal with the technical difficulties on the one hand, it must at the same time maintain its railway services on the other. The MTRC is the first railway company which has successfully attempted to carry out this project. It is now taking a step-by-step approach in the hope that retrofitting platform screen doors can be installed at its enclosed underground platforms.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, just now the Secretary said that many technical difficulties will be involved for the East Rail. There are press reports today that the Government will construct five railways in future, namely, the Regional Express Line, the Northern Link, the Port Rail Line, the Kowloon Southern Line and the West Hong Kong Island Line. I think the three requests made by Mr Andrew WONG very much reflect public aspiration in the community, and members of the public have also made such requests at different times before. May I ask the Secretary whether consideration has been given to installing such facilities as platform screen doors, air-conditioning systems on railway platforms and roof covers above the rails between platforms in the design of these five railways?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, in respect of the design, service standards and benchmarks of the new railway schemes for the next 20 years, we will certainly be forward-looking. Also, we will certainly remind the two railway corporations to consider as far as possible the application of new technology as well as the new and ever increasing public demands for improvements to railway services in designing new railways. We hope the railway corporations can have regard for these.

MR ANDREW WONG (in Cantonese): *Madam President, in his reply to my supplementary question just now, the Secretary stated that there are stations which do not have much commercial value. Will the Secretary tell us if studies have been made in this regard and which of the stations have no commercial value? My view is that even the Lo Wu Station does have great commercial*

value and so does the University Station as there are plans for hotel development beside the station. Will the Secretary tell us if studies have been made and which of the stations have no commercial value?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the studies are conducted by the company concerned. As far as I understand it, the KCRC has consistently tried to identify new opportunities to make money, including property developments. As far as I know, continuous efforts are made by the KCRC to study the potential and feasibility of property development along the East Rail. For example, a new plan under consideration is that the hillsides along the East Rail could well be used for advertisements to generate an income given that property development is not viable there. In fact, continuous studies are being conducted by the KCRC. Perhaps one day the hotel at the University Station might request the KCRC to redevelop the University Station as an enclosed structure where platform screen doors could then be installed. No one can say with dead certainty that this is entirely impossible.

DR LUI MING-WAH (in Cantonese): *Madam President, the third paragraph of the main reply stated that the KCRC does not consider it cost-effective to install platform screen doors to the East Rail. Are there actual figures justifying that this is not cost-effective?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I do have the figures but I have to look them up.

According to the KCRC's initial estimates, the installation of retrofitting platform screen doors to the East Rail will cost close to \$2 billion at the minimum given that most of the stations are on open ground. This is an enormous figure. We may as well compare it with the project currently being carried out by the MTRC to install platform screen doors at 30 enclosed underground stations which costs over \$2 billion.

PRESIDENT (in Cantonese): Last supplementary question.

DR RAYMOND HO (in Cantonese): *Madam President, the Legislative Council had a motion debate before on the installation of platform screen doors at the existing MTR stations. At first, the MTRC also contended that this was not cost-effective but it finally agreed to carry out the project; and it was actually pointed out then that it would involve a cost of over \$2 billion. In the third paragraph of the main reply, the Secretary said that the KCRC does not consider it cost-effective now. Will the KCRC continue to conduct studies in this regard and perhaps it would eventually take the view that the installation of platform screen doors warrants consideration in order to improve the safety standard, similar to the MTRC?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, the situation of the MTRC is obviously different from that of the KCRC. The project currently undertaken by the MTRC to install platform screen doors has to do with underground stations, not those on open ground. As air-conditioning systems are already installed at underground stations, the energy savings from reduced air-conditioning can offset the costs involved in installing platform screen doors after such doors are installed. But the project still requires \$2 billion. Insofar as the KCRC is concerned, as most of the East Rail stations are on open ground without air-conditioning, there will not be any savings in electricity expenses for air-conditioning after platform screen doors are installed, so the actual costs required will be even higher.*

WRITTEN ANSWERS TO QUESTIONS

Abuse of Comprehensive Social Security Assistance System

7. **MR HO SAI-CHU** (in Chinese): *Madam President, it was reported that staff of some residential homes for the elderly abetted elderly residents and their family members in withholding information about the assets and income of the elderly residents concerned so as to obtain the Comprehensive Social Security Assistance (CSSA) payments by deception. In this connection, will the Government inform this Council:*

- (a) *whether it has investigated if the above-mentioned cases are prevalent; if it has, of the details; if not, the reasons for that; and*
- (b) *of the measures it will adopt to curb such abetting acts?*

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

- (a) All new CSSA applications are subject to thorough checking by the Social Welfare Department (SWD) before assistance is granted. The SWD also conduct regular reviews and random checks on existing cases to ensure that assistance is provided only to those in genuine need. The SWD will carry out in-depth investigation on suspected fraud cases identified through internal reviews or reported by the public through the Report Abuse Hotline. In 1999-2000, the SWD carried out in-depth investigation on five suspected fraud cases involving elderly recipients living in residential care home but no fraud was established. There is no evidence to suggest that there are wide-spread fraudulent practices among this category of recipients.
- (b) Staff of the SWD will explain clearly to CSSA applicants at the time of application and case review that they should provide true and complete information. All applicants are required to make a declaration that they understand that it is a criminal offence to obtain CSSA by deception through deliberate provision of false information or omission of information and that offenders are liable to prosecution. To ensure proper disbursement of public funds and to deter fraud, staff are required to conduct thorough investigation and verification before authorization of payment.

Furthermore, the SWD will pay special attention to establish the genuine financial need of elderly people who used to live with and supported by their family but apply for CSSA after admission to elderly homes. Families are required to provide information to the SWD on financial support they give to their elderly members when an application is considered. Any fraud case detected will be referred to the police for necessary actions.

Manpower Planning of Various Professions

8. **MR AMBROSE LAU** (in Chinese): *Madam President, it has been reported that some university students who will be graduating from medical schools this year plan to practise in Singapore as they have not been able to secure suitable jobs in public hospitals in Hong Kong. Moreover, both the starting salaries and the number of posts available for graduates in other professional disciplines (such as law, surveying, accounting and engineering) have been reducing year by year. In this connection, will the Government inform this Council of the measures and policies currently in place to ensure a balance in manpower supply and demand in the various professions?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, the Government endeavours to ensure that the manpower supply, in terms of both quantity and quality, matches the need of our society as far as possible.

It should be noted that there are intrinsic limitations in matching manpower demand and supply at any given point in time as Hong Kong is a free and dynamic economy. Furthermore, there are many factors affecting the employment of graduates in a particular field, for example, the graduates' choice of jobs and an employer's selection of candidates. Against this background, the following paragraphs describe the Government's efforts to match supply with demand in various professions.

On the demand side, we monitor the demand for professionals in the public and private sectors through consultation with relevant bureaux/departments and professional bodies. The Government and various training agencies also carry out studies from time to time to assess the manpower requirements in different sectors. For instance, a study on IT manpower and training needs was completed in February this year. We also keep track of employment situations of fresh graduates of different disciplines through the annual Graduates Employment Surveys conducted by individual higher education institutions.

Based on the information on manpower demand in various professions, the Government will discuss with the University Grants Committee (UGC) and other manpower training organizations on suitable training provision of different disciplines. For the UGC institutions, this is mainly done in the context of these

institutions' triennial academic plans. In the process, we draw reference to the current manpower demand in the relevant fields as well as to the projected demand in the medium to long term.

Removal of Fixtures of New Home Ownership Scheme Flats by Owners

9. **MISS CHOY SO-YUK** (in Chinese): *Madam President, with regard to matters relating to the removal and disposal of fixtures of newly-completed Home Ownership Scheme (HOS) flats by their owners before they move in, will the Government inform this Council:*

- (a) *whether it has estimated the number of sanitary ware sets removed from newly built HOS flats and disposed of each year;*
- (b) *of the average expenditure on disposing of a set of sanitary ware by means of landfill, including the costs of collection, transportation and landfill operation; and*
- (c) *whether it has estimated the annual savings on landfill costs after implementing the measure to provide prospective buyers of HOS flats with three choices on fixtures and fittings?*

SECRETARY FOR HOUSING (in Chinese): Madam President,

- (a) Owners of HOS flats are not required to inform the management agents of their estates or the Housing Department (HD) if they wish to replace sanitary fittings before moving in. The HD therefore does not keep records of such replacement.
- (b) At present, there is no charge for disposal of waste at landfills but the total capital and operational cost to the Government for disposing waste at landfills is about \$125 per metric tonne. This is in addition to the cost of transportation of the waste from the estate to the landfill site. The weight of a set of HOS sanitary fittings is estimated at 0.097 metric tonne. Therefore, the cost of disposal is estimated to be \$12.

- (c) To address the concern on waste problem due to re-fitting out, prospective purchasers of HOS flats are now being offered two choices on fixtures and fittings in a few selected pilot projects which will be due for intake in 2003. The choices offered will include the "Basic Shell" and "Fully-fitted" Options.

The HD estimates that with effect from 2003 when flats offering choices of fixtures and fittings are completed, re-fitting works will be substantially reduced. It is however not possible to estimate the reduction of waste and therefore the annual savings on landfill costs at this stage. The HD plans to carry out surveys in 2003 to assess the effect of these pilot projects.

Supply and Demand of Motorcycle Parking Spaces

10. **MR LAW CHI-KWONG** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the number of fixed penalty tickets issued to motorcycle owners for illegal parking in each of the past five years;*
- (b) *the number of motorcycle parking spaces on residential development land at the end of each of the past five years; and*
- (c) *the current supply and demand situations of motorcycle parking spaces in various districts in Hong Kong during rush hours and non-rush hours respectively?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President,

- (a) The number of fixed penalty tickets issued to motorcycle owners for illegal parking in the past five years is as follows:

<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
55 749	49 351	44 693	32 747	22 363

- (b) The number of motorcycle parking spaces on residential development land in the past five years is as follows:

<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
9 936	10 023	10 221	10 521	11 466

- (c) We do not have statistics on motorcycle parking provision on the basis of rush and non-rush hours. Instead, parking demand is assessed under two categories: non-domestic demand (at places of the non-home end of the vehicle trips such as offices, shops and places of entertainment) and domestic demand (at place of residence). In 1999, there were shortfalls of 4 350 non-domestic and 11 900 domestic motorcycle parking spaces. The Hong Kong Planning Standards and Guidelines have been revised since November 1996 to impose a new requirement for the provision of motorcycle parking spaces at 5% to 10% of the total provision for private cars in new developments. The supply of motorcycle parking spaces will increase substantially as the new developments come on stream. Assuming that the low growth rate of motorcycles in the past two years will continue, it is expected that the shortfall of non-domestic and domestic parking spaces will be reduced significantly to 1 800 and 2 000 respectively in 2006.

Out-patient Service of Government Clinics

11. **DR TANG SIU-TONG** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the respective average utilization rates in each of the past three years in respect of each of the 37 clinics under the Department of Health which had an average utilization rate reached 92% or above last year; whether it has adopted any measures, such as extending the service hours and increasing the number of consultations to enhance the services of these clinics in the past three years;*

- (b) *how it arrived at the estimated figure of 4.76 million attendances this year at the general out-patient clinics under the Department of Health;*
- (c) *whether it has surveyed the demand for general out-patient service in various districts; if it has, of the survey results; if it has not, of the criteria and statistics which provide the basis for determining the number of consultations, service hours and resource allocation for the general out-patient clinics in various districts; and*
- (d) *whether it has investigated the reasons for non-urgent patients using the service of accident and emergency (A&E) departments; if it has, of the investigation results and whether they are related to insufficient general out-patient services; if it has not, whether it will conduct such an investigation?*

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

- (a) The average utilization rates of the 37 general out-patient clinics with average utilization at or above 92% in 1999 were 95.2%, 95.2% and 94.9% in 1997, 1998 and 1999 respectively. The utilization rate of each of these clinics is at Annex.

During the past three years, the Department of Health has adopted a number of measures to enhance its general out-patient services. These included opening four new general out-patient clinics, providing evening service in four clinics and Sunday/public holiday service in three clinics, providing service during morning and afternoon at all public holiday clinics and extending such service to all public holidays, and increasing the number of daily consultations per doctor from 90 to 92 in day clinics.

- (b) The projected 4.76 million attendances at the Department of Health's general out-patient clinics in 2000 was derived from the estimated attendances in 1999 and the expected increase in attendance arising from the opening of an additional clinic in Cheung Sha Wan and the full year effect of the operation of the Kowloon Bay General Out-patient Clinic.

- (c) We regularly monitor the utilization of general out-patient clinic services. In districts where demand for service is high, as evidenced by high utilization rates of the clinics concerned, we will consider means to enhance the services.
- (d) The Hospital Authority conducted a survey in March 1998 to understand the usage pattern of A&E services. It was then found that A&E departments recorded the highest attendance at 9.00 am to noon, 1.00 pm to 4.00 pm and 8.00 pm to 11.00 pm, with semi-urgent and non-urgent patients taking up 73% of the attendance. Adequate public and private out-patient services are available during the A&E peak hours in the morning and the afternoon sessions. Out-patient services are also provided in some government and private clinics during the evening session.

Annex

Utilization Rates of 37 Selected Day General Out-patient Clinics
under the Department of Health
1997-1999

	<i>Utilization Rate % *</i>		
	<i>1997</i>	<i>1998</i>	<i>1999</i>
<i>Hong Kong Region</i>			
Central District HC	95.2	94.7	95.0
Violet Peel HC	95.0	94.6	97.2
Aberdeen JCC	93.0	93.9	95.5
Ap Lei Chau C	91.4	92.3	95.5
Anne Black HC	91.7	95.2	97.1
Chai Wan HC	95.5	94.5	93.9
Shaukeiwan JCC	92.5	91.9	95.8
Wan Tsui GC	95.3	97.6	97.9

	<i>Utilization Rate % *</i>		
	<i>1997</i>	<i>1998</i>	<i>1999</i>
<i>Kowloon Region</i>			
Robert Black HC	100.1	93.8	92.7
Wu York Yu HC	93.0	94.7	97.0
Kowloon Bay HC ¹	N.A.	N.A.	92.5
Kwun Tong JCHC	96.3	95.6	94.1
Ngau Tau Kok JCC ²	96.7	95.7	94.2
Shun Lee GC	94.4	93.7	93.3
Li Po Chun HC	97.3	97.9	98.4
Nam Shan HC	95.5	96.8	93.8
Sham Shui Po PD	94.9	92.5	94.1
Shek Kip Mei HC	93.2	95.2	95.6
Hung Hom GC	98.1	98.5	98.1
Lee Kee Memorial D	98.4	96.8	94.7
Shun Tak Fraternal Association	94.4	95.4	94.3
Leung Kau Kui C			
<i>New Territories East Region</i>			
Shatin Lek Yuen HC ³	97.6	97.8	95.2
Ma On Shan HC	93.1	91.6	92.8
Yuen Chau Kok C	89.4	91.2	92.0
Tai Po JCC	97.0	96.0	96.2
Wong Siu Ching C	96.6	96.5	95.2
Shek Wu Hui JCC	99.5	100.0	100.6
Tseung Kwan O JCC	96.0	94.2	94.8
Ho Tung D	79.4	86.0	92.0
<i>New Territories West Region</i>			
Lady Trench PC	96.0	97.2	92.9
South Kwai Chung JCPC	89.7	93.8	95.1
Tsing Yi Cheung Hong C	93.9	94.9	93.8
Tsing Yi Town C	94.2	92.3	93.0
Tuen Mun C	99.1	98.8	97.6

	<i>Utilization Rate % *</i>		
	<i>1997</i>	<i>1998</i>	<i>1999</i>
<i>New Territories West Region</i>			
Yan Oi PC	96.0	95.9	94.1
Mdm Yung Fung Shee HC	92.5	93.5	92.7
Yuen Long JCHC	96.3	95.4	94.3
Overall	95.2	95.2	94.9

Notes :N.A. - not applicable.

¹ Kowloon Bay GOPC started operation on 26 May 1999.

² excludes Ngau Tau Kok Family Medicine Training Centre.

³ excludes Chinese University Family Teaching Clinic.

* Utilization Rate (%) = $\frac{\text{No. of doctor consultations}}{\text{No. of available disc quota}} \times 100\%$

Hiring of Certified Public Accountants by Securities and Futures Commission

12. **MR ERIC LI** (in Chinese): *Madam President, will the Government inform this Council of the number of certified public accountants (CPAs) engaged by the Securities and Futures Commission (SFC) as at 31 March this year to undertake regulatory work, such as investigating misfeasance or misconduct in the trading of securities and futures contracts, examining the books and records of listed companies, and liaising with the CPAs concerned?*

SECRETARY FOR FINANCIAL SERVICES (in Chinese): Madam President, the requirements for a person to be registered as a professional accountant in Hong Kong are laid down in the Professional Accountants Ordinance (PAO) (Cap. 50). A CPA is a professional accountant holding a practising certificate issued by the Hong Kong Society of Accountants (HKSA) under the PAO.

The SFC does not have readily available information as to how many of its staff are CPAs. However, according to its personnel record as at 31 March 2000, of its 174 professional staff engaged in regulatory functions, 77 were qualified accountants, being members of a professional accountancy body in Hong Kong or overseas including the HKSA. They worked in different divisions and departments of the SFC including the Chairman's Office, corporate finance, enforcement, licensing, intermediaries supervision, investment products and supervision of markets.

Helicopter Services between Hong Kong and Macao

13. **MR HOWARD YOUNG:** *Madam President, will the Government inform this Council whether it has assessed the feasibility of providing helipad facilities at Chek Lap Kok (CLK) for the operation of helicopter services between Hong Kong and Macao; if the assessment result is in the positive, of its implementation plans; if the assessment result is in the negative, of the reasons for that?*

SECRETARY FOR ECONOMIC SERVICES: Madam President, at present, there are regular helicopter services between Macao and Hong Kong, using the helipad at the Hong Kong-Macao Ferry Terminal. To facilitate further development of helicopter services between the two places, the Civil Aviation Department (CAD) and the Airport Authority (AA) have conducted a study on the feasibility of providing helipad facilities at CLK. Potential sites have been identified. Working together with the organizations concerned (for example, ground handling services providers, the CAD, the Immigration Department and the Customs and Excise Department), the AA has developed a set of operating procedures for handling helicopters at CLK. Furthermore, the CAD has put in place the necessary air traffic control arrangements for helicopter flights between Macao and CLK.

While the Government and the AA will provide the necessary infrastructure and put in place the supporting arrangements, the operation of helicopter services is a commercial decision of individual companies. The private sector has indicated some interest in operating helicopter services between Macao and CLK, but whether services would be introduced and when they would be introduced would have to be decided by individual companies.

Protection for Workers Required to Go to Work on High Pollution Days

14. **MISS CHRISTINE LOH:** *Madam President, regarding the adverse health effects suffered by the public during periods when the Air Pollution Index (API) reaches high levels, will the Government inform this Council:*

- (a) *whether it has assessed if persons suffering from heart diseases, asthma or respiratory diseases are entitled to paid leave on days of high pollution, as they will have to venture into the streets with polluted air on the journey to work;*
- (b) *whether, in view of the health risks associated with travelling to and from work on days of poor air quality, it plans to issue a code, similar to the Code of Practice in times of Typhoons and Rainstorms, recommending employers not to require employees to report for duty on these days unless their services are absolutely essential;*
- (c) *of the factors it will take into consideration and their relative weights when it evaluates the proposal to close schools on days when the API is high;*
- (d) *whether it is a breach of the Occupational Safety and Health Regulations (Cap. 509 sub. leg.) for employers to supply air to a workplace by drawing in external air which has a quality inferior to the Air Quality Objectives (AQOs); and*
- (e) *of the legal protection for workers who are required to work outdoors when the air quality is inferior to the AQOs?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President,

- (a) The API measures the quality of air at different locations. It helps the general public, especially those with heart or respiratory illnesses, to consider taking precautionary measures when necessary. When the API reaches a very high level, that is, between 101 and 200, a person with no underlying disease may notice discomfort but is not normally affected by the pollution. However, the Environmental Protection Department will advise that persons who have health problems should reduce physical exertion and outdoor activities.

To alleviate the possible adverse effects caused by polluted air, outdoor workers with respiratory or cardiovascular disease may wish to use protective respirators. The Hong Kong Medical Association, the Labour Department, the Department of Health and the Environmental Protection Department have jointly published a guidance note entitled "Guidance for Physicians on Assessment of Medical Fitness to Use Respiratory Protection in Conditions of High Roadside Air Pollution Index". It aims to assist medical practitioners to assess the medical fitness of their patients in using respiratory protection. If a patient is assessed unfit to use respirators at work¹, the medical practitioner may recommend his employer to deploy him to work indoors. If such deployment is not practicable, or the medical conditions of the patient are such as to render him unfit to work on days of very high pollution, the medical practitioner would normally grant him sick leave. Employees granted sick leave are entitled to sickness allowance in accordance with the provisions of the Employment Ordinance, and the terms of their employment contracts.

- (b) Workers can work on days of poor air quality, and if necessary, with suitable respiratory protection or through indoor redeployment. Exposure to very high pollution levels between API 101 and 200 for a short period of time during travelling to and from work will not lead to any significant health problems. Therefore, we do not consider it necessary to recommend employers not to require employees to report for duty on such occasions as a rule.
- (c) At present, schools are not required to close on days when API is high. The Government will conduct an overall review of temporary mitigation measures on days with severe air pollution. We will take into account factors such as the adverse effect on the health of different vulnerable groups including students, the possible duration of exposure and other economic and social considerations.

¹ Wearing a respirator results in increased resistance to breathing and could lead to an exacerbation of the underlying illnesses in individual cases. Therefore, workers with poor lung function or a history of certain heart conditions may be incompatible with respirator use.

- (d) AQOs² apply to the whole territory so that people of Hong Kong are equally protected. Under the Occupational Safety and Health Regulation, an employer is required to keep the workplace clean and adequately ventilated by fresh air, which should be, as far as practicable, free of impurities. Drawing into the workplace air the quality of which is inferior to AQOs may not necessarily breach the Occupational Safety and Health Regulation, because polluted air could be improved by suitable filters in the ventilation system.

In enforcing the Occupational Safety and Health Regulation, the Labour Department would take the Occupational Exposure Limits (OELs) as the compliance standards for air quality of all workplaces. OELs are defined as the level of harmful chemical substances³ in workplace air at which there is no significant risk of adverse health effects. They are used in assessing and monitoring workplaces for health hazards. Although OELs are not part of the Regulation, the Labour Department would submit the failure in meeting them as an evidence for a breach of the relevant provisions of the Regulation.

- (e) Under the general duties provisions of the Occupational Safety and Health Ordinance, it is the responsibility of the employer to ensure, as far as reasonably practicable, the safety and health at work of all the employees. The employer should, therefore, be responsible for providing the employees with adequate and appropriate protective gear if they are required to work outdoors on days of very high air pollution.

² AQOs were established in 1987 under the Air Pollution Control Ordinance for seven common air pollutants including sulphur dioxide, total suspended particulates, respirable suspended particulates, nitrogen dioxide, carbon monoxide, photochemical oxidants, lead and so on. They act as a yardstick for the management of air quality for Hong Kong. The Government is obliged to achieve the AQOs as soon as reasonably practicable and to maintain thereafter to safeguard the health and well being of the people of Hong Kong.

³ These chemical substances are given in the "Reference Note on Occupational Exposure Limits for Chemical Substances in the Work Environment" published by the Labour Department.

"Healthy City" Project in Tseung Kwan O

15. **MISS EMILY LAU:** *Madam President, will the Government inform this Council whether:*

- (a) *it knows the details of the "Healthy City" project in Tseung Kwan O;*
- (b) *it has assessed if the project, with its multi-disciplinary approach, is effective in promoting public health; and*
- (c) *it will consider allocating resources to support similar projects in future?*

SECRETARY FOR HEALTH AND WELFARE: Madam President,

- (a) The "Healthy City" project aims to develop shared vision and common goal among the residents of Tseung Kwan O to create a healthy living environment for the local community based on the concepts of health promotion and prevention, through multi-sectoral collaboration and community participation. A multi-disciplinary Steering Committee, comprising representatives from non-governmental organizations, educational institutions as well as government departments, health care providers and community leaders, was set up in May 1999 to formulate strategies and to oversee the implementation of the project. Major programmes organized under the project include the "Tseung Kwan O — Healthy City Week" launched during 9-16 January 2000, New Women's Health Project 1999 and a three-year "Healthy Schools" programme to promote holistic health among students, teachers and parents in the district. Activities organized include exhibitions and forum on health promotion, health screening and inter-school competitions. This year, the Committee plans to launch a programme called "Community Diagnosis", which will seek to identify the major health problems of the Tseung Kwan O community. On the basis of the findings, a City Health Plan on implementation strategy and priorities will be formulated for public consultation.

- (b) Programmes organized by the Steering Committee have gained strong support of the local community. The "Tseung Kwan O — Healthy City Week", for instance, recorded an attendance in the region of 10 000. The project, which is at an early stage of its development, has already aroused the awareness of the Tseung Kwan O residents of the importance of health. Through a co-ordinated approach, resources of various organizations and government departments in the district can be more effectively mobilized to promote public health in the community in the longer term.
- (c) The "Healthy City" project in Tseung Kwan O and another similar project named "Hygienic, Healthy and Dynamic City" to be organized in Wan Chai later this month have received funding support for some of their activities through the District Council funding mechanism. Request for funding similar projects in future will be considered by the District Council on a case by case basis, having regard to the merits of the individual applications and along with other applications for District Council funds. Appropriate activities can also be funded by the Health Care and Promotion Fund.

Operation of "Autotoll" System

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the operation of the "Autotoll" system, will the Government inform this Council:*

- (a) *whether the system has been installed at all tolled roads and tunnels at present;*
- (b) *whether it knows, in respect of each road and tunnel installed with the system, the monthly number of vehicles which passed the Autotoll booths but failed to effect payment over the past three years and the amounts of tolls involved; the number of cases which involved malfunction of sensors; the main reasons for malfunction of sensors; the tunnel that had the highest rate of malfunction of sensors;*

- (c) *whether it knows the average administrative costs involved on each occasion when the management company of the system recovers the tolls from the vehicle owners;*
- (d) *whether it knows if the management company of that system will consider not recovering tolls from those vehicle owners who fail to effect payment because of malfunction of sensors; if this will not be considered, of the reasons for that;*
- (e) *whether it knows the channels currently available for vehicle owners to pay the tolls in arrears; whether the management company has reviewed if such channels are sufficient and convenient; and whether it will consider providing other channels of payment, such as the Payment by Phone Service; and*
- (f) *whether the Administration has assessed if it is fair for those vehicle owners who fail to effect payment because of malfunction of sensors to have to spend their time on making such payments?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, all the nine tolled tunnels and the Lantau Link are equipped with the Autotoll system.

The Autotoll system consists of a tag reading system for reading the tags installed in the vehicles passing the Autotoll booths and an automatic video recording system. To join the Autotoll service, users are required to establish a pre-paid account so that tolls can be charged by direct debiting of the account. In case the tag reading system fails to read the tag of a passing vehicle for any reason, the automatic video recording system would be triggered to record the passing vehicle for subsequent toll recovery. No inconvenience is caused to the registered users as the unpaid toll is recovered through direct debiting of their pre-paid accounts.

The previous two autotoll systems were rationalized and unified in October 1998 and comprehensive statistics on non-payment of tolls under the new system have been kept since then. For the 12-month period from 1 April 1999 to 31 March 2000, an average of 7 163 500 vehicles passed the Autotoll booths per month. Of these, 43 260 vehicles registered to use Autotoll (0.6%) could not complete the payment of tolls on passage. The bulk of these cases (36 030)

were due to failure to read damaged or improperly positioned tags. The rest (7 230 cases) were due to negative balances in the relevant Autotoll pre-paid accounts. There were no cases of failure of the automatic recording system.

For cases involving negative account balances, the Autotoll Limited would remind the vehicle owner concerned by phone or in writing to deposit money into his/her pre-paid account. The relevant accounts will be debited directly after they are replenished. For cases involving damaged or improperly positioned tags, the unpaid toll is recovered by direct debiting of the relevant pre-paid account on the basis of the video record. If problems persist for a particular vehicle, the owner would be invited to have the tag checked by the Autotoll Limited at no cost. No penalty is charged for negative account balances or damaged or improperly positioned tags.

The administrative costs for the recovery of unpaid tolls due to negative account balances or damaged or improperly positioned tags are insignificant and are borne by the Autotoll Limited.

Apart from the situations above involving the recovery of unpaid tolls due to negative account balances or damaged or improperly positioned tags, there are cases where tolls have to be recovered from unregistered users, that is, motorists driving past an Autotoll booth without an Autotoll tag. For the period 1 April 1999 to 31 March 2000, a monthly average of 3 460 unregistered vehicles (that is, 0.05% of the total traffic) were recorded by the automatic video recording system. For recovery of tolls, the operator of the relevant tolled tunnel or Lautau Link would obtain vehicle licensing information from the Transport Department and send the vehicle owner a written request to have the unpaid tolls settled within 14 days. The vehicle owner could choose to send a cheque to the operator by mail or make payment in person at the Administration Building of the respective operator.

Given that both the problem of unregistered users using Autotoll lanes and the administrative costs for the recovery of tolls are limited, the present arrangements are considered reasonable and adequate. We will continue to closely monitor the situation. Should the situation worsen, we will consider whether penalties should be charged to address the issue.

Introducing an Air Quality Objective Based on PM2.5

17. **MR MARTIN LEE** (in Chinese): *Madam President, at present, the "respirable suspended particulates" concentration, in respect of which an air quality objective has been set, is measured by the weight of particulates with an aerodynamic diameter of less than 10 micrometres (known as "PM10") in every cubic metre of air. In view of the fact that the smaller the size of a particulate is, the greater impact it has on human health, the United States Environmental Protection Agency (EPA) introduced air quality standard for PM2.5 in 1997. In this connection, will the Government inform this Council:*

- (a) *in regard to each of the districts in the territory, of the respective numbers of days since 1998 on which the 24-hour average PM2.5 pollutant concentration in the air exceeded the standard established by the EPA;*
- (b) *whether the Environmental Protection Department (EPD) has plans to commission a consultancy study on the source of PM2.5 pollutants in the territory; if it has, of the details and the timetable; and*
- (c) *whether it will consider introducing an air quality objective based on PM2.5?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Chinese): Madam President, the Government has been studying the development of air quality standards for PM2.5 (particulates of aerodynamic diameter less than 2.5 micrometers) both in the United States and in the European Union.

In July 1997 the United States published a standard for PM2.5. However, the basis for and the appropriateness of this standard have been challenged in the United States courts. As a result, the United States EPA is currently reviewing the standard. The current schedule is that a final decision on whether to retain or revise the standards for particulate matters will be made in July 2002. This is an overall review of the national ambient air quality standards of the United States and the standard for PM2.5 will be reviewed along with other potential indicators for particulate matters.

The European Union is also considering a standard for PM2.5 and has adopted a timetable to complete the review by the end of 2003.

The EPD has been considering a programme on PM2.5 standard for Hong Kong. It has carried out studies to develop local PM2.5 monitoring capability and is studying whether the United States or the European Union monitoring protocol is more appropriate for Hong Kong.

Our replies to the specific question are as follows:

- (a) Comparison with the PM2.5 standard proposed by the United States EPA requires three years continuous data before an assessment can be made. There are not yet sufficient data for an assessment of Hong Kong's PM2.5 levels on this basis. Even under the original schedule in the United States (which has not been confirmed yet for the reasons mentioned above), the assessment would not be completed until 2003 to 2004.
- (b) The EPD has no plan to commission a study on the source of PM2.5 in the immediate future. We know that PM2.5 is a major component of respirable suspended particulates (RSP) and that generally both have the same sources, such as motor vehicle emissions and other fuel combustion. The need for further detailed studies into the sources of PM2.5 would depend on the development of approaches to PM2.5 internationally.
- (c) The EPD fully recognizes the significance of PM2.5 in air quality monitoring and public health. We will take into fully consideration the overseas review results and both local and overseas medical information when deciding whether an air quality objective for PM2.5 should be introduced. In the interim, the measures being taken to reduce local RSP levels are expected to contribute to reducing PM2.5 levels. The monitoring project of PM2.5 that is being carried out should enable us to observe changes and help develop additional control measures if required.

Elderly Persons Sharing Public Housing Units with Unrelated Persons

18. **MR LAW CHI-KWONG** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the number of elderly persons who are sharing the same public housing unit or part of the facilities inside a unit with unrelated persons, together with a breakdown by housing estate and by the mode of sharing;*
- (b) *the respective numbers of applications for transfer by such elderly tenants and approvals granted in the past three years; and*
- (c) *the criteria adopted by the Social Welfare Department (SWD) for deciding whether to recommend the transfers to the Housing Department?*

SECRETARY FOR HOUSING (in Chinese): Madam President,

- (a) As at 1 April 2000, the numbers of elderly persons sharing the same public housing unit or the facilities inside a public housing unit with unrelated persons was 6 071. This figure can be broken down as follows:

Single elderly tenants living in converted-one-person flats with share toilets and balcony facilities	3 165
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Elderly persons sharing the same public housing units with unrelated persons	2 906
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The Housing Department does not at present have a breakdown of the above figures by housing estate. The information will be provide to the Honourable LAW Chi-kwong and the Legislative Council as soon as possible. (Annex V)

- (b) The number of applications for transfer and the number of approvals for transfer granted to elderly tenants in the past three years are as follows:

	1997	1998	1999
Applications for transfer by elderly tenants	306	371	395
Approvals for transfer granted to elderly tenants	40	48	68

- (c) The SWD considers each application for transfer on compassionate grounds on its own merits, taking into account special social and medical reasons as well as problems of the elderly applicant that cannot be resolved by means other than transfer to another public rental housing flat.

Review of the Animals (Control of Experiments) Ordinance

19. **MISS CHRISTINE LOH:** *Madam President, will the Government inform this Council:*

- (a) *of the number and percentage of licensed researchers who filed returns under section 12 of the Animals (Control of Experiments) Ordinance (Cap. 340) last year;*
- (b) *of the measures it has taken to ensure compliance with sections 11 and 12 of the Ordinance;*
- (c) *whether it has assessed if the provisions of the Ordinance:*
- (i) *are still in line with the "best practices" for carrying out experiments on animals in other jurisdictions; and*
- (ii) *are impediments to the recognition by the international scientific community of the results of researches conducted in Hong Kong; and*
- (d) *given that the Ordinance was enacted nearly 40 years ago and with the rapid advances in scientific research methods in the past decades, whether it will consider enacting a new piece of legislation for regulating experiments on animals; if not, of the reasons for that?*

SECRETARY FOR HEALTH AND WELFARE: Madam President,

- (a) In 1999, there were 733 researchers licensed under the Animals (Control of Experiments) Ordinance to conduct experiments on living vertebrate animals. All of them have submitted their returns, except one researcher who has left his employment and another who has left Hong Kong.
- (b) At the time of issue of the licences, licensees are reminded in writing of their duty to keep records and submit returns in accordance with the relevant provisions of the Animals (Control of Experiments) Ordinance. The Department of Health has in place a system to chase up timely submission of annual returns. Reminders are sent to those who fail to submit returns by the stipulated date. Enforcement action may be taken for non-complying licensees.
- (c)
 - (i) The Agriculture, Fisheries and Conservation Department, advised by its Animal Welfare Advisory Group and the Department of Health, is conducting a review of the local and overseas regulatory systems for control of using living animals for experiments.
 - (ii) The Department of Health, from its contact with licensees, is not aware that the current provisions in the Animals (Control of Experiments) Ordinance has posed an impediment to the recognition by the international scientific community of the results of the relevant researches conducted in Hong Kong.
- (d) The Administration reviews the Ordinance regularly in the light of technological advances, international practices and changing community aspirations to ensure that the Ordinance achieves its objectives effectively. Subject to the findings of the review mentioned in part (c), we would consider introducing appropriate changes where necessary.

Health Education Curricula of Primary and Secondary Schools

20. **MISS EMILY LAU** (in Chinese): *Madam President, will the executive authorities inform this Council whether:*

- (a) *revisions are made regularly to the health education curricula of primary and secondary schools to tie in with the times; if so, of the relevant details, as well as the date of the last revision and the major topics incorporated; and*
- (b) *it has plans to incorporate the healthy living objectives set by the World Health Organization (WHO) into the health education curricula; if so, of the proposed timing of such incorporation; if not, the reasons for that?*

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

- (a) Health education is an important learning element in both the secondary and primary curricula. Topics and content relevant to health education have been incorporated into a number of subjects, namely, General Studies and Physical Education in the primary curriculum; Science, Biology, Home Economics, Social Studies, Economic and Public Affairs, Government and Public Affairs, Geography, Liberal Studies and Physical Education in the secondary curriculum. The curricula of these subjects are revised from time to time to keep pace with societal development. One objective of these revisions is to keep students abreast of the latest development of health education.

Primary Curriculum

Regarding the primary curriculum, General Studies was introduced in 1996, integrating the former curricula of Health Education, Social Studies and Primary Science. The opportunity was taken at that time to introduce new topics or to revise topics related to health education in General Studies. This was also the last time when the curriculum of General Studies was revised for such purpose. The

relevant new or revised topics include AIDs and Hepatitis B, the impact of technological advancement on medical development, medical development and population, blood and organ donation, the importance and means of environmental protection, and so on. As for Physical Education, the curriculum was last revised in 1995 to introduce new topics or to revise topics related to health education. Relevant topics include benefits of exercise, acquisition of exercising habits, sports safety and introduction of sports activities.

Secondary Curriculum

As regards the secondary curriculum, details of last revision to various subjects to introduce new topics or to revise topics related to health education are as follows:

<i>Year of revision</i>	<i>Subject</i>	<i>New/revised topics related to health education</i>	<i>Level</i>
1996	Economic and Public Affairs	- Importance of occupational safety	S4-5
1996	Home Economics	- Food and health - Eating habits and personal hygiene - Common nutritional disorders - Healthy environment - Family life	S1-3
1997	Economic and Public Affairs	- Quality control of food - Quality of water supply - Public health and health care - Drug abuse - Possible causes of pollution and the effects of pollution on our health and life quality - Preventive measures in environmental protection and ways of conservation	S1 S2 S3

<i>Year of revision</i>	<i>Subject</i>	<i>New/revised topics related to health education</i>	<i>Level</i>
1998	Government and Public Affairs	- Current occupational safety and health policies and the relevant executive bodies	S4-5
1998	Geography	- Impact of weather and climate on human life - Impact of air pollution on local people and environment - Actions taken by individuals to alleviate air pollution problems	S2 S3
1998	Science	- Food substances - Balanced diet - Natural food and processed food - Food digestion and absorption - Exercise, rest and health	S1-3
1998	Physical Education	- Physical fitness activities (for example, knowledge of cardiovascular fitness and aerobic exercise) - Sports knowledge (for example, benefits of exercise and importance of warm ups) - Sports safety and treatment of sports injuries	S1-5
2000	Biology	- Factors affecting health - Transmission and prevention of infection of pathogens - Non-infectious diseases (for example, cancers, diabetes)	S6
2000	Liberal Studies	- Impact of new technology on health	S6

- (b) The WHO from time to time promulgates various health indicators. To our knowledge, these indicators cover a wide spectrum of areas. Depending on the relevance of the subject matter, we will consider incorporating them into the health education curriculum, as and when appropriate. The Curriculum Development Council (CDC) is now conducting a comprehensive review of the secondary and primary curricula. The purpose of the review is to develop a flexible curriculum framework and to draw up learning elements in different key learning areas, so that the schools can devise school-based curriculum to suit the interests and abilities of their own students. The CDC plans to conduct a public consultation on the new curriculum framework in the fourth quarter of this year. In the course of the review, we will consider including in the curriculum health education topics related to the relevant WHO health indicators.

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bill

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

DISTRICT COURT (AMENDMENT) BILL 1999

Resumption of debate on Second Reading which was moved on 13 October 1999

PRESIDENT (in Cantonese): I have permitted Miss Margaret NG, Chairman of the Bills Committee on the above Bill, to address the Council on the Committee's Report.

MISS MARGARET NG: Madam President, I rise to report on the deliberations of the Bills Committee in my capacity as Chairman of the Bills Committee on the District Court (Amendment) Bill 1999.

The Bills Committee has held 11 meetings with the Administration, and considered the views of the Hong Kong Bar Association, the Law Society of Hong Kong and legal practitioners.

The Bills Committee is in support of the main objectives of the Bill, that is, to lower the costs of civil litigation and enhance access to the judicial system by increasing the financial jurisdictional limits of the District Court, and to strengthen the District Court by providing it with more comprehensive rules of procedure and a registry headed by judicial officers. These reforms will equip the District Court better for taking over a significant portion of the present caseload of the Court of First Instance. At the same time, members have adopted a cautious attitude towards some proposals in the Bill which are considered problematic. On the whole, they favour a more gradual approach in order to ensure the smooth implementation of the proposed reform.

I shall now highlight the major deliberations of the Bills Committee.

Reference to "annual rent" and "annual value"

Under the District Court Ordinance, the jurisdictional limits in respect of land, title to land and equity jurisdiction are calculated with reference to annual rent or annual value of land or rateable value. The Bill, however, proposes calculation with reference to rateable value only. The Administration's explanation is that the annual rent and annual value of a piece of land should roughly be the same as its rateable value.

Members are nevertheless concerned about cases where the land under litigation has no rateable value or is exempted from rates under the Rating Ordinance. After further consideration, the Administration has agreed that the references should be retained.

Agreements as to jurisdiction

Members are particularly concerned about the proposed section 39 which appears to allow the District Court to confer unlimited jurisdiction on itself upon the agreement of parties before it. They have questioned the basis for this radical departure from the existing operation of the District Court. Furthermore, this could raise technical difficulties in implementation.

After consideration, the Administration has agreed to delete the proposed section 39 and related provisions from the Bill. The decision has taken into account two factors. First, it may not be appropriate for the District Court, a court with limited jurisdiction governed by statute, to confer upon itself jurisdiction beyond the limits set out in the Ordinance. Secondly, the objective of encouraging a greater flow of civil work into the District Court would already be achieved by the proposed increase of jurisdictional limits.

Similarly, the proposed section 44A appears to require the Court of First Instance to transfer a case to the District Court at the request of the parties even where it exceeds the financial limit of the District Court jurisdiction. The Administration has accepted members' view that it is inappropriate to fetter the discretion of the Court of First Instance to dispose of cases which are within its jurisdiction but fall outside the jurisdiction of the District Court, and will repeal the proposed section 44A(3).

Procedure where proceedings beyond the jurisdiction of the District Court are commenced in the Court

The Bill removes the existing flexibility for the whole action to remain with the District Court where only the counterclaim is outside the District Court jurisdiction. This is not supported by strong reasons. Members have requested, and the Administration has agreed, to rectify the situation by retaining the existing arrangement.

Appeals from the District Court

Members have reservations about the existing requirement for an application for leave to appeal against decisions of a District Court judge to be made to the trial judge first, instead of directly to the Court of Appeal. They have pointed out that given that the trial judge has already decided against the appellant, it is unlikely for the same judge to grant leave to the appellant except for cases which involve controversial legal issues. The present arrangement would incur additional litigation costs and deter litigants from lodging appeals.

On this issue, the Administration holds the view that the existing system should be retained for the following reasons. First, the existing arrangement has the merits of discouraging unmeritorious applications for appeals. Secondly, a refusal by the District Court judge to grant leave is not final, as the application can still be brought before a higher court. Thirdly, without the screening and vetting by the District Court judges, the Court of Appeal may be overburdened with applications for leave to appeal against District Court decisions. The Bills Committee has noted these reasons.

Members also note that under the appeal mechanism in the High Court, appeals against a decision of a High Court Master is made to a judge of the Court of First Instance. They have therefore questioned the proposal for appeals against a decision of a District Court Master to be made to the Court of Appeal. The Administration has agreed that appeals from decisions of Masters of the District Court should be made to a District Court judge, in line with the arrangement in the High Court.

Applicability of the District Court Ordinance

On the applicability of the District Court Ordinance, some members are concerned about the implications of adopting "the Government", instead of "the State", in the proposed sections 72(4), 72(5) and 72D(6) of the Bill.

The Administration has explained that the District Court Ordinance deals to some extent with the question of proceedings against "the Crown" or "the Government", which needs to be resolved within the context of the adaptation of the Crown Proceedings Ordinance (Cap. 300). In drafting the Bill, the Administration decided that new sections 72(4), 72(5) and 72D(6) should be applicable to proceedings relating to "the Government". This is consistent with the approach adopted for the adaptation of section 72 of the District Court Ordinance which took place in April 1998.

To allay members' concern that State organs in Hong Kong may not be subject to the processes of the District Court, the Administration has further explained that under section 11 of the Crown Proceedings Ordinance (Cap. 300), civil proceedings by or against "the Crown" may generally be instituted in the District Court, provided that they are within the District Court jurisdictional

limits. To the extent that Cap. 300 now enables proceedings to be brought against Central People's Government Offices, section 11 would provide the District Court with jurisdiction over them. The Administration does not consider that adopting "the Government" will have the effect of excluding from District Court's jurisdiction claims by or against Central People's Government Offices that can be brought under Cap. 300.

The Bills Committee notes that the Administration will revisit all court-related ordinances and proceed with their full adaptation, following the adaptation of Cap. 300. However, pending adaptation, the application of Cap. 300 to Central People's Government Offices (whether in respect of the District Court or other courts) would be a matter for the courts to decide in the circumstances of a particular case, having regard to the manner in which "the Crown" was affected by Cap. 300 before reunification, the position of Central People's Government Offices under the Basic Law, the Garrison Law and the Reunification Ordinance.

Jurisdiction in probate matters

The Bills Committee has also considered some members' suggestion that probate actions within the financial jurisdictional limit of the District Court should be dealt with in the District Court.

The Administration is of the view that it is premature to confer on the District Court the jurisdiction on probate actions at this stage for the following reasons. Firstly, probate actions are by nature usually complex and so warrant specialized handling. Maintaining the *status quo* would reinforce the expertise already built up in this area of law in the High Court. Secondly, there are only about 10 probate actions each year, and most of these cases involve fairly complicated and fine questions of law and evidence. On this basis, one can expect that probate actions would be dealt with by the District Court only on rare occasions. Thirdly, probate actions usually involve inspection of or reference to original wills and probate documents which are filed with the Probate Registry of the High Court. If some probate actions are dealt with by the District Court, this may result in the case being transferred to and from High Court and District Court more than once, thus causing inconvenience to litigants. The Administration has agreed to closely monitor the number and nature of probate actions filed with the High Court and review the position in the future.

Draft Rules of the District Court

I now turn to the draft Rules of the District Court. The Administration has taken the opportunity to brief the Bills Committee on a number of major changes to be introduced under the new District Court Rules modelled on the High Court Rules, and a number of reforms which go further than the existing provisions in the High Court Rules. In view of the tight schedule, the Bills Committee has mainly focused its discussion on two proposals.

The first proposal is to restrict discovery of documents to "standard discovery", subject to the right of the parties upon good cause being shown to extend discovery to all relevant documents. Members have reservations about the Administration's argument that the proposal would reduce litigation costs. Some members believe the fact that the proposed rule is different from that of the High Court will create confusion leading to more disputes.

In response to the request of the Bills Committee that the proposal should not be introduced into the District Court at this stage, the Administration has decided not to pursue the proposal but to simply follow High Court Rules for the time being.

The second proposal is that the District Court will have the power to order interim payment of costs forthwith without taxation in interlocutory proceedings. Members are concerned that the proposal could put unnecessary pressure on the parties and cause severe hardship, particularly to those without legal aid or financial resources, even before reaching trial. The Administration argues that the proposal will help to eliminate unwarranted interlocutory applications, reduce unnecessary costs and expedite the litigation process. A less resourceful party faced with unwarranted interlocutory applications will be able to immediately recover at least part of his costs incurred for those applications. In fact, he will be protected from the "wearing down" abuse.

While appreciating the objective of the proposal, some members remain doubtful as to whether the intended purpose could be achieved and whether it would be achieved at the expense of justice. However, members note that in any event, the same arrangements are being introduced to the High Court and to the District Court by mid-2000. The Bills Committee agrees that the matter could be further pursued, if necessary, after the relevant Rules have been tabled in the Legislative Council on 24 May 2000 for negative vetting.

Madam President, with these remarks, and subject to the amendments to be moved by the Administration at the Committee stage, the Bills Committee supports the Second Reading of the Bill. May I also put on record my particular appreciation for the full and ready assistance of the Administration to the Bills Committee. I am sure in this and I speak for all the members of the Bills Committee.

Madam President, may I now say a few words in my personal capacity and as the member for the Legal Functional Constituency.

I do sincerely welcome this Bill and recommend it to Honourable Members.

I do not do so without some trepidations. In spite of all our efforts — the joint efforts of members of the Bills Committee and the Administration — to make the proposals in this Bill work, there may still be hitches when the legislation first comes into effect. But I have no doubt that in the long term, the reform thus brought about is a good thing, for the community and for the legal profession.

The proposed reform is good for the public. District Court proceedings are, generally speaking, cheaper than High Court proceedings. Increasing the financial jurisdiction of the District Court means that many more cases can be pursued more cheaply. In fact, the increase of jurisdictional limits is long overdue. The existing limits are unrealistic and stifle ordinary commercial claims because it is uneconomical to pursue them in the Court of First Instance. They are in future to be brought in the District Court. This means that more people will be able to seek the intervention of the Court to protect their legal rights. Justice becomes more affordable.

The new proposals will bring in greater flexibility. Litigants can now choose for themselves whether they want to be represented by a solicitor and barrister team, or by solicitors alone. No doubt, each litigant will choose on the basis of his needs, means and preferences. His solicitors have full rights of audience, and can handle the case entirely on their own if he wishes them to do so. At the same time, he will not be penalized for instructing counsel if he so wishes. It is envisaged in the draft Rules that where the award given by the Court exceeds a certain level, permission to have costs for instructing a barrister taxed is automatically given.

Over time, District Court practice will help the public and the profession to see what is the best system of legal representation and decide the way forward sensibly.

It has been suggested that this Bill serves the interests of solicitors because it will give them more business, and that this benefit is at the expense of the Bar, because more cases will be transferred from the Court of First Instance, where barristers have exclusive right of audience in open court with only one or two exceptions, to the District Court where there is no such exclusivity.

In fact, this is not quite the full picture. In fact, solicitors also have to pay a price for the public good. This is obvious if you consider that the District Court scale of charges is at two thirds of High Court charges. This means that a solicitor may, in future, be paid less for the same case. However, this should be accepted because the proposed District Court jurisdiction is fairer to the public. In turn, it is hoped that, as represented litigation becomes more affordable, more people will be willing to pay for lawyers to represent them.

For the same reason, the new arrangements are not necessarily bad for barristers. Lower fees means greater accessibility. Provided that barristers are willing to make the adjustment, more people — including solicitors — will be more tempted to instruct them. For the young end of the Bar, this would mean more opportunities to appear in court, more exposure to prove their value and more practical training which is more important to their legal career.

Madam President, I do believe that the new arrangements will open up and strengthen the District Court. Even with the more comprehensive rules of procedure, it will continue to be a more informal and approachable forum, more "user friendly". The reform of civil procedures in the High Court under a committee appointed by the Chief Justice has already started work. But the actual fruition will be some years down the road. In the meantime, many of the objectives may be reached in the District Court. I think that there are great potentials — provided that one keeps it closely monitored, as I understand the Judiciary means to do, and any unforeseen problems will be quickly and effectively dealt with.

Madam President, I have great pleasure in supporting the Bill.

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

MR ALBERT HO (in Cantonese): Madam President, the Democratic Party supports the resumption of the Second Reading and Third Reading of the District Court (Amendment) Bill 1999 into law today. Ever since the release of the Kempster Report in 1993, the legal profession and all those who are concerned about the provision of legal services have been hoping that an amendment bill can be moved as soon as possible to raise the financial limits of the civil jurisdiction of the District Court, so that litigation costs can be lowered.

We have spent almost seven years before this Bill can be passed today. This is indeed a very long time, and many people have long since started to grumble. However, I must say that the passage of this Bill today should still be welcomed. One reason for this is of course that following the passage of this Bill, cases involving smaller claims, that is, those involving \$600,000 or less, can be handled by the District Court, where proceedings are relatively simpler, and where the litigants can have a choice between barristers and solicitors as their representatives. I believe that the legal profession must realize that this change will give more opportunities to those solicitors who seldom had any chance to represent their clients in Court before. However, it must be noted at the same time that solicitors must be keenly aware of their responsibilities, and they must also make members of the public understand that this change will not lead to any decline in the standard of legal services. To do this, the legal profession must note that solicitors must do the best they can to pursue continuing education. They must make sustained efforts to pursue further studies and training. They must also make sure that having been given more opportunities of audience before the Court, they can always truly defend the interests of their clients.

Certainly, as mentioned by Miss Margaret NG just now, the introduction of this change will not necessarily mean that the more junior barristers will have fewer opportunities than before. I am sure that clients will always make their choices on the basis of quality. I hope that this change can achieve the overall effect of lowering litigation costs while maintaining the quality of legal services.

Moreover, I also wish to discuss one point. In the past, nearly 80% to 90% of the cases handled by the District Court were criminal cases, and there was only a very small number of civil cases, because the financial limits of the civil jurisdiction of the District were extremely low. After the passage of this Bill, the number of cases that can be transferred to the District Court will be about 50% of the cases filed with the Court of First Instance in 1999, and District Court judges will also be able to exercise jurisdiction over civil proceedings. I am sure, and I also understand, that judicial officers have made good preparations for all this by means of personal training. Similarly, I also hope they can ensure that all the cases directed to the District Court will be handled with the same high standards of the Court of First Instance in terms of both efficiency and quality of trial. This is my earnest hope as a practitioner myself.

I understand that following the passage of this Bill, the Government will closely monitor the workings of the District Court. Many of the new rules to be introduced to the District Court are not quite the same as the rules of the High Court. In comparison, these new rules of the District Court are more straightforward than those of the High Court, but at the same time they are more complex and comprehensive than the existing simple procedures. I hope that both the legal profession and the Government will closely monitor the workings of the District Court following the implementation of the amendments.

I am also aware that the Government has undertaken to conduct a comprehensive review two years later. During the scrutiny of the Bills Committee, I actually put forward a number of views on some particular operational aspects. One example, as mentioned by the Bills Committee Chairman just now, concerns the point that appeals relating to cases dealt with by the District Court can be filed with the Court of Appeal only with the leave of the District Court judges who heard the cases in question. I do not think that this is a necessary procedure. Actually, under the existing judicial system, prior leave is required only in the case of appeals to the Court of Final Appeal. I cannot agree with the Government that such a procedure can serve the purpose of reducing the number of unmeritorious appeals. This is in fact not a good mechanism, nor is it a reasonable one. Actually, it is not a good idea to empower the judge who heard a certain case to determine whether the person concerned should be allowed to lodge an appeal. The reason is that the judge concerned should already have a very definite idea regarding the chance of success, and this also applies to cases of wrong rulings, for even if a judge makes a wrong ruling, he may not probably be aware of it at all. So, people may

probably doubt the fairness of this mechanism. And, let us not forget the fact that in some cases, the Court of Appeal may have already granted leave for appeals. Those who are determined to appeal will certainly lodge their applications to the Court of Appeal. Therefore, I really think that such a procedure is largely a waste of time.

In spite of the view I have just forward, we, during the process of scrutiny, still decided to respect the opinions of the Government. We were advised that the Judiciary, Court officers and the Judicial Administrator would also study this matter, and that they would consider the matter from the overall perspective and put forward appropriate amendments during the review on this procedure. For this reason, we decided not to move any Committee stage amendments — though I reckoned that some Honourable colleagues would probably support such amendments. I hope that in the next two years, the Government can join hands with the legal profession to closely watch the operation of the District Court, and that it can hold more discussions with us. I hope that there can be a more comprehensive review about two years later.

To sum up, I recommend this Bill to Honourable colleagues, and I hope that they can all support it and the amendments to be moved by the Government.

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

(No Member responded)

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, I introduced the District Court (Amendment) Bill 1999 into this Council on 13 October 1999. The Bill seeks to adjust the various financial limits of the civil jurisdiction of the District Court, and to introduce a civil procedural framework into the District Court which is more akin to that of the Court of First Instance. It is hoped that litigation costs in Hong Kong might be lowered with the introduction of these measures, thereby promoting public access to justice.

Accordingly, with respect to the financial limits, the present Bill proposes the following:

- (a) the civil jurisdiction of the District Court be increased from \$120,000 to \$600,000;
- (b) the jurisdiction of recovery of land be increased from the rateable value of \$100,000 to \$240,000;
- (c) the jurisdiction where title of land is in question be increased from the rateable value of \$100,000 to \$240,000; and
- (d) equity jurisdiction be increased from \$120,000 to \$600,000 or to \$3 million where land is involved.

We estimate that upon implementation of these new limits, about 50% of cases filed with the Court of First Instance may be diverted to the District Court annually, alongside an increased diversion of interlocutory applications, trials listed and taxation cases.

Civil cases in the District Court will also be handled in accordance with a set of comprehensive and formal procedures modelled on those of the Rules of the High Court. To ensure that the District Court would be able to handle the additional caseload under the new Rules of the District Court efficiently, a Master system, similar to that in the High Court, will be introduced in the District Court. Under this system, the posts of Registrar and Deputy Registrar of the District Court will be filled by legally-qualified judicial officers. They will deal with less contentious interlocutory applications expeditiously, leaving to district judges more contentious applications and cases requiring trials. The Judiciary will also put in place other measures, such as increasing the number of District Court judges in the civil division, appointing experienced judges to take charge of the personal injuries list and land cases, providing training for District Court judges and constructing additional court rooms to cope with the new workload.

Specifically on training, I understand that the Judiciary is organizing a series of seminars on civil trials, vendor and purchasing summons, personal injuries and interlocutory matters for judges and judicial officers in anticipation of the increase in civil jurisdiction of the District Court.

The Bills Committee on the District Court (Amendment) Bill 1999, under the chairmanship of the Honourable Miss Margaret NG, has held 11 meetings with the Administration since the introduction of the Bill in October 1999. The Bills Committee has examined the Bill in great detail and in a most expeditious manner. Members have tendered a series of constructive suggestions on how the Bill might be improved. Taking into account the Bills Committee's valuable advice, the Administration will move a total of 18 Committee stage amendments to the Bill, which I shall explain in greater detail at the Committee stage. I would like to express the Administration's appreciation of the meticulous work of the Bills Committee, and to urge Members to support the amendments proposed by the Administration.

The Bills Committee also requested the Administration to clarify the applicability of the District Court Ordinance with regard to "the Government" and "the State". We are aware that the District Court Ordinance deals to some extent with the question of proceedings against the Crown or the Government, which should ideally be rationalized and modernized as soon as possible after reunification. However, the question needs to be resolved within the overall context of the adaptation of the Crown Proceedings Ordinance. After consulting the Panel on Administration of Justice and Legal Services of this Council in January 1999, we decided to proceed with the introduction of the District Court (Amendment) Bill and leave unamended the provisions relating to proceedings against the Crown or the Government.

In preparing the current Bill, it came to our notice that amendments to section 72 of the District Court Ordinance were required for the District Court Rules Committee to be empowered properly to make rules to give effect to the measures proposed in the Bill. Consistent with the approach in section 72 of the District Court Ordinance, which underwent adaptation once in April 1998, we decided to prepare a new section 72 in a way that made it possible for the new rules to apply to proceedings by or against the Government.

We do not consider that the reference to "the Government" in the existing or proposed rule-making powers in section 72 of the District Court Ordinance has the effect of excluding from that Court's jurisdiction any claim by or against offices set out by the Central People's Government (CPG) in Hong Kong that can be brought under the Crown Proceedings Ordinance.

It remains our intention to revisit all court-related ordinances, including the District Court Ordinance, and proceed with their full adaptation after the adaptation of the Crown Proceedings Ordinance has been completed. Pending adaptation, the application of the Crown Proceedings Ordinance to CPG Offices in Hong Kong would be a matter for the courts to decide in the circumstances of a particular case, having regard to the manner in which the Crown was affected by the Crown Proceedings Ordinance before reunification, the position of CPG Offices under the Basic Law, the Garrison Law and the Reunification Ordinance.

After the passage of the Bill and implementation of the new jurisdictional limits, the Judiciary will review the impact on demand for court services, assess the pattern of litigation costs as well as the resource implications on the Judiciary in the light of actual increase in caseload, and recruit and develop qualified judges and judicial officers.

It is our intention to further increase the general jurisdictional limit of the District Court to \$1 million in two years time, subject to the result of the Judiciary's review.

The improvement measures contained in the District Court (Amendment) Bill 1999 are long awaited. The early implementation of these measures is the common aspiration of the Administration, the Judiciary, the legal profession and the community at large. Subject to the passage of the Bill by this Council later this afternoon, the District Court Rules Committee aims to make the new Rules of the District Court and the District Court Civil Procedure (Fees) (Amendment) Rules at its forthcoming meeting on 20 May so that the Rules may be presented to this Council for negative vetting on 24 May. This will give Members an opportunity to scrutinize the Rules. It is our intention that both the Bill and the Rules should come into operation this autumn.

With these words, Madam President, I commend the District Court (Amendment) Bill 1999 to Members. Thank you.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): District Court (Amendment) Bill 1999.

Council went into Committee.

Committee Stage

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

DISTRICT COURT (AMENDMENT) BILL 1999

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

CLERK (in Cantonese): Clauses 2, 4 to 8, 10 to 13, 15 to 19, 21, 24, 25, 26, 28, 29, 31, 33 to 38, 42, 43, 45, 46 and 47.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 3, 9, 14, 20, 22, 23, 27, 30, 32, 39, 40, 41 and 44.

CHIEF SECRETARY FOR ADMINISTRATION: Madam Chairman, I move that clauses 1, 3, 9, 14, 20, 22, 23, 27, 30, 32, 39, 40, 41 and 44 be amended as set out in the paper circularized to Members. I would like to elaborate on the Administration's thinking behind certain of the proposed amendments.

First, Master system. One major element of the District Court (Amendment) Bill 1999 is to introduce a Master system into the District Court, similar to that of the High Court to deal with less contentious interlocutory applications and cases clearly without merit in an expeditious manner.

The posts of Registrar and Deputy Registrar of the District Court will in future be filled by legally-qualified officers to be called "Masters", to tie in with the more formalized civil procedural framework to be put in place in the District Court to deal with cases of much larger claim amounts. We therefore propose to amend clause 9 to provide for the Master system and to set out clearly the jurisdiction, powers and duties of Masters.

Next, agreements as to jurisdiction. On the basis of the recommendation of the then Kempster Working Party, it was originally proposed in new section 39, under clause 22 of the Bill, that the District Court should have jurisdiction to hear and determine an action or proceeding without regard to the monetary limit specified if all parties to the action or proceeding agree for the District Court to have jurisdiction, by way of a memorandum signed by them or their legal representatives. The objective was to allow a greater flow of cases from the Court of First Instance to the District Court. It should be noted that, under the proposed arrangement, the District Court would retain the final decision as to whether to accept jurisdiction under such circumstances, having regard to the importance and complexity of the case in question. The Bills Committee was, however, of the view that the proposed arrangement would amount to allowing the District Court to confer upon itself unlimited jurisdiction with the agreement of the relevant parties.

The Administration has reconsidered the issue and agrees that it might not be appropriate for the District Court, which is a court with limited jurisdiction, to confer upon itself jurisdiction beyond the statutory limits. Taking into account the fact that the objective of encouraging a greater flow of civil cases into the District Court would be achieved by the proposed jurisdictional limits, the Administration agrees to delete the proposed new section 39 and the reference to this section in the proposed new sections 40 and 42 in the Bill.

Following the rationale of deleting the proposed section 39, we considered it inappropriate to restrict the discretion of the Court of First Instance, which is a court of unlimited jurisdiction, to dispose of cases which are within its jurisdiction but fall outside the jurisdiction of the District Court. We therefore propose to delete the proposed new section 44A(3) and separately substitute a provision to the effect that, upon a transfer under the proposed section 44A(1), the District Court shall have jurisdiction to hear and determine all or part of an action or proceeding, including a counterclaim, so transferred, notwithstanding any enactment to the contrary. The additional provision is to put beyond doubt the District Court's power to hear such actions.

Then, procedure where proceedings beyond the jurisdiction of the District Court are commenced in the court. In the existing District Court Ordinance, there are two alternatives to deal with a counterclaim which exceeds the jurisdiction of the District Court. First, any party can apply to the Court of First Instance for the counterclaim to be transferred from the District Court to the Court of First Instance. Second, upon a report made by a district judge, a judge of the Court of First Instance may transfer the whole action to the Court of First Instance, direct the whole action to remain in the District Court, or transfer the counterclaim to the Court of First Instance, leaving the rest of the action in the District Court. There is also a provision to cater for the situation where there is no application by any party and no report from the district judge.

The Bills Committee has expressed concern that there is no provision under the Bill to enable the whole action to remain with the District Court where only the counterclaim is outside the District Court's jurisdiction. The Administration has noted the Bills Committee's concern and agrees to amend section 42 under clause 22 to retain the arrangement provided for counterclaims in the existing District Court Ordinance.

The Court of First Instance would retain the power to order that the whole of the action or proceeding shall remain with the District Court if it is the view of the Court of First Instance that, by reason of the nature of the claim or issues involved or the relief sought, the case ought to remain with the District Court, despite the fact that the counterclaim exceeds the jurisdiction of the District Court.

Next, appeal to the Court of Appeal. Under section 63 of the existing District Court Ordinance, appeals against decisions of district judges may be made to the Court of Appeal with leave from either a district judge or the Court of Appeal. Under the proposed new section 63, appeals against decisions of the District Court Registrar and judges can be made to the Court of Appeal.

The Bills Committee expressed concern over the proposed appeal mechanism. It considered that an appeal mechanism similar to that of the High Court should be adopted. Having considered the view of the Bills Committee, the Administration agrees that an appeal can, with leave, be made to the Court of Appeal from every judgment, order or decision of a district judge in any civil cause or matter, and that an appeal from a decision of a Master lies with the district judge. This arrangement is in line with the existing appeal mechanism in the High Court. We propose to put in place such an arrangement through amending the proposed section 63 under clause 32.

The rest of the amendments are technical in nature and mainly seek to take on board the Bills Committee's suggested improvements on the District Court (Amendment) Bill 1999. Thank you.

Proposed amendments

Clause 1 (see Annex VI)

Clause 3 (see Annex VI)

Clause 9 (see Annex VI)

Clause 14 (see Annex VI)

Clause 20 (see Annex VI)

Clause 22 (see Annex VI)

Clause 23 (see Annex VI)

Clause 27 (see Annex VI)

Clause 30 (see Annex VI)

Clause 32 (see Annex VI)

Clause 39 (see Annex VI)

Clause 40 (see Annex VI)

Clause 41 (see Annex VI)

Clause 44 (see Annex VI)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 9A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 9A.

CHIEF SECRETARY FOR ADMINISTRATION: Madam Chairman, I move that new clause 9A be added to the Bill.

Proposed addition

New clause 9A (see Annex VI)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 9A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule 3.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1 and 2.

CHIEF SECRETARY FOR ADMINISTRATION: Madam Chairman, I move that Schedules 1 and 2 be amended as set out in the paper circularized to Members. This amendment seeks to amend the Chinese nomenclature of "Deputy Registrar" and "Assistant Registrar" in the District Court Ordinance, its subsidiary legislation and other enactments where they appear to reflect their status as judicial officers following the introduction of the Master system in the District Court.

Thank you, Madam Chairman.

Proposed amendments

Schedule 1 (see Annex VI)

Schedule 2 (see Annex VI)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1 and 2 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

DISTRICT COURT (AMENDMENT) BILL 1999

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, the

District Court (Amendment) Bill 1999

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

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

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): District Court (Amendment) Bill 1999.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will now resume the Second Reading debate on the Air Cargo Transhipment (Facilitation) Bill 2000.

AIR CARGO TRANSHIPMENT (FACILITATION) BILL 2000

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

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

MR HUI CHEUNG-CHING (in Cantonese): Madam President, as a Member representing the import and export sector, I support the passage of the Air Cargo Transhipment (Facilitation) Bill 2000.

The Bill proposes a relaxation in the import and export licensing control of air transshipment cargoes which are not strategic commodities of a sensitive nature. The proposal should be helpful to rationalizing the administrative arrangements of the Customs and Excise Department and the new Airport, facilitating the operation of exporters and expediting the flow of transshipment cargoes. On the whole, the Bill matches the government policy of liberalizing the local air freight service industry and stimulating the throughput of air cargo, and thereby consolidates the status of Hong Kong as a regional air cargo transshipment centre.

Some people from the airfreight industry have expressed concern that smuggling syndicates may take advantage of the relaxation in the import and export licensing control, which might eventually invigorate smuggling or illegal transshipment activities, especially highly-sensitive strategic commodities. In this regard, the Customs has undertaken to take extra precautionary measures. Personally, I hope the Government will enhance its contact with the industry, watch closely the results of these precautionary measures, and keep on improving customs clearance co-operation arrangement on both sides, so as to combat smuggling and illegal transshipment more effectively and to defend the global reputation of the Hong Kong airfreight industry as well as the import and export industry on the whole.

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

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

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, first of all, I should like to extend my heartfelt gratitude to Honourable Members for the support they lend to the Air Cargo Transshipment (Facilitation) Bill 2000, without which the Second Reading of the Bill would not have been resumed so quickly. The purpose of the Bill is to facilitate the transshipment of air cargo in Hong Kong, with a view to enabling Hong Kong to further develop into an international and regional air cargo transshipment hub. The Bill proposes to relax the restrictions or controls imposed on the transshipment of a number of air cargo types. The proposals are made after prudent consideration, with the purpose of striking a careful balance between the need to facilitate business operation and the need to maintain the integrity of the trade control system.

I should like to take this opportunity to emphasize to Members as well as to respond to the speech made by Mr HUI Cheung-ching just now that relaxing the restrictions or controls imposed on the transshipment of such types of cargoes does not necessarily imply we would relax our control and monitoring over the illegal transshipment of the relevant cargo types. Within the airport, the area from apron to the air cargoes terminal is designated as the restricted area to be subject to stringent security control and the close supervision by the Customs. Airlines and operators of air cargo transshipment business are required to submit to the Customs the import and export information on all cargoes, including cargoes for transshipment. Where necessary, they will also be required to assist the Customs in examining specified cargoes. Cargoes are not allowed to be removed from the airport or re-exported to other place before clearance by the Customs. Under the close supervision by the Customs, we believe that the possibility of cargoes being smuggled into the Hong Kong International Airport and illegally transshipped to other places should be very low. Besides, the facilitation measures provided for under the Bill should not have any adverse effect on the integrity and effectiveness of the control system as a whole.

Nevertheless, in order to cope with the change in the mode of operation of air freight transport and the increase in the volume of freight, the Customs will implement the following additional measures to prevent illegal transshipment of air cargo, thereby making a continuous effort to maintain stringent control and to combat illegal transshipment of air cargoes.

- (a) To redeploy manpower and formulate special working procedures to examine the information on air cargoes, monitor the movement of cargoes, sampling dubious cargoes, and verify the various air cargo consignment arrangements concerned;
- (b) to enhance the air freight clearance capacity and functions of the computer system of the Customs, with a view to keeping a more accurate record of the transshipment information of all air cargoes as well as their movement into and out of Hong Kong. In addition, dubious consignments of air cargo will also be selected for examination, while the cargoes of target persons or companies will be monitored and traced;

- (c) to purchase sophisticated equipment such as mobile X-ray cargo scanner and portable detectors for contrabands, so as to enable more expeditious and effective on-site inspection of air cargoes transshipment. The Department will also make use of closed-circuit televisions installed at key air cargo transshipment points to step up supervision over the handling process and movement of air cargoes;
- (d) to deploy more drug detector dogs to inspect air cargo transshipment as a means to prevent drug trafficking; and
- (e) to strengthen liaison with the air freight service operators of the different airlines and the relevant consignors to discuss ways to co-ordinate the working procedures of all parties concerned, with a view to handling and monitoring air cargo transshipment in a more effective manner.

Madam President, I believe that the Bill should be helpful to facilitating the transshipment of air cargoes in Hong Kong, thereby enabling Hong Kong to further develop into the prime air cargo transshipment hub in the region. I shall be proposing some amendments to the Bill at the Committee stage. The proposed amendments are all technical in nature, and are aimed at enabling the Bill to reflect more accurately the legislative intent and the enforcement needs concerned. I hope Honourable Members will lend their support to the proposed amendments. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Air Cargo Transshipment (Facilitation) 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): Air Cargo Transhipment (Facilitation) Bill 2000.

Council went into Committee.

Committee Stage

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

AIR CARGO TRANSHIPMENT (FACILITATION) BILL 2000

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

CLERK (in Cantonese): Clauses 1 to 10.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule 3.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1, 2 and 4 to 9.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam Chairman, I move the amendments to schedules 1, 2 and 4 to 9, as set out in the paper circularized to Members.

Proposed amendments

Schedule 1 (see Annex VII)

Schedule 2 (see Annex VII)

Schedule 4 (see Annex VII)

Schedule 5 (see Annex VII)

Schedule 6 (see Annex VII)

Schedule 7 (see Annex VII)

Schedule 8 (see Annex VII)**Schedule 9 (see Annex VII)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1, 2 and 4 to 9 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

AIR CARGO TRANSHIPMENT (FACILITATION) BILL 2000

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

Air Cargo Transhipment (Facilitation) Bill 2000

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Air Cargo Transhipment (Facilitation) 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): Air Cargo Transhipment (Facilitation) Bill 2000.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Pneumoconiosis (Compensation) Ordinance.

PROPOSED RESOLUTION UNDER THE PNEUMOCONIOSIS (COMPENSATION) ORDINANCE

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I move that this Council approves the motion printed on the Agenda which seeks to amend the former Legislative Council's resolution in 1993 by reducing the levy rate imposed by the Pneumoconiosis Compensation Fund Board (PCFB) on the construction and quarrying industries from 0.3% to 0.25%.

In 1980, the Pneumoconiosis Compensation Fund (PCF) was set up by the Government under the Pneumoconiosis (Compensation) Ordinance. The PCF has since been placed under the management of the PCFB which is charged with the function of making payment of compensation to persons who died of, or were incapacitated by, pneumoconiosis, and their family members.

The principal source of income for the PCF is the levy received from the construction and quarrying industries. All contractors of construction works and quarry operators were required to pay to the PCFB a levy calculated at the rate of 0.3% of the value of their construction works (with a total value of \$1 million or above) or quarry products. The existing levy rate of 0.3% was set by

a resolution of the former Legislative Council in 1993. At that time, the Government initiated substantial improvement to the Pneumoconiosis Compensation Scheme so that persons suffering from pneumoconiosis could be afforded long-term care. To provide the PCF with sufficient income to meet the expenditure on compensation payments, it was necessary to raise the levy rate from 0.02% to 0.3%.

In 1999, the total income of the PCF was more than \$330 million, of which over \$280 million came from the levy. The total expenditure was over \$190 million, 92% of which was used to compensate persons suffering from pneumoconiosis and their family members. As at the end of 1999, the accrued surplus plus the reserve of PCF stood at over \$480 million, which was 2.5 times the total expenditure of that year. It follows that the current financial position of the PCF is very healthy. Having reviewed the financial position of the PCF, the PCFB recommended that the levy rate be reduced from 0.3% to 0.25%. The amended levy rate will still generate an annual levy income of around \$240 million for the PCF, which will be sufficient to cover the compensation payments and other expenditure every year, as well as to maintain a reasonable level of reserve to cater for long-term commitments and contingencies. Any further reduction of the levy rate will, however, affect the balance of the annual income and expenditure of the PCF and hence its long-term financial position.

We are of the view that a reduction of the levy rate to 0.25% will not affect the stable financial position of the PCF nor the compensation paid to persons suffering from pneumoconiosis, and their family members. On the contrary, in the current economic climate, the reduction of the levy rate should be welcomed because it will help lower the operating cost of contractors and quarry operators. We have informed the Labour Advisory Board of this proposal and members have given their support. I urge Honourable Members to support the motion and approve the proposal to reduce the levy rate of the PCF to 0.25%.

Thank you, Madam President.

The Secretary for Education and Manpower moved the following motion:

"That the resolution made and passed by the then Legislative Council on 3 December 1980 (Cap. 360 sub. leg.) be amended in paragraphs (a) and (c) by repealing "0.3%" and substituting "0.25%"."

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.

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

MR LEE CHEUK-YAN (in Cantonese): Madam President, on behalf of the Hong Kong Confederation of Trade Unions, I support this proposal made by the Secretary regarding the reduction in the rate of levy. Just now the Secretary said that even if the rate of levy was reduced, the PCF would still maintain at \$480 million in the end. So it would not produce any impact at all and the industry considers it reasonable to reduce the rate of levy. However, some people suffering from pneumoconiosis have written to me, saying that the compensation currently offered to them is inadequate to fully meet their needs. They consider it extremely unreasonable for the rate of levy to be reduced. They have also made three demands: first, to include medical equipment used by them, in addition to oxygen concentrators and wheelchairs as provided for in the Ordinance; second, to increase the compensation for bereavement in respect of pneumoconiosis from \$100,000 to \$150,000; and third, do address the inadequacy of the current funeral expenses of \$16,000. Although they consider the reduction in the rate of levy unreasonable, I believe even if we fully take on board their opinions, there will still be much room for reduction in the levy rate. Hence, after examining their situation, we will still support the proposal made by the Secretary today. However, I also hope that the Secretary and Honourable Members can support the resolution to be moved by me on behalf of them later. In fact, I was prepared to move a similar motion on 22 July 1998 and had sought the approval of the President at that time. The motion was subsequently withdrawn for some heartbreaking reasons that I do not want to talk about again. Given the fact that the current Legislative Session is drawing to an end, and some people suffering from pneumoconiosis still expect to see improvement in this area, I hope the Secretary can support the resolution to be moved by me later, that is, to increase the compensation for bereavement from \$100,000 to \$150,000.

As far as I know, about 100 pneumoconiosis patients die every year but not all of them were entitled to the aforesaid compensation because the authorities concerned must ensure that a person suffering from pneumoconiosis

has never received any compensation for incapacity during his lifetime before a grant for compensation for bereavement can be made. This explains why the number of claims must be very small. Even if their demands are acceded to fully, I am sure the Secretary can handle it. I hope other Members can lend their support for this is actually a very small request only. I have just written to Mr Jimmy TSE Lai-leung, Chairman of the Pneumoconiosis Compensation Fund Board, in the hope of gaining support from the Board. Thank you, Madam President.

MR ANDREW CHENG (in Cantonese): Madam President, the Secretary for Education and Manpower moved a motion in a bid to lower the rate of levy imposed by the PCF on the construction and quarry industries. The reason given by him is that the PCF is financially sound and it will still be sufficient to cover annual compensations and other expenses even if the rate of levy is revised.

The Democratic Party considers it possible to support the revision of the rate of levy. But given the sound financial situation of the PCF with more than \$480 million held in reserve, the Government should urge the PCFB to improve its work on the prevention of pneumoconiosis and enhance the relevant education and publicity efforts.

The Democratic Party has consulted some concern groups for persons suffering from pneumoconiosis, which were of the view that the above tasks performed by the PCFB were still unsatisfactory. With respect to preventive measures, the PCFB has over the years focused only on such means as placing advertisements on television and radio and putting up posters in Mass Transit Railway stations in spite of the fact that the effectiveness was not so satisfactory. Over the past few years, the number of claims for compensation with respect to pneumoconiosis has been on the increase annually, up from 150 in 1997 to 292 in 1999. There were also more than 100 cases of incapacity or death judged to have been resulted from pneumoconiosis by the Pneumoconiosis Medical Board each year, with the figure rising up to 222 in 1999.

Judging from this, the performance of the PCFB in preventing pneumoconiosis is really unsatisfactory. Now prevention is focused on the personal protection of workers while improvement in working conditions is neglected. In fact, keeping the quantity of dust under control is the most

effective means of preventing pneumoconiosis. The PCFB should indeed allocate more resources to taking active measures to reduce the quantity of dust. It should be well aware of the relevant measures. The problem rather lies in whether it has played an active role in giving publicity rather than merely requiring workers to wear protective equipment that are useful to a certain extent.

Apart from improving the preventive work for pneumoconiosis, the authorities concerned should also review the scope of the PCF. At present, a patient will not be given compensation unless his incapacity or death is judged by the Pneumoconiosis Medical Board to have been resulted from pneumoconiosis. If his death was caused by complications arising from pneumoconiosis or if medical treatment is required as a result of complications, no compensation will be granted. In addition, is the amount of compensation reasonable? The Government and the PCFB should review all these issues.

Madam President, I so submit.

MR HO SAI-CHU (in Cantonese): Madam President, on behalf of the construction industry and employers, I rise to speak in support of this decision made by the Government. The main reason is that as the PCF has accumulated a sufficient reserve, we should be able to reduce the rate of levy accordingly. In fact, I have mentioned repeatedly that it will be fine as long as the levy is sufficient to cope with the problems. It must never be fixed at an exceeding high or low rate because if it is too high, the PCF will eventually be found to be excessive, like what we find today, and we will then be asked to give approval for the rate of levy to be reduced. Of course, this is what we should do. But if the levy rate is too low, we will often be asked to raise it again. As Members are all aware, the levy was paid by people in the relevant sector. It is now proposed that the rate should be reduced for the PCF is found to have a surplus. This will certainly benefit those who are going to pay the levy. However, those who have paid the levy would have paid an undue amount of levy. Having said that, we are willing to shoulder this responsibility because the construction industry fully supports the setting up of the PCF. Actually, membership of the PCFB is drawn from people working in the construction industry for the purpose of administering the PCF.

Although I agree with some of the views expressed by my two Honourable colleagues earlier, I hope Members will understand that there has been a substantial increase in the rate of levy. We simply cannot expand the functions of the PCF and spend as much as possible just because the PCF has excessive money. It will be inappropriate if this is really the case. Nevertheless, under reasonable circumstances, if a certain area deserves improvement, I believe the PCFB will be pleased to make improvement.

Lastly, on behalf of the constituency represented by me and employers, I will vote for the reduction in the rate of levy. Thank you, Madam President.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, people suffering from pneumoconiosis have approached this Council a number of times to express their concern that the judgment made by the Pneumoconiosis Medical Board has been too strict and to complain against the ancillary facilities. Generally suffering from respiratory troubles, these people have submitted their claims to the PCFB repeatedly and made claims for compensation for injuries and sufferings. Whenever they approached this Council, they expressed a strong wish that the PCFB could be less strict with them. Frankly speaking, with only \$480 million left in the PCF at the moment, we certainly hope that there will be no more new cases so that the number of cases will fall with the lapse of time. In any event, however, we feel that we really need to offer more assistance to these people who are suffering from pneumoconiosis. According to the Government, the rate of levy can be reduced since there is \$480 million in the Fund. As Members of this Council, we should have no strong objection. But given the fact that the chronically ill have made the above claims for years, why does the Government not try to figure out more ways to address this issue? I have just mentioned three points: first, the extreme strictness of the judgment; second, the ancillary facilities; and third, compensation for injuries and sufferings. I hope the Secretary will respond to these points later on. In view of this, the three Members of the Federation of Trade Unions will abstain from voting, in the hope that the Government can give us a definite reply to the abovesaid aspects.

Thank you, Madam President.

MR JAMES TIEN (in Cantonese): Madam President, the levy has been discussed in this Council for many years. Businessmen often feel that if the levy is to be imposed, the amount should be reasonable so as to enable persons suffering from pneumoconiosis to receive compensation. We often doubted if it was necessary to increase the levy rate substantially from 0.02% to 0.3%, but the Government said a higher levy was required for the PCF was running out of funds. It is now evident that it was really unnecessary to raise the levy rate to such a high level at that time. Now the PCF has more than \$400 million left. The Government is of the view that if the amount of compensation paid out is calculated at more than \$100 million a year, the amount of money levied is excessive. Therefore, the rate of levy should be reduced to 0.25%. We do support this argument but we hope the Government can continue to keep an eye on the income and expenditure of the PCF. As a matter of course, Mr LEE Cheuk-yan, Miss CHAN Yuen-han and Mr Andrew CHENG shared the view that the \$100,000 compensation for bereavement could be raised. We can discuss this point in the relevant Legislative Council Panel by looking into the situation of the persons suffering from pneumoconiosis all over again because it is most important to give them reasonable compensation. Of course, everyone will say that the more the compensation the better, but actually how much compensation is regarded as "more"? Or is it appropriate to exhaust the over \$400 million? Some may think that this is the only way to handle it properly, but is it correct in terms of the overall operation?

Despite the Government's move to reduce the rate of levy from 0.3% to 0.25%, businessmen who pay the levy will still need to spend money in other areas. Take the construction industry mentioned by the Government as an example, after the reduction, building contractors will have more money to spend on safety matters, which will benefit the whole industry. Hence, I support the Government's continuous effort to oversee the operation of the PCF annually after the review. If the PCF was found to be inadequate in meeting expenses, the Government should increase the levy. However, if the annual expenditure should actually be declining, there might still be room for the levy rate of 0.25% to be further reduced. I hope follow-up actions can be taken in due course.

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

(No Member responded)

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I would like to thank all Members who have spoken. Most of them support the Government's motion.

Among Members who have just spoken, Mr LEE Cheuk-yan and Mr Andrew CHENG have expressed their views on whether the PCFB should make more efforts in respect of prevention and publicity and whether the scope and amounts of compensation given to patients from the PCF should be adjusted. I would first refer the views expressed to the Committee for consideration and I believe the Government and Members will have a lot of opportunities to follow these up in future.

Mr TIEN has just said that we should pay close attention to the financial situation of the PCF and consider whether there is room for further reduction in levy in the future. We will make a note of Mr TIEN's views and take follow-up actions.

I would like to thank Members again for supporting this motion.

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.

PRESIDENT (in Cantonese): Proposed resolution under the Provision of Municipal Services (Reorganization) Ordinance.

PROPOSED RESOLUTION UNDER THE PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) ORDINANCE

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese):
Madam President, I move that the Provision of Municipal Services (Reorganization) Order which has been printed on the Agenda be approved.

The Order makes further consequential amendments to a number of enactments and subsidiary legislation that are necessary for the better implementation of the provisions of the Provision of Municipal Services (Reorganization) Ordinance (PMS(R)O). The Order also provides for the Government to draw up and audit the financial statements of the Provisional Municipal Councils for the period from 1 April 1999 to 31 December 1999 and cause the audited statements and reports to be tabled before the Legislative Council.

The PMS(R)O came into operation on 1 January 2000. Upon review, we find that some further consequential amendments are necessary for the better implementation of the provisions of the PMS(R)O. Under section 11 of the PMS(R)O, the Chief Executive in Council may, by order published in the Gazette, make consequential amendments to any enactment or provisions of a transitional or savings nature as are necessary for the better carrying out of the provisions of the PMS(R)O. Therefore, we propose to make an order under section 11 to make the consequential amendments. The amendments are set out in the Schedule to the Order. The purposes and details of individual amendments are described in the annexes to the Legislative Council Brief issued on 19 April 2000.

Briefly, the consequential amendments mainly involve the following four aspects:

First, the rectification of inadvertent omissions from the consequential amendments under the PMS(R)O;

Second, the alignment of the English and Chinese texts of a few provisions;

Third, the transfer of certain powers from the then Secretary for Planning, Environment and Lands to the Secretary for the Environment and Food; and

Fourth, the transfer of certain exemptions applied to the contractors of the former Provisional Municipal Councils to the contractors of the Food and Environmental Hygiene Department and the Leisure and Cultural Services Department.

All these amendments are technical in nature. In order to ensure continuity in the performance of duties and functions, we propose that the consequential amendments should take effect retrospectively on 1 January 2000. However, I would like to stress that the retrospective effect of the amendments will not affect in a prejudicial manner the rights of any person or impose liabilities on any person in respect of anything done before the publication of the order.

Besides, the former legislation governing the operation of the Provisional Municipal Councils provided that the financial statements of the Provisional Municipal Councils should be audited by the Director of Audit and tabled before the Legislative Council. The Provisional Municipal Councils were dissolved and their financial statements in respect of the period from 1 April 1999 to 31 December 1999 have not been prepared. On grounds of public accountability and transparency, we consider it desirable for the Order to provide for the financial statements for the aforesaid nine-month period to be prepared by the Director of Accounting Services. The statements will then be audited by the Director of Audit and caused to be laid before the Legislative Council by the Chief Executive.

For the better implementation of the provisions of the PMS(R)O, I beg Members to approve the Provision of Municipal Services (Reorganization) Order.

Thank you, Madam President.

The Secretary for the Environment and Food moved the following motion:

"That the Provision of Municipal Services (Reorganization) Order, made by the Chief Executive in Council on 18 April 2000, be approved."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Dogs and Cats Ordinance and the Interpretation and General Clauses Ordinance.

PROPOSED RESOLUTION UNDER THE DOGS AND CATS ORDINANCE AND THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the Chief Executive in Council made the Dangerous Dogs Regulation under section 3 of the Dogs and Cats Ordinance (Cap. 167) on 15 June 1999. I now move that the Dangerous Dogs Regulation be approved subject to the proposed amendments set out in the resolution circulated to Members.

Section 3 of the Dogs and Cats Ordinance provides that the Chief Executive in Council may make regulations for the control of dogs. It also provides that such regulations shall be subject to the approval of the Legislative Council.

The Dangerous Dogs Regulation aims to safeguard the public from attacks by dangerous dogs through more focused control. It suggests that dangerous dogs be classified into three categories, namely, "fighting dogs", "known dangerous dogs" and "large dogs" and stipulates the control measures to be applied to each of these categories.

The "fighting dogs" category will consist of the Pit Bull Terrier and dogs of similar breeds. These dogs are liable to attack people without provocation or warning, inflicting serious injuries, which may well be fatal. Under the Regulation, the import and breeding of such dogs will be prohibited. It will also be an offence to keep such dogs unless they are neutered.

The "known dangerous dogs" category will consist of dogs that have killed or inflicted serious bodily injuries on a person or a domestic animal without provocation, or have a history of repeatedly attacking people or putting people in fear of being attacked. Only a Magistrate has the power to classify such dogs as known dangerous dogs on application. The Regulation also prohibits the keeping of such dogs unless they are neutered.

Under the Regulation, it will be an offence for any person to allow "fighting dogs" or "known dangerous dogs" to go into or remain in a public place unless they are held on a leash of a specified length and muzzled.

It is our aim to phase out fighting dogs over a period of seven to 10 years and to prevent known dangerous dogs from passing on their aggressive characteristics to their offspring. The neutering requirement is essential to achieve this aim. If there is no neutering requirement, there will be illegal breeding activities and we cannot provide sufficient safeguard to the public. Furthermore, neutering is not cruel and has no long lasting negative effect on dogs. Indeed, neutering is accepted by local and international animal welfare organizations as an effective and humane way to prevent animals from breeding. According to published studies, neutered dogs have been shown to be less likely to bite and less aggressive towards other animals than their unneutered counterparts. The proposal of neutering fighting dogs is also in line with the international practice where neutering is mandatory for Pit Bull Terriers and other fighting dogs in Singapore, the United Kingdom, the Netherlands and some states of Australia.

The "large dogs" category will consist of all dogs weighing 20 kg or above. Statistics collected between April 1997 and March 1999 showed that some 70% of the investigated dog bite cases were caused by dogs with an estimated body weight of 20 kg or above and that all the serious cases in public places which resulted in hospitalization of victims were caused by large dogs. The "large dogs" category as proposed will include most chow chow and cross species thereof.

The Regulation has been scrutinized by a Legislative Council Subcommittee set up in June 1999. As a result, a number of amendments have been proposed. These amendments are set out in the Resolution circulated to Members and have been accepted by the Subcommittee. They are mainly related to the *ex gratia* payments to dog owners for surrender of existing fighting dogs, the control of large dogs and the power to amend two Schedules to the Regulation.

We originally proposed to grant an *ex gratia* payment of \$3,000 each to any owner who surrender an existing fighting dog to the Director of Agriculture, Fisheries and Conservation for destruction during the transitional period of 120 days. The Subcommittee has however voted for the removal of this provision and we have amended section 20 of the Regulation accordingly.

While we agree that the muzzling requirement for large dogs set out in section 9 of the original Regulation be removed, the leashing control is considered essential. But experience tells us that it is difficult to prove if other methods of control can be used apart from leashing. Thus, the existing legislation fails to effectively target at some irresponsible dog owners. It will help address the difficulties in enforcing the current legislation for dog control and help prevent serious dog bite cases. There are precedents of the implementation of such a measure in foreign countries. Countries such as Singapore and Ireland also imposed leashing control on specified large dog breeds.

The original Regulation proposed that the leashing requirement will not apply to large dogs in country parks or special areas within the meaning of the

Country Parks Ordinance (Cap. 208). As country parks take up 40% of land in Hong Kong, and many of them are located near the urban area and are easily accessible, we believe that country parks can provide ample space for large dogs to be exercised off leash. We have agreed to extend this provision to cover dogs swimming at sea in response to a suggestion that the leashing requirement should be waived in marine parks. We consider that under the revised Regulation there would be ample opportunities for large dogs to be exercised off leash.

In addition, the Director of Agriculture, Fisheries and Conservation is prepared to grant exemption under section 17 of the Dogs and Cats Ordinance to trained dogs if they can demonstrate, through examination, that they are not aggressive and can be controlled off leash. We have also agreed to bring the parts of the Regulation concerning the control of large dogs into operation six months after the revised Regulation is passed by the Legislative Council to enable dog owners to become familiar with the examination. Nevertheless, given the greater risk posed by "fighting dogs" and "known dangerous dogs" to the safety of the public, we will bring the parts of the Regulation regarding these two dogs categories into operation as soon as possible after the revised Regulation is approved by the Legislative Council.

The original Regulation empowers the Secretary for Economic Services (now the Secretary for the Environment and Food) to amend Schedule 1 (which specifies the weight criterion of large dogs) and Schedule 2 (which stipulates the types of dogs classified as fighting dogs). As requested by the Subcommittee, we have revised the Regulation to the effect that any amendments to these Schedules shall be subject to positive vetting by the Legislative Council.

Madam President, we think that the Regulation, with the proposed amendments before Members, strikes the right balance between the need to safeguard public safety and the need to look after the interests of dog lovers. I urge Members to support and approve the Dangerous Dogs Regulation and the proposed amendments to it.

Thank you.

The Secretary for the Environment and Food moved the following motion:

"That the Dangerous Dogs Regulation, made by the Chief Executive in Council on 15 June 1999, be approved, subject to the following amendments:

- (a) in section 1, by deleting "Economic Services" and substituting "the Environment and Food";
- (b) in section 2, by deleting the definitions of "indoor public place" and "outdoor public place";
- (c) in section 3, by adding -

"(3) This section does not apply to fighting dogs which are licensed under section 19A of the Rabies Regulation (Cap. 421 sub. leg.).";

- (d) in section 4, by adding -

"(3) This section does not apply to fighting dogs which are licensed under section 19A of the Rabies Regulation (Cap. 421 sub. leg.).";

- (e) in section 7(b), by deleting "not under the age of 16 years";
- (f) by deleting section 9 and substituting -

"9. Large dogs entering or remaining in public places

(1) No person shall cause, suffer or permit a large dog to enter or remain in a public place unless the dog -

- (a) is being securely held on a leash of not more than 2 m in length by a person; or

- (b) is securely tied to a fixed object on a leash of not more than 1.5 m in length in a manner that does not pose a danger to public and animal safety, and welfare of the dog.

(2) This section does not apply to a large dog which is in a country park or a special area within the meaning of the Country Parks Ordinance (Cap. 208) or swimming at sea.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.";

- (g) in section 10(2)(c), by adding "of being attacked" after "fear";
- (h) in section 12(b), by deleting "not under the age of 16 years";
- (i) in section 14(1)(b) and (c), by deleting "該指示所";
- (j) by deleting section 19 and substituting -

"19. Amendment of Schedules

(1) The Secretary may, with the approval of the Legislative Council, by notice published in the Gazette, amend Schedules 1 and 2.

(2) The Secretary may, by notice published in the Gazette, amend Schedule 3.";

- (k) in section 20 -
 - (i) by deleting subsections (2) and (3);

- (ii) in subsection (4) -
 - (A) by renumbering it as subsection (2);
 - (B) in subsection (2), by adding "section 5 of" after "commencement of".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for the Environment and Food, as set out in the paper circularized to Members, be passed.

DR TANG SIU-TONG (in Cantonese): Madam President, in respect of today's resolution proposed by the Secretary for the Environment and Food, a Subcommittee was set up under the House Committee to scrutinize the Dangerous Dogs Regulation (the Regulation). As the Chairman of the Subcommittee, I shall now highlight the major deliberations of the Subcommittee on the Regulation.

The Regulation is drawn up under section 3 of the Dogs and Cats Ordinance (Cap. 167) for more effective control on dangerous dogs.

The Subcommittee has held eight meetings with the Administration to discuss thoroughly on the criteria for the classification of dangerous dogs and control measures in the Regulation. Dangerous dogs are divided into three major categories, namely "fighting dogs", "known dangerous dogs" and "large dogs". In the course of the discussions, the Subcommittee considered in detail the views submitted to the Subcommittee by 13 interest groups and individuals, and two rounds of consultation with their deputations were conducted.

The Subcommittee noted that when the Regulation was drawn up, the Administration had already taken both public safety and welfare of animals into account. However, in-depth discussions with the Administration were held during the deliberation as some Subcommittee members were still holding divergent views in certain aspects.

Firstly, concerning the definition of large dogs, members of the Subcommittee note the queries raised by many interest groups on the rationale behind the adoption of the weight criterion of 20 kg for classification of dogs as large dogs. The Administration has submitted statistics of dogs responsible for dog bites in Hong Kong, and explains that over 50% of these cases are caused by local chows and mongrels. As the weight of most local chows and mongrels are over 20 kg, it therefore considers a 20 kg weight criterion as appropriate in order to cover these local chows and mongrels. The Administration has also considered using breed-based classification for regulation purposes, but concludes that a breed-based system is unable to cover chows and mongrel dogs. The Administration pointed out that large dogs are generally more powerful than small dogs. If large dogs bite children, the wounds are more likely to be on the face and neck, which may lead to permanent disfigurement. After hearing the explanation from the Administration, the Subcommittee eventually accepted the proposed definition of large dogs.

As for the regulation of large dogs, the Subcommittee welcomes the decision of the Administration to remove the muzzling requirement for large dogs. The only proposed control for large dogs is the leashing requirement in public places. Besides imposing control on licensed large dogs, the Administration has also pledged to step up actions to control stray dogs.

Madam President, some members have suggested waiving the leashing requirement for large dogs in remote rural areas and public places to which public transport carriers have no access or are not permitted to have access. However, the Administration considers it extremely difficult to enforce the proposed exemption because it is very difficult to define exactly the scope of area and to demarcate the exact boundaries on the ground. In order to avoid confusion among the public, the Administration declines to incorporate the proposed amendments into the Regulation. However, the Administration agrees to expand the area where large dogs are allowed to be exercised off leash, including country parks and waters of Hong Kong.

Subcommittee members also note that the Administration is prepared to conduct exemption examination for large dogs, so that dogs passing the examination will be exempted from the leashing requirement. Interest groups and individuals have shown grave concerns in the criteria and content of the exemption examination. In order to dispel the doubts of dog owners, the Administration has submitted information about the scope of the examination,

the frequency of examinations to be held and the staffing arrangements of veterinary surgeons to help conducting the examinations. The Subcommittee is satisfied after scrutinizing the relevant information and welcomes the postponement of the part in the Regulation concerning the control of large dogs, so as to enable dog owners to familiarize themselves with the exemption examination.

Some groups have expressed concern in the classification of fighting dogs. The Subcommittee notes that the Administration is proposing to include four fighting breeds into the Regulation. The Administration emphasizes that it has no intention of incorporating other breeds into the fighting dog category, unless there is clear evidence demonstrating a need to do so. Furthermore, the Administration has acceded to the request of the Subcommittee that any amendment to Schedules 1 and 2 setting out the classification of fighting dogs shall be subject to positive vetting by this Council.

After considering the views of the majority of Subcommittee members, the Administration decided to retain the neutering requirement for fighting dogs and known dangerous dogs, and withdrew the *ex gratia* allowance made to dog owners for the voluntary surrender of fighting dogs. However, some Subcommittee members have expressed different views in these two aspects.

Madam President, the Subcommittee has examined in detail the resolution on the Dangerous Dogs Regulation proposed by the Secretary for the Environment and Food and members are in support of the motion. Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for the Environment and Food, do you wish to reply?

(The Secretary for the Environment and Food indicated that she did not wish to reply)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

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

First motion: The 4 June incident.

THE 4 JUNE INCIDENT

MR SZETO WAH (in Cantonese): Madam President, the 11th anniversary of the 4 June incident is drawing near. I have moved the same motion twice in this Council, and this is the third time I move the motion. In the future, provided that I am still a Member of this Council, I will keep on moving the same motion.

Forgetfulness is the force behind inaction. If mankind is to lose its ability to recall, then we shall have no history, culture, tradition, experience, lessons to learn and progress to make. We shall be no different from birds, beasts and

insects. To forget not is to keep and cherish memories, to examine and search one's inner self, to summarize experience gathered and lessons learnt, and to find the direction and the path of progress. With this in mind, I propose that the 4 June incident be not forgotten.

Ever since the founding of the People's Republic of China, there has almost not been a single unjust, false or wrong case that has not been vindicated. When the Cultural Revolution was over, a large number of rehabilitation cases surged and these were attributable to the emergence of reform and opening. However, the focus of the reform was merely economic and in terms of politics, nothing much had changed. This was the primary cause which sparked off the 1989 pro-democracy movement. To vindicate the pro-democracy movement in 1989 is the first and foremost step needed to take for the political reform, democratization and rejuvenation of China. It can also be said that it will even play an enormous and positive role in the reunification of both sides of the straits. With this in mind, I propose that the 1989 pro-democracy movement be vindicated.

The road to democracy is long, rough and winding. Even if the 1989 pro-democracy movement is vindicated, we still have to go on waging a long and arduous struggle to make democracy a reality in China. This year, the Hong Kong Alliance in Support of Patriotic Democratic Movements of China puts forth the slogan of "educating the next generation to take over the struggle for democracy", which shows that we have to struggle from generation to generation for the democracy in China.

Last year, I predicted that the work in support of patriotic democratic movements in China at that very moment would undergo the hardest time. We are now at the beginning of the most difficult stage right now. Though I do not expect to witness the emergence of a democratic China with my own eyes, I can only spur myself to struggle unswervingly for this arrival of democracy in China, and I am convinced that a democratic China will emerge some day, no matter how long it may have to take.

The flames will not go out as long as the flint stones are there. There will certainly be people passing on the torch of democracy as long as dictatorship and autocracy are still there.

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

Mr SZETO Wah moved the following motion: (Translation)

"That this Council urges that: the 4 June incident be not forgotten and the 1989 pro-democracy movement be vindicated."

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

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

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy, I am sure that at the mention of the pro-democracy movement in 1989, most people will immediately think of WANG Dan, because as the leader of the student movement at that time, he is certainly the most representative figure of the whole pro-democracy movement in 1989. However, when we think of the "4 June tragedy", when we think of the tragic death of all those innocent civilians and victims, all of us, I am sure, will agree that Prof DING Zilin of the People's University in Beijing should be the most representative figure.

In that very year, Prof DING Zilin's innocent 17-year-old son was killed in the 4 June suppression. By now, almost 11 years has passed since she lost her most beloved son, but Prof DING has still not recovered from her profound agony; all through these years, Prof DING and many family members of those who were tragically killed during the 4 June suppression have been closely watched and harassed by the Chinese Government; even their attempts to hold any commemorative activities have also been suppressed.

The victims in the 4 June suppression no doubt all died a tragic death, but we feel even more sorrowful and indignant as we think of their surviving family members, for they have been tortured continuously by the mental pressure that comes from the grief deep down their hearts and from outside harassment.

On Mother's Day this year, Prof DING addressed an open letter to mothers all over the world as a mother who lost his son during the 4 June suppression. In this letter, she denounces the suppression and calls upon the

family members of other victims to launch a "Mothers of Tiananmen Campaign". Many ideas contained in the letter can give us a lot of food for thought. Here is an extract of the letter:

"As mothers, we have to endure far more hardships and sufferings than any other groups of human beings. The plight resulting from wars, famine, atrocities and massacre will always be first felt by us, as mothers; the anxieties and fears arising from various natural and man-made calamities will also perturb us before they perturb others

Today, we have entered a new century. Although the Cold War menace of the last century has gradually faded, the peace and tranquility that we have been longing so much for have not yet come as desired

I think that on this very first Mother's Day of the new century, we really need to reiterate our duties as mothers. Perhaps, we may have nothing at all, and perhaps, we may not know what we can possibly do. However, this does not matter, as we are all filled with motherly love. We have the duty to appeal to the conscience of man with this kind of love, so as to resolve the suspicion and hatred among people. Of course, we should also stand up for our own rights instead of looking to the grace of others."

Madam President, the "Mothers of Tiananmen Campaign" initiated by Prof DING is part of a worldwide campaign which demands governments all over the world to hold themselves accountable for their acts. This worldwide campaign urges governments all over the world to hold themselves legally responsible for their persecution of their people. It also asks for the establishment of some effective channels which can promote and uphold human rights, so as to prevent governments from abusing their people without any fear of legal punishment.

In the past 20 years, there were many pro-democracy movements all over the world. Unfortunately, many people involved in these campaigns were brutally and bloodily suppressed by their totalitarian governments. The persecution of dissidents and family members of deceased victims continues even today, as in the case of the pro-democracy movement in Beijing in 1989 and the Kwangju Uprising in South Korea 20 years ago, for example. Those who lost their loved ones in these movements (especially mothers) gradually realize that if the people allow their governments to distort the true facts of history, or if they

allow these facts to be obliterated by time, massacres and persecution will only persist, and it will never be possible to promote and uphold human rights and democracy. So, all these mothers start to organize themselves and make indictment against their governments in various different ways. The Mothers of Plaza de Mayo in Argentina, for example, all wear white shawls and gather at the Plaza for a sit-in every Sunday to commemorate the death of their children. In Chile, the Mothers of the Disappeared show their protest by forming patterns with brightly-coloured patchwork quilts. Gradually, the family members of political victims in different countries start to build up contacts, and they start to join hands with one another, giving rise to a worldwide campaign demanding governments all over the world to hold themselves accountable for their actions.

I know that starting from this week, a series of events will be held in Kwangju to commemorate the victims killed in the Kwangju Uprising 20 years ago. At the end of this month, the Pan-Asia Joint Conference on the Campaign of the Families of Political Persecution Victims will be held in Manila, and the organizer has invited Prof DING to attend the conference as the representative of the 4 June victims.

Mr Deputy, perhaps, some Honourable colleagues in this Council may no longer wish to talk about the pro-democracy movement in 1989, or, perhaps, they may not wish to state their positions regarding the 4 June Massacre any more. However, when they hear the appeals from family members of the victims, like Prof DING, can they still remain unmoved and indifferent?

To vindicate the 4 June victims is the only objective of the "Mothers of Tiananmen Campaign" initiated by Prof DING. I believe that this is an issue which the Chinese Government and even all Chinese people should not evade.

Mr Deputy, I so submit. Thank you.

MR ANDREW CHENG (in Cantonese): Mr Deputy, the theme of the commemorative activities held by the Hong Kong Alliance in Support of Patriotic Democratic Movements of China this year is to "educating the next generation to take over the struggle for democracy". In the time to follow, I shall focus on how we should foster a concern about the 4 June Incident among the younger generation. The 21st century has just started, and the 20th century is already history. At the turn of the century, it is only natural for people to

welcome in the new century with jubilation and various expectations, but we must not forget that it is equally important to draw lessons from history. This is in fact the duty of the young generations, for they are the very ones who are going to shape the future of humanity.

History is about the evolution of nature and human societies, and it records the events and happenings of different places, races and cultures. When we study history, we should not pay attention to the prime days of human societies only; we must at the same time try to find out more about the decline of dynasties, for example. This is precisely the objective approach demanded by the study of history.

To the young people now, the tragedies that occurred on 4 June 1989 in the Motherland, at Tiananmen Square of Beijing, may just be some fragmented images: annual processions, candlelight vigils, death of students and soldiers in the tragedies and the grief of their teachers and parents. But why should people stage processions? Why should mourning be held? Why should people be so sorry about the death of some total strangers in a place so far away? Our young people may be totally baffled by all these questions. They are indeed indifferent to the 4 June incident, but we cannot blame them, for they were all very small when the tragedies occurred.

We adults all know what happened years back, which is why we are still filled with intense grief. We cannot force our young generations to feel as sad and to reflect as seriously on these tragedies as we do. But we do have the obligation to guide them along the path of finding out what actually happened. Having done this, we should then leave them to decide how they are going to think about and interpret the 4 June incident.

All that is past is history. During the 100 years or so of British administration, Hong Kong came under profound Western influences. However, it is now already nearly three years into the reunification of Hong Kong with the Motherland. So, when it comes to the question of instilling patriotic and nationalistic feelings among our young people, I am sure that the Government of Hong Kong should have an unshirkable responsibility. If the Government refuses to treat the 4 June incident as part of our history, and if it avoids it altogether as if it has totally forgotten it, then 4 June will certainly elude our young people over time. When this happens, how can we encourage a concern about the history of our country among our young generations? How

can we encourage them to draw lessons from the past development of the Chinese people? In order to live with dignity, we should respect history. As long as we can remember the lessons of history, the grief we felt, and never try to forget them, we will not repeat the same mistakes. Only then can there be any prospects for the Chinese people.

Our young generations are mostly indifferent to the development of China, basically and fundamentally, because they cannot see any national identity for themselves. The best way for the young generations to learn about the development of the Chinese people is theoretically the subject of Chinese History that they have to take in their school days. But in reality, most students are preoccupied with their examinations, and for this reason, they all lose sight of the fact that the most significant reason for learning the history of a people should be to build up a better future for that particular people.

When the happenings during any particular period in the past are prevented from becoming part of history, the young generations will never know anything about these happenings and thus will never appreciate the sentiments at that time. Nationalistic feelings can never be nurtured as a result. Today is the sequel to yesterday, just as tomorrow is the sequel to today. If seeds were not sown yesterday, there can never be any germination today, and never any blossoming tomorrow. The Chinese people requires the concern and commitment of its young generations before it can see any prospects. So, let us all give our young generations a clear account of the 4 June incident. Let us encourage them to look at the 4 June incident with a rational mind, and a Chinese heart. Let us not allow this part of our history to sink into oblivion. Mr Deputy, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy, this year marks the 11th anniversary of the pro-democracy movement in 1989. Over the past 11 years, the people of Hong Kong have never forgotten 4 June. Year after year, the candlelight vigil at Victoria Park continues to attract hundreds and thousands of Chinese people with a conscience who wish to express, on this piece of Chinese soil, their desire for democracy in China and their mourning for all the young people who were killed at Tiananmen Square, Beijing.

Of the hundreds and thousands of mourners, those who touch me most are the Tiananmen Mothers. On Mother's Day this year, DING Zilin, whose son, JIANG Jielian, was killed in the pro-democracy movement, turned all her grief into a powerful quest for democracy and justice. After 11 years of efforts, she finally compiled a list of victims in the pro-democracy movement; this list contains the names of some 160 people who were killed and some 70 others who were rendered disabled. She has compiled a most heartbreaking list, the Ding Zilin's List.

The young people on the list were all unsung victims in the pro-democracy movement. Though the blood they shed awakened all Chinese people, their names have so far been buried in anonymity in history. I hate to see their lives and blood being forgotten by history, and I hate even more to see their noble sacrifices being smeared by the butchers. Therefore, in the Legislative Council of Hong Kong — a legislature belonging to the Chinese people, I must record in writing the names and deeds of some of these victims, as a sign of respect and as a mourning for them. I shall start with the youngest one and end with the oldest victim.

They were:

LU Peng — not LI Peng, but LU Peng, aged nine, a primary school pupil. Shot in the chest by martial law troops and died on the spot.

JIANG Jielian, aged 17, a high school student and an only child. Killed at Muxudi by a bullet that passed through his chest.

YE Weihang, aged 19, a high school student. Initially designated Unidentified Body No. 1 at Naval General Hospital. Died after being shot in the right shoulder, the right chest and the right lateral part of his brain.

XIAO Jie, aged 19, a university student and also an only child. He passed the red enforcement line and failed to heed the "Stop" shout of martial law troops. Shot dead in the end by a bullet that passed through his chest.

DONG Xiaojun, aged 19, a university student. Run over by a tank and crushed to pulp as he was walking at the back of a group of students retreating from Tiananmen Square.

WANG Peiwen, aged 21, also a university student. Also run over by a tank and crushed to pulp as he was walking at the front of a group of students retreating from Tianmen Square.

ZHONG Qing, aged 21, a university student. Shot in the head and half of his face blown off. Body subsequently identified only because of a key in his pocket.

QIAN Hui, aged 21, a university student. Bladder shattered by firings from a tank. Shouted "Watch out" to his mates shortly before he died. Left a trail of blood 100 m long after his death.

WU Guofeng, aged 22, a university student and an only child. The only university student in a remote county of Sichuan. Body cremated after death and ashes claimed back by parents.

TIAN Daomin, aged 22, a university student. Of poor parentage. Crushed to death by a tank when going out after finishing his graduation thesis. The poverty of his family led sympathetic classmates to each donate 10 renminbi to his parents every year.

HE Jie, aged 22, a graduate student. Admitted to Qinghua University at 15 and widely regarded as a child prodigy. Shot dead in the head.

LIU Hong, aged 24, a university student. Shot in the abdomen and intestines squeezed out. Classmates tried in vain to press them in. Died in the arms of a classmate in the end.

LIU Jinhua, aged 30, a worker. Shot dead together with husband. Children had to be sent to grandparents for care and support.

SONG Xiaoming, aged 32, a worker. Shot in the thigh by a bullet that cut through a major artery. People trying to save him were stopped by soldiers at gunpoint. Died subsequently due to failure to receive blood transfusion.

ZHOU Yongqi, aged 32, a worker. Killed by a bullet that entered the left side of his chest and passed through his right lung, his wife having just given birth to a baby 15 days before.

Mr Deputy, a moment ago, the Honourable LAU Chin-shek commended the Tiananmen Mothers. For me, I now wish to commend the Tiananmen Children by saying this: "With their courageous sacrifices, they were determined to bring forth a new world in China". I am convinced that the Tiananmen Incident will certainly be vindicated one day. When that day comes, the names of all these martyrs who died for the cause of democracy will be inscribed on the People's Heroes Monument at Tiananmen Square, and also on the hearts of all Chinese people until immortality.

We long for such a day, and we will struggle and work hard for it. But today, let us first record their names, because they are the children of Tiananmen, the moral fibre of the Chinese people and the pride of the Chinese people.

MR MARTIN LEE (in Cantonese): Mr Deputy, I can remember that shortly after the establishment of the Hong Kong Special Administrative Region, our Chief Executive, Mr TUNG Chee-hwa started to ask us to get rid of the 4 June albatross. Similarly, I now wish to ask Mr TUNG to request our Chinese leaders to get rid of the 4 June albatross.

What is the 4 June albatross? Actually, in the Basic Law, we can find several provisions which can aptly tell us what the 4 June albatross is all about. What I mean is that these provisions were not found before 4 June, but were inserted after that. In the copy of the Basic Law which I am holding, there is a reference to "subversion against the Central People's Government". However, Article 22 of the Draft Basic Law for Solicitation of Opinions published in April 1988 (the first draft) reads as follows: "The Hong Kong Special Administrative Region shall prohibit by law any act designed to undermine national unity or subvert the Central People's Government." This was how the first draft was worded. However, following discussions in Hong Kong, especially after the discussions in the Basic Law Consultative Committee, many voices of objection were heard, and both the legal profession and the democratic camp expressed their opposition. Therefore, in the second draft made by the Basic Law Drafting Committee, the words of "subvert the Central People's Government" were deleted. So, in the second draft published in February 1989, the relevant provision (which now became Article 23) was worded as follows: "The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, or theft of State secret." In other words, the words "subvert the Central People's Government" were not found. That was in February 1989.

In the third draft published after 4 June, that is, in the final enacted version, this provision was still found, and it was still Article 23. However, as we can all see, in the Basic Law enacted on 4 April 1990, Article 23 is written like this: "The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of State secret". In other words, the several words on subverting the Central People's Government are put back again. And, there is still a string to this, for the provision runs on as follows: "..... to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies." This is the first manifestation of the 4 June albatross.

What about the second manifestation? I can remember that when I was still working in the Basic Law Drafting Committee, many Hong Kong drafters expressed the view that Members of the Hong Kong Legislative Council should not be permitted to hold right of abode in a foreign country. As far as I can remember, every time when this view was raised, Mr LU Ping would invariably reply that it was not necessary to impose such a condition, saying that Members who were foreign nationals were also found in the Legislative Council of Hong Kong at that time. So, he insisted that such a condition was not required. He also said that the Legislative Council of the Region would not be a state-level legislature like the National People's Congress. So, he viewed that such a condition was not required. This condition was actually raised several times, but every time, Mr LU dismissed it as unnecessary. In the end, no one tried to raise it anymore. However, after 4 June, people raised this condition again, and this time around, they succeeded. It is now stated in Article 67 of the Basic Law that the proportion of such Members in the legislature shall not exceed 20% of its total membership. This is another manifestation of the albatross.

Then, there is the procedure of voting in groups for Members' motions, one which we as Legislative Council Members should know only too well. Under this voting procedure, as we know, even if there are 45 votes in support and zero vote in opposition, a motion may not necessarily be passed. No doubt, in one group, 30 Members may vote for the motion and it can thus be passed in this group. And, in another group 15 Members may also vote for the motion. But then the other 15 Members in this latter group may well vote otherwise. When this happens, the motion cannot be regarded as having obtained majority support. This outrageous voting procedure now adopted for this Council is the

brainchild of one of the Basic Law Consultative Committee members, Mr LO Tak-shing. This is yet another manifestation of the 4 June albatross. In brief, I can give at least three manifestations of the 4 June albatross in the Basic Law.

Recently, our SAR Government has been talking about enacting laws to implement Article 23, and that of course covers acts designed to subvert the Central People's Government. I really wish to ask the Chief Executive and our Government whether they have ever reflected our opinions to the Central Government. Do we really need such laws? Since the second draft did not contain any such provision, we can actually conclude that the Central Government and all its officials did not think that there was any need to enact such laws for the SAR. The enactment of such laws, I am afraid, is again a manifestation of the 4 June albatross. Eleven years has passed since the 4 June incident, but why are the Chinese leaders still so scared now? Shortly after 4 June, they might be worried that Hong Kong might turn ungovernable, and that the transitional period might not be smooth. That I can all understand. I can understand how their worries might have led them to write the Basic Law in such a way, though I do not agree with them. However, the reunification of Hong Kong with China has since proved so smooth. And, has anyone ever done anything to subvert the Central People's Government so far? Everyone knows the answer, I am sure. If the answer is "no", then why do our Government and those so-called pro-China people not reflect our opinions to the Central Government, telling it that there is no need to enact such laws. Why is it impossible for them to say so? The albatross is there, but does it then mean that we should enact the laws because of it? I know very well that our Chief Executive does have his difficulties, because he was not elected by us the people of Hong Kong, but by a so-called Election Committee after having been preordained by President JIANG Zemin. So, naturally, he will not dare to stand up for the people of Hong Kong.

The 4 June anniversary is approaching again. If any people want to stop the Honourable SZETO Wah from moving such a motion every year, the only way for them to achieve their purpose is to vindicate 4 June. If there is no vindication, how can we possibly get rid of the 4 June albatross? No, we cannot, and not even the central leadership in Beijing either, I am afraid. Therefore, Mr Deputy, I am compelled to say, "Let the 4 June incident be not forgotten".

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy, faced with globalization and challenges of the information era as we enter the 21st century, I speak in support of Mr SZETO Wah's motion today. Only when the 1989 pro-democracy movement is vindicated by justice and only when the historical lesson of the 4 June incident is remembered and learned with courage can China become affluent and strong in the knowledge-based economy of the 21st century, and only in this way can there be hopes for freedom and democracy to be successfully implanted in China in the information age.

Last year was the 10th anniversary of the 4 June pro-democracy movement, the 80th anniversary of the May Fourth Movement and the 50th anniversary of the People's Republic of China. On the eve of the 1 October national day, WANG Dan, a student leader of the pro-democracy movement 10 years ago, brought 150 000 signatures collected around the world to the China Embassy in New York, United States petitioning for the vindication of the 4 June incident and urging for freedom and democracy in China. The 150 000 signatures with WANG Dan included 20 000 electronic signatures collected from 125 countries or places, including Hong Kong, through the website, june4.org, set up by WANG Dan to commemorate the 4 June incident.

This signature campaign has proved and manifested that under globalization and in the information era, the pro-democracy movement in China is no longer confined to Tiananmen Square. Although the Chinese Government has strictly prohibited the commemoration of the 4 June incident, WANG Dan was able to gather over 2 000 signatures from mainland China through the Internet. On the Internet the portrait of the Goddess of Democracy never falls down, and there is the democracy wall for people to express views beyond restrictions in time and national boundaries. Anyone who has access to the Internet can see the portrait of the Goddess of Democracy, read an array of opinions and views, and also participate in discussion and express one's views. People living in China are no exception. With the freedom of information, people are allowed to enjoy the right to information, freedom of expression and latitude for discussion, which are precisely the cornerstones of democracy.

In China, there are now 9 million Internet users, accounting for 0.7% of the total population and representing a four-fold increase compared to the same period last year. It is estimated that by 2005, their number will increase to as many as 85 million, or 6.6% of the population. By that time, China will have the second largest number of Internet users in the world, second only to the United States.

China's attitude towards Internet and information technology development is contradictory. On the one hand, China is opening up its economy and is fully aware that it must tie in with the general trend to develop Internet, liberalize the telecommunications market and attract inward investment in order to benefit from the new knowledge-based economy. On the other hand, China unrealistically hopes to maintain centralization of power and suppress democratic development in tandem with the opening up of its economy. However, the economy is inseparably linked with politics. It is impossible to open up the economy and at the same time enforce political blockades. Information technology will precipitate economic and political changes in China.

The Chinese Government has now attempted to vet information on the Internet and control Internet-related activities. In January this year, the State Secrecy Bureau promulgated the Administration of the Maintenance of Secrets in the International Networking of Computer Information Systems Provisions, imposing control on the collection and dissemination of information via the Internet through the People's Republic of China Maintenance of State Secrets Law. In September last year, PENG Xiang of the Shandong Province was sentenced to a penalty of reform through labour for three years for collecting 296 signatures in support of the vindication of the 4 June incident.

In February this year, the Shanghai municipal government closed down 127 cafes where Internet services were provided. This was the fourth operation of its kind since April 1999. The Shanghai government alleged that these cafes had disseminated harmful information, so to speak, to the detriment of the people without government permission. To put it simply, the web information that customers were able to access to at these cafes had not been screened and distilled and hence, information from foreign countries was able to flow into China. The Government generally claimed that the vetting had to do with pornographic webpages. But in fact, among those websites being taken off, some are actually websites of overseas mainstream media or webpages with political undertone.

In the long term, the screening of information will not be effective. Apart from its technical constraints, China is aware that it must actively open up the market and liberalize information before it can catch up with the rapid development of the knowledge-based economy. In China, there are now 50 000 registered websites, including the 10 largest portal websites, and most of them are supported by funds from the United States. If China's accession to the

World Trade Organization will be realized in the near future, foreign investment can take up 49% of the shares of telecommunications undertakings and 50% of value-added telecommunications services (such as Internet services) in China in the next two to five years under an agreement between China and the United States. At present, the European Union is making great efforts in negotiations to the effect that foreign investment can take up as many as 50% of shares of telecommunications undertakings in China. By then, the liberalization of the market and information, and the inflow of foreign capital and its impact will become more evident.

The liberalization of information and the market will not only give a new lease of life to China economy. It will also bring opportunities for political reform in China. Information generates not only economic powers, but also political powers and powers of the people. Information technology and the Internet have broadened the sources of information and fortified the basis of democracy, enabling the people of China to enjoy the right to information, the right to choose, and the right to participation. For example, they can participate in WANG Dan's signature campaign to fight for democracy, freedom and the vindication of the 4 June incident in China.

I believe that in this Chamber today, no one will rise to oppose democracy and freedom. No one will negate the general trend towards a knowledge-based economy under globalization in the information era. If we are resolved to strive for freedom and democracy and to rise to the challenges of the information age in order to be at the forefront of the knowledge-based economy, we must accept the freedom of information, face the truth courageously, and bravely vindicate those incidents that were unjustly judged in the past.

Time will not dilute facts of history. The injustice done to the 4 June incident will only be a knot wrangling the hearts of the Chinese people and a scar in Chinese history. To forget not the 4 June incident and vindicate the 4 June incident can untie this knot, encouraging the Chinese people to bravely assume responsibility of historical mistakes, face the information age with a liberal mind and continue in the strive for freedom and democracy.

With these remarks, Mr Deputy, I support the power of the people in the information age. The people's convictions for freedom and democracy as manifested on the Internet will never vanish and will last forever.

DR YEUNG SUM (in Cantonese): Mr Deputy, time flies. The 4 June Incident will turn its 10th anniversary very soon. I have spoken on all previous motions on the 4 June incident, and I wish to express some personal feelings this time.

Mr Deputy, the Mother's Day has just passed and my thoughts are particularly with those students and people who were shot dead by the army when taking part in the pro-democracy movement in 1989. Madam DING Zilin, a mother whom colleagues have mentioned, wrote the following on the Mother's Day and I quote:

"I am not a strong mother myself. My son lost his life in a bloodshed and for several times I have hovered between life and death. But I clearly know that my son died for the future of China, and to me, the future of China is all that I am living for. I hope that on this homeland of ours which is frequented by disasters, there will be no more killings, no more innocent civilians being slaughtered on the street. That is why I must bandage my wound and wipe away my tears to find out all the victims and their families, and to make public each and every piece of fact stained with blood and tears." End of quote.

Mr Deputy, Madam DING Zilin is a great mother who commands our respect. His son sacrificed his life for the future of China. Between the lines her sadness of losing her son is manifested, but she has turned her grief and rage into strength, making her utmost efforts to find out the victims and their families with a view to making known each piece of fact stained with blood and tears. Thanks to her efforts, there is now iron-clad evidence of the 4 June massacre, fully substantiating the allegation against the atrocities of the Chinese Government ordering the army to shoot at its people. Faced with such irrefutable evidence, how could the Chinese Government wantonly deny it?

It has been a decade since the tragedy of the 4 June massacre. But still, the Chinese Government has not vindicated the 4 June Incident. Nor has it taken steps to trace the responsibility of the massacre. This is indeed bitterly regrettable. Time goes by, but the people of Hong Kong have not forgotten the 4 June incident. I think that efforts to commemorate the 4 June incident and trace the responsibility of the massacre must continue until the incident is vindicated. It is very important that on cardinal issues of right and wrong, we must resolutely hold onto our position and persevere. This is not only to do justice to the victims, but more in the hope that this sort of tragedy will not recur.

I believe that Madam DING's efforts will eventually prove their worth in the course of history. With these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): Mr Deputy, with regard to this motion moved by Mr SZETO Wah today, I observed that there are fears among some people for three things. Some are afraid to debate this issue; some are afraid to state their position; and some are afraid to review history. In the debate on "Opposing Taiwan becoming independent" last Wednesday, some Members opined that we should state our position on history and on cardinal issues of absolute right and wrong. So, the Democratic Party stated its position last week and will state its position this week. Our position is clear and simple, that is, history has shown us that the 4 June massacre is a stark fact; history has shown us that lots of people were killed at Tiananmen Square; history has shown us that it is a patriotic pro-democracy movement organized by students at Tiananmen Square in 1989. We are not afraid to make our position known on these matters of fact.

Some are afraid to debate this issue, and I sometimes ask why they should be afraid to do so. If we debate it with the aim of finding out the truth, finding out the facts, or discussing divergent views, why do we not have a debate on it? Why do we not speak on it? We are very often reminded not to recall this part of history. On this point, we have time and again reiterated that will this part of history cease to exist if we just let it go out of our mind? Is it that the massacre in 1989 will no longer exist then? If all compatriots in China and Hong Kong are asked to forget this part of history, do we also have to forget the history of the Japanese invasion of China? Do we also have to forget the history of the Nanjing Massacre? Why is it that our Government has made great play of some parts of history to rouse people's nationalistic sentiments, whereas leaders of our country, or some political parties in Hong Kong, have always evaded mentioning other parts of history? Let me say it again that cardinal issues of right and wrong in history must be debated, and we must state our position on them. To many compatriots in Hong Kong or the Mainland, the pro-democracy movement in 1989 is believed to be the most unforgettable part of history in the 20th century; and particularly to this generation which has not experienced war, this part of history is almost the most inspiring historical movement of all. I had participated in this movement and my position on it is clear. I support that the 4 June incident be vindicated; that those who ordered the massacre be prosecuted; that we should be committed to building a democratic China; that the one-party dictatorship be put to an end. I am not afraid to state my position for it shows that on this issue, I have my own observations, my own thinking and decision.

There is no need for me to back away from this issue. I have no regret at taking part in this movement. I also do not regret that my participation in this movement had left a mark on me and created a rift or a wide gap between me and TUNG Chee-hwa's administration in Hong Kong and the Beijing Government. If this gap was created because of my firm stance on matters of right and wrong and on the truth, I do not mind if this gap will continue to exist. I see no reason why I should betray history, betray conscience or betray my principle to bridge this gap.

Mr Deputy, it has already been 11 years since the pro-democracy movement in 1989. I believe that many students of the younger generation in Hong Kong do not have much knowledge of this part of history, particularly the teenagers who were only newborn babies or in their early childhood some 10 years ago. So, I very much agree with the objective of Mr SZETO Wah and the Hong Kong Alliance in Support of Patriotic Democratic Movements of China to impart knowledge of this part of history to our next generation. Speaking of this objective, I am gravely concerned about how the Hong Kong Government, the Education Department and the Education and Manpower Bureau will account for this part of history in textbooks. For some time we have heard that the Director of Education has misgivings about the inclusion of this part of history as well as its description in textbooks. I hope that our Government will not act like the Communist Party in the Mainland which deals with textbooks and history in its own way such that textbooks are published and history is documented only within the parameters of the Communist Party's ideology.

Sometimes I hear leaders of China rightly criticize the Japanese Government for distorting history. But we must not forget that leaders of China are trying to evade history, and even distort history sometimes. For example, when the "gang of four" stepped down, the photographs of some leaders had been tampered with. How is this piece of history being accounted for in textbooks in China? Is there any discussion on it? I think there is little discussion on it. So, Mr Deputy, I have strong feelings in saying these, and I think it is good to see Mr SZETO Wah sponsoring this motion. As I have said, we should not be afraid to debate on cardinal issues of right and wrong; we should not be afraid to state our position on matters of absolute right and wrong; we should not evade and conceal that part of history, and this is a matter of principle which allows no ambiguity in right and wrong.

I support this motion. Thank you, Mr Deputy.

MR JAMES TIEN (in Cantonese): Mr Deputy, I have long intended to speak. It is not because of the earlier remarks of the Honourable LEE Wing-tat that I rise to speak.

This year is the 11th anniversary of the 4 June incident. There is no denying that what happened at Tiananmen Square back then has left a deep scar in the history of China. All Chinese people will not forget it for they hope that the historical tragedy will not recur. Yet, there is no need for us to be overcome by a mood of melancholy for good.

As we all know, what happened at Tiananmen Square was first started by a group of students in Beijing who were dissatisfied with profiteering and corruption by bureaucrats. They gathered at Tiananmen Square to stage a protest, petitioning the Central Government to carry out democratic reforms. They started off in good faith with ardent patriotic sentiments. But as huge crowds of people later joined the students, the command by students at Tiananmen Square changed hands, thus complicating the nature of the movement. What began as a student movement against corruption turned into an anti-government political movement with the aim of pulling down the Central leadership of the time, which ultimately ended in bloodshed and casualties. Moreover, behind the incident was also the internal power struggle at the top echelons of the Central Government.

The Liberal Party believes that the whole story of the 4 June incident and the responsibility of all parties concerned (including the Central Government, students and the mass public) will come to light in the course of history and time. Whether or not the 4 June incident is to be vindicated is a matter for the Central Government.

The 4 June incident is a heartrending tragedy. Having said that, those sad memories should not deter us from rationally recounting the experiences and lessons of the 4 June incident and deter us from making every effort to build up a new society underpinned by democracy and prosperity.

Now that 10 years have passed since the 4 June incident, we are delighted that under the pervasiveness of the reform and opening of China, the Chinese Government, university students as well as the people have all developed an increasingly mature point of view on many issues. For the last decade, the legal system and democratization in China have been making steady progress with

remarkable achievements. Having learned its lesson from history, the Central Government has attached far greater importance to the problem of corruption among government officials and authorities, taking stringent measures to combat corruption among bureaucrats. In recent years, we have seen many cases of senior government officials, who were found to have engaged in corruption and embezzlement of public funds, being expelled from the Communist Party or even sentenced to death. Moreover, there are also improvements in the basic rights of the people. In fact, reforms and democratization of the political system cannot possibly proceed along a healthy track without political stability.

History keeps moving on. Therefore, the Liberal Party hopes that all of us can look ahead. We sincerely hope that the opening and reform of China will be successful so that China will become rich and strong and people's livelihood can be further improved with no more bloodshed but social harmony. In that case, China can take pride in being a strong nation in the international community in the 21st century. This, I believe, is the common wish of the majority of Chinese people after the process of recounting past experiences and soul-searching.

Mr Deputy, Mr SZETO Wah proposed the same motion last year. The Liberal Party will abstain, just as we did last year.

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, the 4 June incident that took place 11 years ago, or the 1989 pro-democracy movement, remains fresh in the memories of countless people and is something that they dare not forget. Therefore, I believe that not only Mr SZETO Wah, but also many other people, will still raise it for discussion and continue to commemorate it until the pro-democracy movement is vindicated and until justice is done to the victims. But in recent years, there seems to be more and more voices asking us to forget the past and dispel the gloomy moods. This is most evident in that not only our Government has sent no government official to respond to the motion, but many pro-Beijing Members have chosen not to discuss this issue, seemingly with the purpose to erase the 4 June incident from history. This has reminded me of *Nineteen Eighty-four*, a well-known novel by the famous English novelist, George ORWELL, about distortion of history by totalitarian government. In fact, Mr Deputy, every political tyranny will by nature seek to evade reality and cover up its disgraceful rule, and it is our responsibility to put up resistance so as to make our next generation understand that on the land of China, there were

people willing to sacrifice their own interests or even their lives for democracy and freedom.

Mr Deputy, recently there are two incidents which are well worth discussion. One is the auctioning of national treasures and the other is the erection of a shrine on Diaoyutai by the Japanese Youth Federation. These two incidents have revealed again the past tragedies of the Chinese nation. The people of Hong Kong were also filled with indignation. Some staged a protest at the auction venue and the Chairman of a political party even went to the Office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong to petition the Chinese Government to strongly protest against Japan. But on the 4 June incident which is also a national tragedy, these people, on the contrary, took actions asking us to forget the past. When these people are condemning the Japanese Government for concealing the truth of the Japanese invasion of China, have they ever thought about whether telling us to forget the truth of the 4 June incident is nothing short of telling the Japanese Government not to give a response? Those who made such a request are not only showing disrespect to history, but also trampling on the victims ruthlessly.

Mr Deputy, it is easy for people who cower to those in power to forget this part of history, but it is very difficult for two types of people to do so. One of the two types of people who find it difficult to forget the 4 June incident is the power-that-be in Beijing. As I remember, Mr SZETO Wah has said that while the Beijing Government has always told us to forget history and forget the 4 June incident, they are precisely the ones who find it hardest to forget the incident. That is why they have kept on arresting organizers of the pro-democracy movement and oppressing families of the victims. The other type of people is the families of the victims. Recently, we saw a letter from Madam DING Zilin in the press, and in it she said, "For the last decade or so, we have been subject to discrimination and pressure from the Government. In order to defend the reputation of the victims and to press those in power who have been persecuting us to do us justice, we have been unrelentingly putting up a fight in the hope that there will be no more killings on this land of China. To enable all our children to grow up happily and healthily, we should continuously cry out loud." So, Mr Deputy, in asking us to forget the 4 June incident, one is not only being disrespectful to the victims, but also turning a blind eye at the oppression that families of the victims and pro-democracy fighters are now suffering from.

Mr Deputy, as Madam DING pointed out, to prevent the recurrence of the 4 June incident and to enable our next generation to grow up happily and healthily constitute even stronger reasons for us not to forget the 4 June incident, and we must work for the continuity of the convictions of the 4 June incident and endeavour to build up a democratic China. Pro-democracy movements of all scales had taken place in the history of China, including the May Fourth Movement 81 years ago and even the overthrow of the corrupt government of the Kuomintang by the Chinese Communist Party in 1949. Regrettably, these incidents have failed to bring democracy into fruition for our next generation. Eleven years ago students in mainland China issued the hunger strike declaration, strongly criticizing the Chinese Government for its one-man dictatorship, its political system underpinned by the rule of man and its ideology of absolute dominance. But much to our regret, these problems as criticized by the students then are still with us today. They exist because there are people continuously telling us to be forgetful. Now that many people have forgotten the past and therefore, the power-that-be does not bother to change the *status quo* or honour its undertakings to the people. In fact, Mr Deputy, the Chinese people have paid a high price in fighting for democracy, freedoms and the rule of law. If it is our wish to continue with the efforts to enable freedom and democracy to genuinely bear fruits on the land of China, I think we should not and cannot forget the objectives of the 1989 pro-democracy movement, and we at the same time cannot forget the price that victims of the 4 June incidents had paid.

Mr Deputy, we cannot be disrespectful to the victims. We cannot turn a blind eye to the oppression that families of the victims now face. Nor can we sit by indifferently, allowing the tyrants to erase their disgraceful history. We must allow the seeds of democracy to take root early. Therefore, we must continue to fight for the vindication of the 4 June incident, and we must not forget the 4 June incident.

Mr Deputy, I so submit.

MISS CYD HO (in Cantonese): Mr Deputy, last year, Mr SZETO Wah mistakenly thought that I was young and he said that I would be able to see the vindication of the 4 June pro-democracy movement in 1989. Actually, I am not young any more for I am now 46 years old. But I will see the vindication of the pro-democracy movement, and I am confident that Mr SZETO Wah can also see it.

Whenever there is a change of totalitarian government in undemocratic countries, the new leaders mostly tend to draw a clear distinction from their predecessors, vindicating those incidents which were wronged by the previous government to show that they have nothing to do with them, with a view to appeasing public indignation and consolidating their powers. Now, the incumbent leaders have long past their prime and new leaders are about to take over. So, I hope Mr SZETO Wah will take good care of himself and he will see the vindication of the 4 June incident.

However, it is my wish that the pro-democracy movement in 1989 will be vindicated for another reason. It is my wish that one day, China can move towards democracy and respect the rule of law, and it will start as a government that is minded to protect its nationals and uphold the freedoms of the people so that it will review its right and wrong through introspection and face history. In that case, with the government and the people being willing to face history and to review their right and wrong through introspection, the 1989 pro-democracy movement can in turn be vindicated. This is most desirable.

I have long been an advocate for humanism and I have painstakingly "incited" a people-oriented approach. So, I do not like to hear of any incident that involved killing of people, be it for the purpose of preventing Taiwan independence or effecting Taiwan's reunification with China, or suppressing the 1989 pro-democracy movement. If the power-that-be resorted to slaughtering civilians in order to consolidate his rule, his government is not a government that cherishes its people and hence ought to be replaced.

Some said that the sadness revolving around the 4 June incident would subside and the people would forget it sooner or later, so it would be better for us to look ahead and set eyes on economic development to see how China was going to turn into a super power. But Mr Deputy, we will never forget it. As time goes by, the grief will evolve into a process of thinking that will more likely lead to success; it will evolve into perseverance in right and wrong; and it will pass on from one generation to the next. The Hong Kong Alliance in Support of Patriotic Democratic Movements of China was founded in 1989, and its members should be in their forties on average, more or less the same of my age. But it does not matter for we now begin to have a new generation that is concerned about the 4 June movement. They are about 25 or 26 years of age on average so they still have a long time to cherish the memory of this incident.

My son is only 12 years old, but he is fully aware of the killings at Tiananmen Square on 4 June 1989. The daughter of Mr LEE Cheuk-yan is even smarter, for she is able to tell her classmates in kindergarten what the 4 June incident is all about, very much like a student leader telling her classmates how the Chinese Government fired at the people. This is how we can pass the message onto the next generation, and this torch will be passed down from one generation to the next until one day when our whole nation will face our mistakes, clean our guilty conscience and then raise our heads again to be dignified Chinese people.

Speaking of guilty conscience, Mr Deputy, I have very strong feelings on some historical incidents. This is not only confined to the 1989 pro-democracy movement, and even during the Cultural Revolution, many compatriots became the silent majority either actively or passively. They had witnessed many crimes but they had done nothing to stop them, so they became accomplices one way or another. In our country, there are indeed far too many people who belong to the silent majority. On every occasion when the Government had acted arbitrarily, or when it mounted certain campaigns or opened fire at the people, this silent majority remained silent even though they had witnessed high-handedness on the part of the government. Is it that our nationalistic sentiments have connived at the totalitarian rule? Have they actually connived at the government?

I know many friends in the Mainland who grew up during the Cultural Revolution and they are a few years older than me. They do not dare to face this part of history. They dare not look back on this part of history, be it between husband and wife or in front of their children. They just wish to sweep it under the carpet by expediency and not to dig it up. But how can they educate the next generation if they have such strong guilty feelings? What sort of values are they able to pass onto the next generation? So, Mr Deputy, if we are willing to face our mistakes and to review our right and wrong in history so that the whole nation can thoroughly think the matter through and admit our mistakes, I think it will help improve the quality of our nation.

Therefore, Mr Deputy, the vindication of the 1989 pro-democracy movement is not directed against a particular regime, a particular person or a particular pair of hands stained with blood. It is a process of thinking that our entire nation and the entire country must go through. Thank you, Mr Deputy.

MR ALBERT HO (in Cantonese): Mr Deputy, the writing of history is not the prerogative and privilege of a government, the record of events in history cannot be done with the government doing whatever it likes and making itself the only voice that can ever be heard. As for making judgments on events in history, the government must not be allowed to tamper with history and let falsehood be passed off as truth. Was the pro-democracy movement in China in 1989 a patriotic movement launched at the people's own initiative or was it an anti-revolutionary disturbance manipulated by some foreign government and some scheming enemies with the aim of toppling the Chinese Government? I think this question can be answered by the chronicles compiled by the people.

We should put our trust in the history compiled by the people. The history they compile is more credible than the history compiled by the government with an official point of view. The government knows that the history they compile and the events they fabricate lack credibility, so the people are banned from discussing it. The government in the Mainland repeatedly states that the nature of the 1989 pro-democracy movement, once officially determined, will not be changed. The people are told not to harbour any unrealistic hopes. I recall when Premier ZHU Rongji was asked about the 4 June incident abroad, he said that he had forgotten about it. The expression that flashed across his face was a betraying revelation of the tremendous burden of history that he was bearing. The smile he gave was so unnatural and it could not cover the fear he had for the event and the attempt he was making so badly to ward it off.

Mr Deputy, the 4 June incident was 11 years ago. In this new millennium, the people will not forget the events in 1989 that shook the world. This generation will never forget. Nor will the next. Why? Because it is a collective memory, one firmly implanted in a community, in an entire race. As long as the Chinese nation exists, the memory shall live on, it shall be passed from one generation of Chinese to the next.

For more than a decade I have been involved in demanding compensation from Japan for the Chinese victims of war. I am deeply impressed by the fact that those people who have suffered during the Japanese invasion can give such a vivid account of the sufferings they had been through and the killings they witnessed with their naked eyes even when more than 60 years have lapsed. It was as though the events only happened yesterday. The events in 1989, from the pro-democracy movement to the 4 June massacre, still live in the memory of

the people in Beijing and all over China. How can they brush these off from their memory? For those who were there in the summer of 1989, those who passed some of the most unforgettable weeks of their lives, staging protests and hunger strikes in Tiananmen Square, they are still beset with pain and sorrow. Forever these events have formed a part of their lives, so much so that these will become a drive in them to seek justice and vindication. The soul of many a dear ones of those who died and suffered are still in torment, even to this day. Just now some Honourable colleagues have mentioned the essay written by Madam DING Zilin called "The cries of a mother over Tiananmen". The essay is the soul-rending cries of a mother who lost her son in the great tides of history that swept the summer of 1989. It is a brave call by a mother in face of brutal suppression. It is a cry of protest that rings so crystal clear from the conscience of thousands of bereaved mothers. It rises above the din of assent given by the herd of thousands of followers who swarm our leaders.

Let me reiterate, if we cannot face the truth of history honestly, if we do not have the boldness to reflect on the mistakes we have made, if we do not have the sense of righteousness to tell right from wrong and to make remedies for it, then we are just being too stubborn. There is no future for a stubborn person. There can also be no future for our nation and our people if the stubborn are still in power. The pro-democracy movement of 1989 will soon be vindicated. It is a fact of history which cannot be resisted.

Thank you, Mr Deputy.

MR LEE CHEUK-YAN (in Cantonese): Mr Deputy, the motion moved by Mr SZETO Wah can only manage to attract responses from the Liberal Party, the Democratic Party and the Frontier. I am not sure whether or not other parties such as the Hong Kong Progressive Alliance, the Democratic Alliance for the Betterment of Hong Kong, the Federation of Trade Unions and the New Century Forum are not responding to the motion or planning to disregard it. Gone is the eloquence in their speech which they have shown before.

We are all very eloquent and outspoken when it comes to issues about the Taiwan Straits, the opposition to the independence of Taiwan and the incident of the bombing of the Chinese Embassy in Yugoslavia and the death of three of our countrymen. If I may quote the words of the Honourable LEUNG Yiu-chung, at that time we were trying our best to bare our soul and stand, to show our love

for the Motherland and even spoke in Putonghua. The 4 June incident is an incident with such a great impact on the course of Chinese history, but why do Honourable Members choose to be reticent, where are their patriotic feelings? Is it because the 4 June incident is made a taboo by those in power in China that they choose to be silent? At that time, the then Premier ZHAO Zhiyang asked Hong Kong people, "What are you afraid of?" Are they afraid that they will fall out of favour like ZHAO Zhiyang? I only ask them to search their soul. Have they ever heard the accusing cries of those who shed their blood in the 4 June incident? Have they ever heard the cries of those pro-democracy activists who languished in the prison cells at that time or even to this day? It does not really matter if they choose to be silent today, if only they can come to the candlelight vigil on 4 June. If joining the mass rally on 28 May in broad daylight is not that convenient for them, then join the candlelight vigil, let us light up our candles. I hope Mr SZETO Wah can move a motion in this Council very soon with the words: That this Council is glad to hear that the 4 June incident has been vindicated and the people of Hong Kong are urged to join hands with the people of China to build a democratic China. Mr SZETO Wah, I hope you will be the one to move this motion. When that day comes, please do not try to have the floor before the others as the incident has been vindicated. History will record that they have not spoken on this motion today. Let us see what will happen when a motion is moved when the 4 June incident is vindicated. Thank you, Mr Deputy.

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

(No Member responded)

DEPUTY PRESIDENT (in Cantonese): Mr SZETO Wah, you may now speak in reply. You have 11 minutes 30 seconds out of your original 15 minutes.

THE PRESIDENT resumed the Chair.

MR SZETO WAH (in Cantonese): Madam President, I may not use up all the time left. First of all, I would like to thank the Honourable James TIEN for the speech he made has added something different in today's debate. Nevertheless,

I wish to respond to a few points made by him in his speech. He asked us not to grieve anymore. But if you are to face DING Zilin, will you say something like that? Can you say something like that if you are to face the family members of the deceased who were on the list cited by Mr CHEUNG Man-kwong earlier? Grief is not absolutely negative; sometimes it will drive history forward.

Mr James TIEN also mentioned again that the vindication of the 4 June incident is the business of the Central Government. Is it really totally unrelated to us? Does it mean that we do not need to do anything but to harbour the wishful thinking that the Central Government will one day move out of conscience and have the 4 June incident vindicated? Does it mean that we are completely powerless to judge what is right from wrong deep in our hearts? Perhaps Mr TIEN is used to the thinking that we should stick to the centre and look to the central in doing everything. After the top has done its job, "it will make the order for me to obey". Anyway, he will take to the street in celebration if the incident is really vindicated one day; but now he will rather choose not to mention a word about it.

Mr TIEN also mentioned the anti-graft action currently taken in the Mainland. He said that China has made progress for officials of higher ranks had been caught and the cases uncovered were of a bigger scale. Actually, this is not what really happened! The 1989 pro-democracy movement, which took place 11 years ago, was actually an anti-graft movement. The fact that officials of higher ranks have been found to involve in corrupt practices and the amount of the money involved has become increasingly large only serves to illustrate that corruption has become increasingly serious! There has been no improvement at all in this area!

Madam President, I have no intention to square accounts in the dead of winter today for winter is not the appropriate time for squaring accounts too. Neither do I want to dig out what some people said or placed in advertisements 11 years ago. However, if there was really someone who could then remain completely indifferent, he might have lost his sense of righteousness and might be unaware of the fact that there is a nation called "China" in the world. For a person who did experience joy, anger, sorrow and happiness at that time but appears to have forgotten everything today or even forgotten about this incident, his sense of righteousness might have disappeared or have been sold.

Yesterday, a reader of *Ming Pao* wrote me a letter to discuss about strength of character. He said strength of character was born, having nothing to do with learning. I do not share his point of view for I think it is too fatalistic. Actually, strength of character can be explained in simple terms for its meaning is not hard to understand: for a person having strength of character, he is able to put his principle before his personal interests, has no fear for power and danger and is able to adhere to this attitude. Does it have anything to do with learning? The purpose of learning is to know what is right and to enable a person to, upon grasping the proper way of reasoning, put it into implementation and adhere to it. As the saying goes, "Learn and constantly review what one has learned". We will have to put what we have learned into practice. This is what strength of character really means. If a person fails to grasp the proper way of reasoning after learning

PRESIDENT (in Cantonese): Mr SZETO Wah, I am sorry that I have to interrupt you. As the Deputy President has chaired the meeting for me just now, I am not sure whether the reply you are making is related to the speeches delivered earlier by Members who took part in the debate. I only want to remind you that, in accordance with the Rules of Procedure, a Member must respond to the remarks made by other Members in making a reply.

MR SZETO WAH (in Cantonese): What I said is related to my motion.

PRESIDENT (in Cantonese): Even if what you said is related to your motion, your reply must be confined to matters raised during the debate. This Council has recently amended the Rules of Procedure with respect to this. Perhaps Members are still not too familiar with this rule for it is comparatively new. As President, I am obliged to remind Members of this point. Mr SZETO Wah, please continue.

MR SZETO WAH (in Cantonese): A scholar will be considered to lack strength of character if he is unable to have a good sense of reasoning or fails to stick to the proper way of reasoning when he should know better.

It has been 11 years since the occurrence of the 4 June incident and the 1989 pro-democracy movement. As the saying goes: "As a long road tests a horse's strength, so a long task proves the sincerity of a person". The road to democracy is long, bumpy and winding. A person's strength of character is tested by history like the constant attack of wind and rain. Some people might ask: How much does a catty of strength of character worth? It may worth less than a cent; but may also be invaluable. It mainly depends on the scale in your heart.

In moving this motion, I told myself not to care whether it will be passed right at the very beginning. The call for "the 4 June incident be not forgotten and the 1989 pro-democracy movement be vindicated" is mainly targetted at the people of Hong Kong and our compatriots in China instead of Honourable Members in this Council. I would like to urge the people of Hong Kong to bring their children to the Victoria Park in the evening of 4 June to join our candle-lit vigil for a flicker of candle light represents our share of strength. Today, I will not ask for support from other Members in concluding my speech, like what we usually do in debating other motions. This is because we will have to let our conscience decide for we cannot beg for support. Like a person who took to the street 11 years ago, he did that not because someone had asked him to do so. Even if you spit on the corpses of the deceased today, it is not because someone begs you to do so; it all depends on how you make your choice. Madam President, I so submit.

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

(Members raised their hands)

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

(Members raised their hands)

Mr SZETO Wah rose to claim a division.

PRESIDENT (in Cantonese): Mr SZETO Wah has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Michael HO, Mr CHEUNG Man-kwong, Dr LEONG Che-hung, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the motion.

Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr Philip WONG, Mr WONG Yung-kan and Dr TANG Siu-tong voted against the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mr Eric LI, Mr LEE Kai-ming, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG and Mrs Miriam LAU abstained.

Geographical Constituencies and Election Committee:

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

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, five were in favour of the motion, seven against it and nine abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 14 were in favour of the motion and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Second motion: Minimum wage.

MINIMUM WAGE

MR LEE CHEUK-YAN (in Cantonese): Madam President, both motions today are very heavy for me emotionally and they have been proposed in this Legislative Council twice over the past two years. I believe Mr SZETO Wah's motion on the 4 June incident will be proposed and debated every year until it is vindicated. Last year, when this Council negatived the motion to legislate for a minimum wage, I already said that I would come back one year later. These two motions symbolize the two revolutions that I wish to accomplish during my lifetime. One is the democratic revolution. The other is a revolution in respect of the protection of labour. However, I have doubts about these two motions myself. I do not know when these two motions — whether Mr SZETO Wah's motion or my motion today — will be realized. However, whether in the streets or in this Chamber, I will work towards these two goals with perseverance.

I propose the motion on the minimum wage again this year. After a year has passed, the wages in Hong Kong have continued to spiral downwards. According to the figures of the Census and Statistics Department, the number of employees earning a wage of less than \$3,000 in the fourth quarter of 1999 was 70% more than that in the same period in 1997, while 390 000 employees, accounting for almost 12% of the working population, were earning a wage below \$5,000. Nearly 16% of the working population, that is, almost 530 000 employees were earning a wage of less than \$6,000. These figures show that

Hong Kong's economic recovery is only reflected in the profits of enterprises but not in the wages of grass-roots workers. Conversely, the wage level has sunk lower and lower. The hourly rate of McDonald's is as low as \$12. At one of its restaurants, it was even as low as \$11. At the Labour Department, a recruitment advertisement for a babysitter in Tuen Mun offered a monthly salary of \$2,000 for eight hours and 15 minutes' work a day, in other words, the hourly rate is \$10, or \$10.1, to be exact. Yesterday, I learned from a friend who works as watchman at a warehouse that his monthly salary is \$5,500. At 15 hours of work a day, his hourly rate is \$12. How could employees have dignity when their hourly rate is only \$10 or \$12? Should our society stand by idly while employees ask for lower wages in order to get a job? Should we treat the question of wages amorally?

However, I am confident about people's conscience and I have confidence in Hong Kong people. The pet argument of those who oppose the minimum wage is that this is a free market and that the Government should not interfere with the operation of the market. Nevertheless, the free market should not operate in a moral vacuum. Even the free market under capitalism has to conform to the moral standards of man. If we look at the history of mankind, we should find that we have abolished child labour. If it is a free market, why should child labour be prohibited? If both sides are willing, why should we be disturbed by the sight of child labourers in Pakistan making carpet or firecrackers? It is because we have morals. Why do we feel that we should intervene for safety's sake and enact legislation on industrial safety? Why do we think that employers should not neglect industrial safety and wantonly disregard human lives? It is because we have morals. Why do we have to legislate to prohibit discrimination against women and people with a disability? It is because we have morals and we are against discrimination in the community. If so, why do we tolerate excessively low wages? If we do not tolerate child labour, discrimination and disregard of industrial safety, why do we tolerate excessively low wages?

Madam President and Honourable Members, labour is different from other commodities. The price of labour and the level of wages have to do with human beings who are flesh and blood and who have dignity and intelligence. If the market allows wages to get lower and lower, it is an insult to human dignity and unacceptable by our moral standards. Therefore, when the free market allows wages to drop to a level morally unacceptable to the community, the free market mechanism has failed and the Government has to intervene. When the

Financial Secretary propped up the market with hundreds of billions of dollars in 1998, he also said it was because the free market mechanism had failed. Today, we are asking the Government to intervene with the same determination since the minimum wage level is established for the sake of saving lives and limbs.

Madam President, the establishment of the minimum wage level shows that this Council affirms the dignity of people. Christians present should have heard of the prophecy in the *Book of Isaiah* about "new heavens and a new earth", where people will "plant vineyards and eat their fruit". People should be given a reasonable share of the fruits for their labour. This is the new heavens and a new earth that God has promised mankind.

If Members believe in the free market, they should listen to what the originator of the free market, Adam SMITH said in *The Theory of Moral Sentiments*: "to neglect persons of poor and mean condition is the great and most universal cause of the corruption of our moral sentiments". I firmly believe that there is a moral value in Hong Kong society and that is: We must work hard and with hard work, we can lead a life with dignity. This is the minimum requirement of a reasonable society. However, this is not the case now. Employees work hard for little and the wage they earn with hard work is not enough for a meal.

Madam President, establishing the minimum wage level is not just a moral requirement, it is also economically feasible and advantageous — I repeat, it is advantageous. Economically speaking, apart from alleviating the problem of working poverty, the minimum wage can bring about a greater desire and willingness to work since it would convince people that they can feed themselves if they work. The Government frequently expresses the hope that people could be self-reliant. If their hourly rate is just \$10 or \$11, how can they make a living, let alone being self-reliant? How can they be self-reliant if they cannot support and feed their family? If wages are meagre, there is no sense in working since work does not give them due dignity and reward. Economically, the establishment of a minimum wage system would induce a greater willingness to work. By offering reasonable pay, employers can reduce staff wastage as well as raise morale and productivity.

Some opponents, including some Members of this Council, have said that the establishment of the minimum wage level to help the disadvantaged employees will "bring more harm than good". Over 80 countries in the world

have implemented a minimum wage system and most developed countries have implemented this system. Does it mean that the governments of these countries are trying to set the disadvantaged employees up with the minimum wage? These countries include our Motherland. A minimum wage level has been established in our Motherland. Does it mean that our Motherland wants to set them up?

Many surveys conducted in the United Kingdom and the United States in recent years have pointed out that the establishment of a minimum wage level has more pros than cons. Let us look at the experience of the United Kingdom. Why is the experience of the United Kingdom especially worthy of our attention? What has happened over the past year? What happened was the United Kingdom had established a minimum wage level. Last year, many Members of this Council said that they did not know whether this system would have a negative impact on employment. The entire United Kingdom has done an experiment for us since it just established the minimum wage system last year. After one year, it was found that 1.5 million employees had benefited from an increase in wages while the total cost of wages only increased by 0.5%. Their conclusion was that the system had no visible impact on unemployment figures. This is the latest proof. I hope opponents will look at these facts soberly and impartially.

I will also calmly ask Members to look at the minimum wage policy objectively. If the minimum wage level is too high, it might have a negative impact. That is why in my motion today, I propose to set up a "Low Income Commission" comprising academics and representatives of employees and employers to examine the appropriate minimum wage level and details of implementation to ensure that the minimum wage system can abolish ruthless exploitation without adding too much to the cost of employers, so as to avoid negative consequences on employment.

According to my recent calculation, if the minimum wage level in Hong Kong is set at \$25 per hour, an estimated 300 000 people would benefit and their monthly salary would be increased to approximately \$5,000 to \$6,000, that is, to the level desired by many interviewees according to many public opinion polls. If the minimum wage system is implemented and the hourly rate of the low-income groups is increased by \$5 on average, the overall wage cost of about \$600 billion would be increased by approximately 0.6% only. The increase would only account for 0.6% of the total cost, similar to the case in the United

Kingdom. I believe the impact on the economy would be minimal, while the 300 000 low-income employees can earn a bit more each month, enough to eke out their livelihood.

Madam President, even before voting, I already know that today's motion will meet with defeat. However, to borrow Mr SZETO Wah's words just now, I will not urge Members to support the motion. I only hope Members will vote with their conscience. Again, as Mr SZETO Wah has said, my motion today is addressed not to Members only, but also to all wage earners in Hong Kong. Therefore, I hope that the wage earners will support it. Thank you, Madam President.

Mr LEE Cheuk-yan moved the following motion: (Translation)

"That this Council urges the Government to legislate for the implementation of a minimum wage system, and to set up a "Low Income Commission" comprising academics and representatives of employees and employers to examine and establish the appropriate minimum wage level and details of implementation, so as to resolve the increasingly serious problem of "working poverty"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Cheuk-yan, as set out on the Agenda, be passed. Does any Member wish to speak?

MR LEE KAI-MING (in Cantonese): Madam President, our society has been discussing the setting of a minimum wage level for years, but opinions have so far been sharply divided, and no consensus has ever been reached. As time passes, the various associated changes have deprived workers more and more of their rights. So, there is indeed a need to discuss this issue once again now.

All along, the wages and other benefits of workers in Hong Kong have been determined by the market, with the result that every time when there is an economic restructuring, workers will have to bear the brunt. The current economic restructuring towards a high-tech and knowledge-based economy has brought even greater harm to workers with low skills and qualifications. The broad masses of workers have toiled for the whole of their life and contributed to

the prosperity of Hong Kong. However, they are denied any reasonable share of the fruits of our economic prosperity. The disparity in wealth in Hong Kong has become increasingly serious. Besides, there has not been any marked decrease in the unemployment rate. According to the latest government statistics, the provisional unemployment rate between February and April this year was still as high as 5.5%, meaning that as many as 190 000 people were unemployed. The labour market has thus been rocked off balance owing to excessive supply. In face of the harsh realities, many middle-aged workers with low skills and qualifications simply cannot have any bargaining power, and they are thus forced to accept increasingly low wages as a means of protecting their "rice bowls". Even with all their toil and sweat, these workers can only lead a hand-to-mouth existence, and some workers are actually earning an income which is even lower than Comprehensive Social Security Assistance payments. If this situation continues, is there any point in talking about boosting our economy? As hundreds and thousands of workers have to live in poverty, have to scrimp and save, consumption desire is bound to dwindle, and this will in turn hinder our economic recovery. The persistence of this situation will inevitably brew discontent, intensify class conflicts and upset social stability.

If a minimum wage system can be put in place to ensure that wage levels will not fall below the poverty line, workers can then rest assured that they will always earn enough to support the basic needs of themselves and their families. According to a survey on the setting of a minimum wage level, about 41.5% of the employers responding to the survey accepted the implementation of a territory-wide minimum wage system in Hong Kong. As for the level of a minimum wage level, most of these employers viewed that it should be in the region of \$5,000 and \$6,000. These findings show that many employers in Hong Kong are sensible and do not reject the setting of a minimum wage level.

Madam President, in any advanced and civilized society, every citizen should be guaranteed a life with dignity. In international labour conventions, the setting of a minimum wage level is clearly stipulated, and some 80 countries all over the world have confirmed their acceptance of a minimum wage system and the relevant labour conventions. China has also put in place a minimum wage system. In contrast, the Government of the Hong Kong Special Administrative Region (SAR) is far too rigid in this respect. It has yielded to the pressure from big enterprises and chambers of commerce, in total disregard for social justice and the needs of the broad working masses. This is really very disappointing. I hope that the SAR Government can respond to people's

demands and accept the rationale behind the setting of a minimum wage level. It should really take some concrete measures to reduce the disparity in wealth, bring forth a reasonable distribution of wealth in society, and change our city into a prosperous metropolis with harmony, where every citizen can get a job and enjoy the protection of a minimum wage level.

That said, I must add that we are not asking for the immediate implementation of any minimum wage system that cuts across all trades and industries. We can first introduce a pilot scheme for selected trades and occupations and then try to introduce it to other sectors step by step after collating different opinions and referring to the experience in other countries. Besides, we can actually adopt different minimum wage systems for different trades and occupations. This can be done by allowing the trade unions of individual trades and occupations to negotiate with the relevant chambers of commerce or employers on the setting of their own minimum wage levels. In brief, I wish to point out that the pursuit of equality and protection of basic living standards has become a major trend worldwide. Any policy that goes against this trend will result in the loss of people's support. Is it not a good idea for the industrial and commercial sector to follow this trend and contribute positively to the good development of labour relations? The Government should also revise its out-dated policy of positive non-intervention and set up a minimum wage system, so as to assist the labour market in extricating itself from the persistent and undesirable situation of excessive supply. That way, our society will be able to maintain stability and achieve balanced development.

Thank you, Madam President.

DR LUI MING-WAH (in Cantonese): Madam President, Mr LEE Cheuk-yan is very concerned about this issue. On 26 April last year, he moved a motion debate in this Council on the setting up of minimum wage. It was due to opposition from the Government and unfavourable public opinion that the motion was negated by a wide margin. It is wise of Mr LEE Cheuk-yan to move this motion on minimum wage again. A motion topic like this one can be moved every year. The salaried class will be grateful for this and as a matter of fact, it is beneficial to both the employers and the employees. If the day comes when legislation on minimum wage indeed comes into force in Hong Kong — though I hope it will be more than that, Mr LEE can move a motion every year to raise the minimum wage. It is like the television show "Enjoy Yourself Tonight" which enjoys a long run of many years. That is really an excellent topic.

There are many reasons to oppose legislating on minimum wage, the main ones are follows:

First, supply and demand in the manpower market. In a free-market economy, wage level is determined by the supply and demand relation in the market. When the economy is growing, the business and industrial sectors are in need of talents. In a bid to get high quality staff, higher wages will be offered to attract these people. A good example is the economic boom in the 1970s and 1980s when wage levels were greatly increased. The setting up of minimum wage at a time like that will not increase unemployment rate but raise the employment levels. Take the United States economy as an example, it has its own unique economic factors and so one should not feel so surprised and make too much a fuss about it. However, in an economic downturn and when there is a depression, employers are forced to lay off some staff and there will be an oversupply of labour. Those unemployed will accept lower wages, thus pushing wage levels down. In an economic depression, as businesses try to remain competitive and to cut costs, those serving staff will have to accept a cut or a freeze in their wages. That will also increase the downward revision of wages. All in all, in a free economy, wage levels are determined by the free market and not by anyone. This wage adjustment mechanism is not a perfect one, since the employers and employees will hold different views on wage levels. However, the resort to market forces to determine wage levels is nonetheless an effective mechanism which is acceptable to both the employers and employees.

Second, minimum wage will undermine our competitiveness. At a time of economic downturn or depression, wage levels will continue to be adjusted. Before manpower supply reaches an equilibrium, the setting up of minimum wage will only make operating costs stay high and will have a negative impact on the economy.

Third, the labour groups are very concerned about the turning of minimum wages into maximum wages. It is because the employers can only pay the employees the minimum wage and this will turn into maximum wage for the workers. This is a counter-productive result caused by the setting up of minimum wage.

Fourth, minimum wage will reduce the employment opportunities for the young people. With a minimum wage system, employers will avoid hiring young people without any working experience. It is because for the employers, it is still too expensive to hire young people at minimum wages. Hence, many young people will be deprived of employment opportunities.

In last year's motion debate on the same topic, Mr LEE Cheuk-yan said that when wage levels fell to an "inhuman" level, the free market mechanism will fail. Therefore, legislation on minimum wage should be enacted so that people can live in dignity. There are two points in this argument that merit our thorough consideration. First, can wages fall indefinitely? I do not think so. For when wages fall to a certain level, manpower needs will reach an equilibrium, unless all the business and industrial enterprises in Hong Kong vanish and the domestic helpers all disappear, that will be an impossibility. For according to the rule of free market, employers cannot reduce wages indefinitely. Second, the problems encountered by low-income households should be addressed by way of social security and this has nothing to do with minimum wage.

Madam President, Mr LEE Cheuk-yan urges for the setting up of a minimum wage system. This is an approach from the perspective redistribution of wealth and to offer protection to the income of the non-skilled employees. It is understandable. But the reality of the matter is that the principal cause of the downward spiral of wages is the oversupply of manpower which is far more than the market needs. There are two causes leading to this oversupply of manpower: first, the rapid growth of population, so much that there is no matching growth of job vacancies; and second, the slow growth in the economy that makes it impossible to create more job vacancies. So if we are to maintain a satisfactory wage level, we must create more job opportunities and to revitalize our economy through the development of business and industries. This is solving the problem at its roots. The representatives of the labour sector should put more efforts in urging the Government to develop technology-based industries and to join hands with the business and industrial sectors to create more wealth. When our economy takes off again, there will be a need for more labour and wage levels will maintain at a "humane" level. This is a constructive and positive approach to take.

MR LAU CHIN-SHEK (in Cantonese): Madam President, I do not think I need to expound on the meaning of legislating on minimum wage. It is because the provision of protection for basic wage to the grass-roots workers is to defend the dignity of the working class and it is a demand advocated by the Universal Declaration of Human Rights.

Ever since the motion on Labour Day moved by Mr LEE Cheuk-yan was negated at the end of April last year, I think the so-called free market forces have never come into play and the situation of the low-income workers is getting worse. There is no need for me to cite more examples to show how appallingly low the wages the workers are earning.

Some people may think that at a time of economic downturn, the businesses are finding it very difficult to operate and the setting up of minimum wage will only add to the burden of the businesses. Wages would naturally increase when the economy improves, so there is no need to set up minimum wage. It is not appropriate to set up minimum wage at a time of economic downturn and there is no need to set up minimum wage at a time of prosperity. Therefore, it is rather pointless to set up minimum wage.

Such an argument seems to be valid at first sight, but I cannot agree to it. First, the pains of economic depression are not equally shared. Those low-income workers are most prone to be slashed since their bargaining power is the weakest. If there is no protection in the form of minimum wage, their income would be pushed down to an inhumane level, and these people who are in greatest need of help would be subject to the greatest pains. Before the burst of the economic bubble, the wages of the low-skilled workers were already at a standstill and real wages were falling. According to figures from the Census and Statistics Department, those salaried people who belong to the lowest 20% in the income bracket had a monthly average income of only \$4,250 in 1999. The amount when taken in the inflation factor is even 4% lower than the amount in 1990. The amount is 20% less than the real growth in per capita Gross Domestic Product during the same period.

Another argument against the setting up of minimum wage is that it is very difficult to put into practice in small and medium enterprises (SMEs). I think that the SMEs are becoming an all-fitting reason to argue against the protection of workers. Whenever the labour sector urges for the implementation of certain labour policies which are practised in most of the countries, there are bound to be

people who will say that the Hong Kong economy is dominated by SMEs. This kind of worn out argument seems to be saying that Hong Kong is always an exception. Actually, if only we can look at the proportion of SMEs in other countries against the total number of enterprises, we will find out that such an argument is a fallacy. In the United States, the proportion of SMEs employing less than 50 people is 96% of the total; in Britain, it is 97%; and in Hong Kong, it is 98%. So it can be seen that there is not much difference between Hong Kong and these countries.

I agree that some of the SMEs are finding it difficult to do business, but we should not help them by exploiting their staff. There are lots of other civilized ways of helping the SMEs. Can the landlords not reduce the rent a little? Can the power companies not reduce the tariff? Can the Government not lower the tariff for water supplies?

Madam President, the motion on legislating for the implementation of a minimum wage system is moved by Mr LEE Cheuk-yan of the Hong Kong Confederation of Trade Unions for yet another time. He has done this in the hope of arousing the concern from all sectors of our society for this important issue in relation to the people's livelihood that the wages of the lower class are so appallingly low. I do not expect that this motion will pass, but I believe that some day this strong demand for the setting up of minimum wage will be satisfied and that the dignity of the workers can be protected.

With these remarks, Madam President, I give my full support to the motion moved by Mr LEE Cheuk-yan.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, the issue of minimum wage is still a controversial one in Hong Kong. The views held by the bosses and the employees are different. The same diversity of opinions is found within a political party and among scholars. Therefore, before a consensus is reached between the employers and the employees, the Democratic Alliance for the Betterment of Hong Kong still has reservations about the proposal made by Mr LEE Cheuk-yan to implement a minimum wage system in Hong Kong.

Owing to a simple working of the law of supply and demand, when the wages are set by law at a level above that as determined by the market, and when there are more people looking for jobs as wages have gone up, the supply of labour will hence increase. However, as labour costs rise, in order to control production costs, the bosses have to fix wage expenses at a certain specific level and the result will be less workers are hired. To maintain competitiveness and survival in an unfavourable environment, the bosses have to resort to all kinds of ways to raise the productivity of the workers, such as increasing the workload or hiring skilled workers only.

Therefore, it is very likely that the setting up of minimum wage will lead to the following outcome:

- (1) The distortion of the market mechanism so that human resources in the market are not effectively allocated. This especially applies to the inability of various skills demanded to be reflected in the various job types with differences in wages. This will lead to a situation where the various job types with different demands on skill will be paid with the same wages. Many people will think that the implementation of a minimum wage system may not be a blessing to the workers. It is very likely that the workers will get less than they formerly got and the minimum wage will become the maximum wage for them.
- (2) The creation of unemployment in especially the non-skilled workers such as women, young people and ethnic minorities. A research in the United States points out that when the minimum wage level was raised in the year 1990-91, the youth unemployment rate rose by 27%. Some scholars also point out that with every increase of 10 cents in the minimum wage in the United States, the overall employment rate will drop by 1% to 2%.
- (3) The setting up of minimum wage in an unfavourable business environment will only serve to reduce the flexibility of the SMEs in their operation and they will have to raise the prices of their products and services, hence the SMEs will in turn find it hard to survive in the face of fierce competition.

- (4) In a bid to reduce the proportion of wages in costs, companies may use other forms of commercial operation to replace staff and hence driving the unemployment rate up. Such means may include self-service counters, cutting the number of service personnel and concentration of production processes and mechanization and so on.

Madam President, we must take the local situation into account when considering whether or not to introduce the minimum wage system. Foreign experience can be used as references and models, but a more important thing is to incorporate these into the Hong Kong situation. We are of the view that the most effective remedy to alleviate the woes of the working class is to enhance our competitiveness, and to promote economic growth in order to increase job opportunities, thus enabling the wage level to go up at the same time.

I so submit. Thank you, Madam President.

MR HO SAI-CHU (in Cantonese): Madam President, Mr LEE Cheuk-yan's motion today seeks to establish a minimum wage level. At a glance, it seems that this could protect the livelihood of employees, particularly the low-income groups. However, if we conduct an in-depth analysis on it, we will find that it will only be counter-productive and will create more unemployment, breaking the rice bowls of many more wage earners.

We must understand that in times of economic recession, employers lay off staff, and reduce or freeze employees' salary more often not because they are insatiably greedy so they deliberately oppress their workers to maximize the profit margins. The reality is that due to the overall economic recession in Hong Kong and worsening business environment, employers who are hard-pressed have no alternative but to pare down the cost in order to survive. It is not the wish of the employers to lay off staff and to reduce or freeze employees' salary. But if they do not do so, their companies will not be able to weather the crisis and will have to close down. Employees will then be in an even worse plight.

We must also bear in mind that 98% of the companies in Hong Kong are SMEs, 95% of which are small companies with limited capital and employ less than 20 employees. Our situation is different from that of other big countries. Although the economy of Hong Kong has improved slightly, many SMEs are

still in dire straits and are struggling in a poor business environment. The Liberal Party firmly believes that setting a minimum wage level in Hong Kong will only further jeopardize the viability of the SMEs, forcing them to close down more quickly. In that case, the unemployment rate will only go up. Some surveys show that the unemployment rate may increase by 1% to 3% if there is a minimum wage level.

I am not scaremongering and I am just telling the truth. In 1998, the Hong Kong Social Security Society suggested that the minimum wage be pitched at \$5,832 per month and \$35 per hour. In a recent survey conducted by the University of Hong Kong, most interviewees suggested that the minimum wage level should be in the range between \$5,000 and 6,000 monthly. However, I wonder if Members know that the hourly rate of employees at fast food restaurants in Hong Kong is only around \$20 and their monthly salary is only around \$4,000, so there is quite a large difference from the proposed minimum wage level. If the minimum wage is pitched at the above level, the smaller fast food restaurants will be the first to bear the brunt and will be eliminated. The remaining large chain restaurants will be spared either. They can only pass on the additional expenses to consumers, making the public shoulder them, or maintain expenditure at the original level by laying off staff. In other words, they will have to employ fewer people and unemployment will thus increase.

In fact, the setting of a minimum wage at whatever level constitutes a serious violation of the free market for it will deprive employers of the right to determine wages. Hong Kong is a free market economy in which the level of wages is determined by the market based on such factors as supply and demand, and the investment environment. Setting a minimum wage will distort the wage structure in a free market and impose great constraints on the adjustment of wages, particularly as the economy has only slightly recovered and the business sector will find it very difficult to make flexible adjustments to cope with external challenges. Moreover, the minimum wage system will also put off overseas investors and this will further undermine Hong Kong's competitiveness in the international arena.

The Liberal Party hopes that the labour sector and the working public will understand that the employment situation will improve only when the economy has recovered. Setting a minimum wage which violates the market rules will not produce good results. On the contrary, it will only make employers and employees suffer, a worst move that will hurt the interests of both sides. In

order not to break the people's rice bowls and for the sake of the development of the free market economy in Hong Kong, the Liberal Party cannot support the enactment of legislation to implement a minimum wage system. We also consider it unnecessary to set up a "Low Income Commission", lest we will be "doing a bad thing though with good intentions".

With these remarks, Madam President, I oppose the motion on behalf of the Liberal Party.

MR ANDREW CHENG (in Cantonese): Madam President, minimum wage has always been a most controversial issue. Different overseas scholars have different theories and have done different researches on it. Advocates for setting a minimum wage think that workers should be able to meet their daily expenses with the wages they earn with hard work, so that they can work with dignity. If the wages of workers are not enough for them to make ends meet, they may have to rely on government assistance. This is tantamount to using public money to subsidize those private companies which cannot pay reasonable wages due to poor management, by paying wages for them. So, minimum wage can safeguard the livelihood of workers and preclude unreasonable exploitation by employers. It can also help eliminate some poorly managed enterprises from the market, thereby enhancing the overall productivity of the market. At present, over 80 countries in the world have put in place the minimum wage system, and more than half (that is, 17 countries) of the 29 member states of the Asia-Pacific Economic Co-operation also have a minimum wage for workers.

However, many people are concerned that setting a minimum wage will affect the normal operation of the free market and compromise the flexibility in the adjustment of wages. Some business associations stated that the minimum wage will unduly increase the cost of doing business and reduce their competitiveness, in which case some employers may cut staff to lower the cost. So, the setting of a minimum wage will not protect the low-income workers. Worse still, it will aggravate the unemployment problem, affecting the less competitive workers in particular.

In June last year, the Democratic Party invited the Chinese Management Centre of the University of Hong Kong to collaborate on a detailed study on, among other things, the suitability and feasibility of implementing a minimum

wage system in Hong Kong. The study, which took almost one year, has now been completed and I wish to give an account of the main findings of the study in this debate of the Legislative Council today.

A major part of the study is a questionnaire survey carried out at ground-level shops and shopping malls along Nathan Road and Hennessy Road. The interviewers successfully interviewed 207 employers and management representatives as well as 455 employees at 1 174 shops which mainly belong to the catering, retail, banking and hotel sectors. In addition, 337 unemployed persons were interviewed at the entrance of three Labour Department offices in Hong Kong, Kowloon and the New Territories.

Moreover, with the assistance of two business associations in Hong Kong, the research centre had mailed questionnaires to their member organizations to collect views on this matter. The research centre sent a total of 1 225 questionnaires and 105 were returned.

Madam President, let me first talk about the findings of the questionnaire survey conducted on the streets. Results of the survey showed that the number of people supporting a minimum wage and the number of those opposing it are quite evenly distributed, be it among employers, employees or unemployed persons. There is no overwhelming support for or opposition against it. Of the 207 employers and management representatives interviewed, 41.5% indicated support for setting a territory-wide minimum wage level, while 49.3% opposed it. Among the 455 employees, 49% indicated support and 45.7% were against it; and among the 337 unemployed persons, 52.8% supported it and 42.4% opposed it.

If the minimum wage applies only to individual industries, results showed a higher percentage of supporters in all of the three groups of interviewees. To be specific, 47.3% of the employers, 57.6% of the employees and 59.9% of the unemployed persons supported the setting of an industry-specific minimum wage, while 43.5% of the employers, 37.1% of the employees and 34.4% of the unemployed persons were against it.

On the question of whether a minimum wage will aggravate the problem of unemployment, over 50% of the employers and employees did not think that the setting of a minimum wage would lead to a higher unemployment rate, while nearly 35% believed that it would result in a higher unemployment rate. The

unemployed persons, perhaps, can better gauge the impact of minimum wage on employment so there was a higher percentage — nearly 40% — of the unemployed persons who thought that minimum wage might cause the unemployment rate to rise, while 48.1% of them considered that it would be neutral.

Compared to the employers of ground-level shops, the member organizations of the business associations expressed greater reservation about minimum wage. Among the 105 questionnaires returned, 79.4% and 69.8% of employers opposed the establishment of a territory-wide and an industry-specific minimum wage system respectively, while only some 10% supported a territory-wide minimum wage system and some 20% supported an industry-specific minimum wage system.

Madam President, there are indeed numerous views both for and against minimum wage. As stated in the report of the survey, it is very difficult to resolve the policy contradictions involved in setting up or not setting up a minimum wage system. After discussions in the extraordinary general meeting last year, the Democratic Party decided not to support the setting of a statutory minimum wage in Hong Kong. But this does not mean that the Democratic Party is not concerned about the lives of the low-income workers. Minimum wage is neither a scourge nor a panacea. The Democratic Party will certainly deal with the question of minimum wage with a rational and open-minded attitude, as manifested by our initiatives to invite the University of Hong Kong to conduct an in-depth study. In order to help the grass-roots workers, the Democratic Party believes that apart from a minimum wage, we must make greater efforts to create more job opportunities for them and upgrade their knowledge and skills by enhancing training, so that the low-income workers can be provided with more reasonable protection along with the development of the market and advancement of society.

Madam President, I so submit.

MR KENNETH TING (in Cantonese): Madam President, the Federation of Hong Kong Industries has repeatedly opposed the proposal to set a minimum wage. Today, we will also oppose Mr LEE Cheuk-yan's motion. We reiterate that the problem of "working poverty" should not be solved by setting a minimum wage.

There is no consensus on whether or not the establishment of a minimum wage system can effectively solve the problem of "working poverty". Opinions of economists also differ. Just now, we have seen that even the Democratic Party is internally divided. Given this, how can we support them?

With regard to the minimum wage, Members from the labour sector only see its good side. They think that the problem of "working poverty" will be solved after a minimum wage level is established. Actually, they are deceiving themselves and others.

Once a minimum wage system is implemented, we can expect that many low-income people and those who lack the skills required by the market will lose their only chances of employment. Besides, there is also the question of illegal labour. When enterprises are forced to increase the prices of products or services due to increased production costs, it will add to the burden of the low-income group. Members from the labour sector are often blind to these problems. The setting of a minimum wage might backfire and make the low-income group lose more than they gain.

Madam President, in the Federation of Hong Kong Industries' view, to solve the problem of "working poverty", we must adopt a positive attitude and encourage working people to exert and improve themselves.

The Government, business sector and trade unions should actively encourage employees to pursue further studies and ensure that there are adequate opportunities and channels of further education for aspiring employees. The trade unions and chambers of commerce should also monitor the Government's efforts in the training of employees and ensure that the Government's resources are properly used. They should also ensure that the Government puts in an appropriate amount of resources and manpower to effectively enhance the skills and productivity of employees so that they will be able to keep up with the economic development in order to earn more and improve their quality of life. This is a positive and effective solution that will lead to the prosperity of the whole community.

Madam President, these are my remarks. The Federation of Hong Kong Industries opposes the establishment of a minimum wage system.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, there have been reports in the papers recently that the hourly wage for a job in a McDonald's restaurant is only \$11. I am not sure what Honourable colleagues would think of this when they hear this. Members of the public whom I met made remarks such as: "Is that true?", "You must be kidding.", "That is outrageous.", and "What a shame!". Madam President, I conducted surveys on the hourly wages of these fast-food chains over the past years and each time I felt very sad to look at the findings, for every time I found that the wages of the staff working in these companies were dropping all the time. Now the hourly wage has dropped to such a low level as this. I am worried if the issue of minimum wage is not solved, wage levels will go on falling.

Some Honourable colleagues may say that they are against the setting up of minimum wage because this may not really help the workers. They say that we cannot hope to solve the problem simply by having a zealous heart, we have to ponder over the problem in a cool-headed manner. They think that to help those low-income workers, there should be some smarter ways instead of merely setting up a minimum wage in a block-headed manner.

Madam President, what in fact is block-headed and what is smart? I would like to discuss this point. I can recall Mr LAW Chi-kwong once said that he had reservations about the setting up of minimum wage. One of the reasons he gave was that if a minimum wage was imposed, then Hong Kong would follow in the footsteps of the United States where people have to pay \$30 for a hamburger and \$40 for a bowl of rice with barbecued pork. I think this kind of argument is purely made from the standpoint of the business sector and it is intimidation. It is not cool-headed analysis at all. It will only make people furious when they hear it.

If we look at the issue calmly, we will find that after a minimum wage is set, the increase in costs will not be as great as Mr LAW Chi-kwong would have imagined. Just now Mr LEE Cheuk-yan has cited the example from the United Kingdom. When a minimum wage was implemented in the United Kingdom last April, the resulting rise in wage expenditure was only 0.5%. After the minimum wage has been in force for one year, there is no evidence showing that prices soar as a result. So minimum wage is not a scourge that will lead to soaring prices. It is not something that workers and the public will not benefit.

Let us look at the situation in Hong Kong. If we use the average hourly wage of \$15 in a McDonald's restaurant for calculation, the wage factor will account for only about 9% of the total costs. If we set the minimum wage at \$25, then the total costs will increase by about 6%. The price of a BigMac will only increase from \$10.2 to \$10.8. It does not even cost \$11. Then how can we say that costs have risen by three times? What kind of argument is that? What are the grounds to support such an argument?

The Government thinks that minimum wage may not necessarily help those low-income households for unless those low-income workers come from low-income households, then those who benefit from a statutory minimum wage may only be those low-income members from well-off households. As to this argument, Mr CHEUNG Man-kwong also shares a similar view. He proposes the "lowest family income" option. Does this proposal really help the common people, especially those with a low income?

I can recall the Honourable Michael HO, the former spokesman on labour policy in the Democratic Party, said in the motion debate moved by me back on 30 October 1996 that since the structure of power was tipped heavily towards the employers instead of the employees, the employees were in a disadvantageous position when bargaining about wages, so they could not get the wage that they should be paid. Madam President, if this fundamental stand of the Democratic Party remains unchanged, that they still insist that there should not be minimum wage, and that there should be "lowest family income" as they have proposed, then I think that would be a great problem. Why is that so? I have pointed out that they are of the view that employers may easily reduce the wages, but if we do not have a minimum wage system and we only have "lowest family income", then what will happen? Madam President, if we set the limit for the lowest family income to, say \$5,000, then the employer can give a salary of \$4,000 to the employees. The Government will have to subsidize \$1,000 to make it \$5,000. But would this happen in reality? Would the employers do that? Will the employees be paid \$4,000? If there is no minimum wage, the employer may pay the employees \$3,000 and the Government will have to pay a subsidy of \$2,000. Would that be fair? In the end, the entire community will have to make subsidies to the employers. That will do no good to our community. So it is impractical to have "lowest family income" instead of setting minimum wage.

Some people may say that establishing a minimum wage system is not the best solution. Some of my Honourable colleagues have also said earlier that the best solution is to upgrade the skills of the workers and enhance their productivity as a means to increase their income. But that is not necessarily feasible too.

Madam President, I so submit.

MR JAMES TIEN (in Cantonese): Madam President, today is not the first time that a motion on minimum wage is debated. Nevertheless, do we need to, in debating a minimum wage, confine our scope of discussion to a minimum wage alone? Like what we did in discussing sales tax lately, did we need to confine ourselves to sales tax? I think the notion of a minimum wage is a component of our overall economy. We should not confine ourselves to minimum wage without mentioning other aspects at all.

A few representatives from workers' unions cited the situation in many countries such as the United Kingdom and the United States as examples. Let me cite the textile industry as an example. Although a minimum wage system for workers is in place in the United States, why can textile factories in the United States continue to operate? This is because the United States has set up a quota system for clothing imported from abroad so that only a fixed quantity of manufactured products can be imported from foreign countries each year. Moreover, the United States has a tariff system under which a 17% tariff will be levied on imports. In doing so, clothing produced in the United States can be sold at a fixed price. As the fixed price can act as a baseline, it is therefore possible for a minimum wage to be set. Let me cite barley, an agricultural product of the United States, as another example. In the United States, a minimum wage can be set because barley produced locally is regulated by a minimum price. When the market price of barley falls below the minimum price, all barley will be sold to the United States Government and stored in barns. However, the Hong Kong Government has all along been practising free economy, which is also supported by members of the public. Under a free economy, products manufactured in Hong Kong are not subject to any forms of tariff. Only red wine and cars are subject to tariff for Hong Kong does not produce red wine and cars. The sale of other products is all guided by free competition. Clothing from the United States can be imported into Hong Kong, and so can clothing from Vietnam. We have imposed no quota system on other

countries. Neither do we have an import tax system. If Hong Kong is to set up a minimum wage system and there is no minimum price to back it, how can manufacturers in Hong Kong operate their business?

Let us cite the catering industry as another example, which is not related to export at all. Members can see that many people of Hong Kong dine in Shenzhen not only on Saturday and Sunday, but also in the evenings of weekdays. What can restaurants in the New Territories do for food is offered at such a low price in food premises in Shenzhen? A Member cited the hourly wage of \$12 offered by McDonald's earlier — I do not support doing something like that. However, as a Member has mentioned McDonald's, I would like to remind Members that, in spite of the fact that Members adore the United States for having a minimum wage, McDonald's is a wholly owned United States company rather than a Hong Kong company — if McDonald's chooses not to do so, what can we do if most people prefer eating out in Shenzhen? Are we going to prohibit them from going to Shenzhen? There are indeed problems with the catering industry in Hong Kong.

Another issue we need to address is that most people affected by the setting of a minimum wage are new immigrants, young people and low-skilled workers. These people are currently employed by many trades and industries such as the catering industry. But insofar as hi-tech companies, the so-called .com companies, are concerned, they have virtually no problem in paying a monthly salary of \$10,000 to \$20,000 to their staff. The imposition of a minimum wage of \$4,000 to \$5,000 will not affect these companies at all for they are able to pay high salaries and the number of staff employed by them is small. The employees selected by these companies are definitely not the workers mentioned by a few representatives of the workers' unions earlier. It is not easy for these workers to change jobs. Moreover, it is not possible for them to switch to .com companies at will. Will we actually do harm despite our good intentions if we are really to set a minimum wage? I really doubt it. After the imposition of a minimum wage, does it guarantee that each of the remaining hundreds of thousands of workers can find a job offering a monthly wage of \$4,000 or \$5,000? Even now we can find jobs offering a monthly wage of below \$4,000 or \$5,000. Will employers choose to pay their staff a monthly wage of \$5,000 or wind up their business? Both options are possible. Just now, Mr Andrew CHENG, Mr LEUNG Yiu-chung and Mr LEE Cheuk-yan cited many figures. How many employers will actually choose to wind up their business and how many will offer a minimum wage? I believe both options are possible. Therefore, a minimum wage might turn out to be a maximum wage too.

In any case, it is most important that if Hong Kong is to set a minimum wage, we will have to look at the overall economic structure. It will pose yet another problem if many small and medium enterprises (SMEs) will wind up as a result of this. Nevertheless, big employers will probably not be affected. In Hong Kong, bosses making enormous profits, say property developers, basically need not employ a great number of staff. The setting of a minimum wage will probably have little impact on them. On the contrary, most trades and professions with a big staff size are not making profit. Mr LEE Cheuk-yan should be most familiar with the situation of factories in Hong Kong. Over the years, why did most manufacturers choose to move northward to the Mainland? This is because rentals, water charges, electricity charges and wages are high in Hong Kong. Even overseas clients find the prices of goods produced in Hong Kong too high. As a result, Hong Kong manufacturers can only choose to move their factories to the Mainland or wind them up. Looking back at the closure of such a large number of factories over the past 10-odd years, are we actually doing harm despite our good intentions?

Given the fact that a minimum wage is imposed in more than 80 countries throughout the world, why can we not set a minimum wage too? I believe this is because these countries have their own unique economic systems. For instance, Britain uses various reasons, in addition to its administrative means, to boycott the importation of milk from France. Of course, it does work in Britain. After all, in view of the great distance between Britain and the European continent, people cannot go all the way from Britain to France for a meal simply because of the setting of a minimum wage and the rising prices charged by food premises in Britain. Although the British people cannot do so, the people of Hong Kong can for it is easy for them to travel between Hong Kong and Shenzhen.

The setting of a minimum wage will make it difficult for SMEs to continue with their business. Moreover, I do not think it is necessarily beneficial to the grassroots represented by several leaders of workers' unions, who strongly believe the setting of a minimum wage will be advantageous to the grassroots. I am not saying that what they say differs from what they think. As a matter of fact, many workers believe this will provide a perfect solution. Earlier on, a Member mentioned a few surveys to illustrate that 41% of employers of SMEs support the setting of a minimum wage while 49% oppose it. I have not seen the questions listed in the relevant questionnaires. Sometimes, we do issue questionnaires too. This is why I know how to frame questions in order to get

the answers we want. Perhaps the rate of support from employers will be 41% if I am to issue the questionnaires and frame questions in my own way.

In short, Madam President, the Liberal Party will, like what we did in previous years, object to this motion. We have indicated this position in the meetings held by a number of the Legislative Council panels too.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, over recent years, Hong Kong has rapidly shifted to a knowledge-based society in terms of its economic structure. Nevertheless, the community as a whole is still not fully prepared for the grasping of technology. There is also insufficient manpower to work in the area of information and knowledge. Toiling all day long, grass-roots workers have virtually no time to upgrade their knowledge and skills and find it impossible to adapt to new social developments and demands. Of course, the unemployment problem has become a great disturbance to them. Those who have got a job do not necessarily lead a better life for their wages are usually so low that they have reached an absolutely unreasonable level.

At present, we can see that the number of grass-roots workers is constantly on the rise. There are 750 000 workers who are aged over 40 and are of junior secondary level (figures provided by the Government). According to the 1996 census, more than one third of our workforce numbering more than 1.2 million, have an educational level of junior secondary only. Information on mainland migrants also shows that they are mostly of low education level. Apparently, the number of grass-roots workers will only continue to rise.

As the grass-roots labour market has lost its equilibrium, we can see that the wages of grass-roots workers continue to drop. Employers, particularly those of large food chains, have even indiscriminately exploited wage earners. For instance, McDonald's, the one mentioned by Members earlier, only pays its staff \$11 per hour. These employers even say in blatant defiance that the employees can choose not to accept the offer if they find their wages unreasonable. But the crux of the problem is: How many job opportunities are available in the whole society? Due to a lack of skills, grass-roots workers will only be forced to — I stress the word "forced" — accept unreasonable wages. Some people may ask: Why do they choose not to apply for Comprehensive Social Security Assistance (CSSA)? Many workers in Hong Kong are people of high aspirations. They hope to earn their living through their own efforts and

they think it is better to earn their own living than to apply for CSSA. I met a person whose condition was extremely poor in the Complaints Division of this Council yesterday. But up till today, he is still reluctant to apply for CSSA. This is the attitude adopted by the people of Hong Kong, or wage earners in Hong Kong. Nevertheless, the Hong Kong Government constantly spreads the notion that CSSA will "nurture lazy bones" and develop a dependency culture. This point of view was bombarded by me in the debate held in this Council last week for the criticisms made by the Government have not only imposed pressure on recipients, but also made it difficult for them to lead a dignified life. Even for many of those who are in genuine need of help, they would rather earn their own living than receiving CSSA.

Madam President, industries experiencing the most serious downward adjustment of wages include the catering industry, represented by Mr CHAN Wing-chan, the retailing industry, represented by me, as well as other service industries. The civil service reform implemented by the Government recently has even added fuel to the flame by further lowering wages, particularly wages of the grass-roots workers. Of the 59 affected job types, all the workers, totaling 70 000, come from the grass-roots level. Furthermore, the Government has lowered the entry salaries of new recruits and contracted out government work. We understand that after the contracting-out of government work, wages of the grass-roots workers will fall sharply. I have completed handling a case concerning the contracting out of civil service work yesterday. The wage originally paid for the job was more than \$9,000. It was reduced to just more than \$3,000 after the job was contracted out. This is the result of the contracting out of government work. The job types being contracted out include: work performed by ward attendants, municipal work and other types of work performed by front-line civil servants. In our opinion, the essence of the contracting out of government work is: "the upper level gains profit at the expense of the front-line staff".

The reason held by the Government for objecting the setting of a minimum wage is that the labour market is a free market and that a minimum wage will undermine the flexibility of wage adjustment for once a minimum wage is imposed, it will be difficult for wages to adjust downward. This is the view held by the Government. However, we can see that the current problem faced by Hong Kong is that employers are in full control of the market. Wages offered by employers to grass-roots workers can hardly feed the workers. Frankly speaking, if wage earners were allowed to control or balance the market,

there would be no more labour disputes, including strikes, every day. The imposition of a minimum wage is actually one of the solutions for preventing employers from exploiting workers indiscriminately.

The minimum wage system is implemented in more than 80 countries throughout the world. Taiwan started to implement a minimum wage system since 1956. Insofar as economic development is concerned, it seems that Taiwan fares better than Hong Kong after the financial turmoil. South Korea started to implement a minimum wage system in 1988. Its economy has also revived at a rate faster than ours after the financial turmoil. These are only some of the examples.

We demand that workers should be given reasonable and dignified returns and share the fruits borne by the Hong Kong economy, instead of being exploited by employers mercilessly. In 1999, the per capita Gross Domestic Product of Hong Kong was around \$210,000, that is, \$17,000 per month. However, the grass-roots workers were only offered a monthly wage of around \$3,000. Obviously, they are deprived of the chance to share the fruits borne by our economy.

Madam President, as Members are all aware, the wages of Hong Kong employees have over the years been determined in the light of supply and demand. In other words, when the economy is good, wages will rise; when the economy is bad, wages will drop accordingly. For this reason, the Hong Kong Federation of Trade Unions (FTU) holds no objection to the establishment of a minimum wage system and three Members from the FTU will support the motion today. Nevertheless, while we consider it necessary to put in place a minimum wage system, we also deem it necessary to set up a "Wage Authority" at the same time. Furthermore, an ad hoc committee should be set up before the implementation of a minimum wage to carefully examine various problems in relation to the minimum wage system and their impact on workers. Only through formulating support measures before the implementation of a minimum wage system can we discourage employers from regarding a minimum wage the maximum wage.

Madam President, the FTU has all along been advocating that the Government should help labour-intensive industries such as environmental protection industries, home help industries, and so on to enhance the job opportunities of grass-roots workers and rectify the imbalance between supply

and demand. In doing so, workers can rely on their own ability, the bargaining power to earn a dignified living. This is yet another effective means to help relieve the grass-roots workers from poverty.

With these remarks, Madam President, I support today's motion. Thank you.

MISS CHOY SO-YUK (in Cantonese): Madam President, the idea of a "minimum wage system" is nothing novel. Over the past two decades, the academic circle, trade unions and political parties in Hong Kong have conducted numerous heated debates on this issue. Though detailed arguments and specific research data have been given as support by those who agree as well as those who disagree, all sides are still unable to reach a consensus on this issue to date.

Frankly speaking, a "minimum wage system" has its merits judged from a certain angle. To start with, it can protect low-skilled and low-wage workers, prevent them from being treated unfairly, and ensure that their incomes can sustain their basic living. Furthermore, the imposition of a minimum wage can help redistribute social resources and ameliorate the disparity between the poor and the rich. It will also help improve the economic situation of low-wage workers and enhance their purchasing power, thus stimulating consumption and facilitating economic development indirectly.

Judging from another angle, however, a "minimum wage system" will bring forth many disadvantages. It is most obvious that wages of workers should be adjusted automatically by the supply and demand of the labour market. The implementation of a "minimum wage system" will, however, undoubtedly interfere with the operation of a free market and undermine the flexibility and elasticity of the market. Furthermore, the imposition of a lower limit on wages might force some employers to cut the number of their staff in order to keep their operational costs under control. What is more, some small and medium enterprises might even wind up because of operational difficulties. Eventually, the job opportunities of the entire community will diminish. Under a bleak economic environment, a "minimum wage system" might lead to the occurrence of illegal labour and do nothing to help rid the low-skilled workers of their plight.

Even if we look at the experiences gained by countries where a "minimum wage system" is implemented, we will find it difficult to draw an objective and comprehensive conclusion. According to the findings of a survey conducted by the Secretariat of this Council last year, there were differences in the implementation of the system in various countries after comparing data on the employment rates, poverty problem and income distribution as a result of changes in minimum wage in seven countries. It is therefore basically impossible for the relevant findings to be applied fully to Hong Kong.

Madam President, so far, there is still no specific conclusion as to whether a "minimum wage system" is "sugar coated poison" or a "panacea". It is therefore inappropriate for the system to be applied to Hong Kong at this stage before a further study is conducted on the relevant issues. A "minimum wage system" will not only involve an extensive scope, but also produce great impacts on employers, employees and the overall economic environment. It is therefore imperative for the Government and legislators to examine relevant policies in a detailed and in-depth manner. For instance: Why are the incomes of grass-roots workers so low? Can the implementation of a "minimum wage system" help solve the problem? What are the substantial content, definition and calculation method of the "minimum wage system"? What positive or negative impacts will the imposition of a minimum wage have on the local labour market and the economy? Do we need to introduce other matching policies to tie in with the system? All these details warrant thorough consideration and examination.

At a time when the Hong Kong economy is undergoing transformation for the third time, the Hong Kong Progressive Alliance (HKPA) is of the view that a minimum wage will not necessarily help the massive labour market. On the contrary, the Government must inject more resources into manpower training and upgrading the skills and competitive edge of the workforce in general. This will enable all manual workers to adapt to the new economic environment and find a suitable job with a reasonable pay.

With these remarks, Madam President, I object to the motion on behalf of the HKPA.

MISS CYD HO (in Cantonese): Madam President, given the fact that the amount of Comprehensive Social Security Assistance (CSSA) given to a singleton is \$1,805, how can a manual worker, with a monthly pay of \$3,000 only, to support one or two family members in addition to himself? Although the Government has decided to tighten expenditure on CSSA, it is still willing to pay \$1,805. It is evident that a manual worker with a monthly income of \$3,000 is unable to support his family! But how can he manage to do it? For the 390 000 people with a monthly income of below \$3,000, how can they manage to do it? This is because the CSSA system has an item for "low-income persons". For those who are willing to work full-time and as hard as they can but are unable to earn enough to support their living, they can apply for CSSA. This explains why we have a very strange phenomenon here in Hong Kong: Without protection offered by a minimum wage system, some full-time workers are still leading a subsistence life by relying on government subsidies.

Nevertheless, the truth is government subsidies are not aimed at this group of people for they should not require subsidy from others if they work as hard as they can. In a reasonable community, people should be able to satisfy the needs of their basic livelihood if they are willing to work as hard as they can. However, they cannot do so in a community like ours with the wages they earn. For this reason, the Government is actually subsidizing their employers for some of them choose to maintain their competitive edge by exploiting the wages of their employees. On the other hand, however, they can receive subsidies from the Government. This explains why manual workers who are willing to work as hard as they can are still able to survive in the absence of a minimum wage system. Who pay for the money? Undoubtedly taxpayers! Eventually, the Government might resort to raising tax in order to pay for CSSA subsidies. We might then need to argue again. Is this the phenomenon we really want to see?

Actually, CSSA is paid to those employers who know only how to exploit the wages of their employees in order to maintain their competitive edge. I very much hope that the Social Welfare Department can talk to certain employers to see how they can be self-reliant and upgrade their competitiveness instead of asking low-income people to receive retraining.

Earlier on, a Member pointed out that economic recovery could lift wages. This is true insofar as certain job types are concerned. Actually, this situation has already taken place for wages offered to employees of the information technology industry are already very high. However, is it applicable to grass-roots workers as well? Hong Kong has a working population, including both sexes, of 2 million, which is of primary education level or below. The supply of grass-roots workers of low skills has all along exceeded the demand. Our labour market has in fact been twisted. With the provision of government subsidies, there is actually no market element that can lift the wages offered by job types of the grass-roots level. It is definitely not true that Hong Kong is a free market, as what many people say! The so-called free market is actually built upon a huge amount of public money injected by the Government every month for subsidizing these low-income people.

Some Members also raised the point that retraining can enhance competitiveness and enable workers to make constant advancement and handle work of a more complicated nature and with a better pay. Madam President, I have often complained in this Chamber that given only \$60-odd million has been allocated to adult education, when can we see retraining bear fruits for 2 million people in Hong Kong who are of primary education level or below? These people need to survive in the course of undergoing training. Even if they are willing to receive retraining and start all over again from basic education, how can they survive during the few years when they are undergoing training? There can only be two options: setting a minimum wage or relying on CSSA! I fully agree with Mr James TIEN who said that we needed to consider support measures in addition to minimum wage. The key point we need to consider is, given the fact that the gross national product for the whole region is fixed, how can we support so many people simultaneously? What method should we adopt for giving them money? If they are willing to work and if a minimum wage is imposed at the same time, they will no longer need to rely on government subsidies or apply for CSSA without dignity? However, even if they are willing to work in the absence of a minimum wage, they will end up applying for CSSA if wages continue to fall. Eventually, they will not be able to lead a dignified life and reflect the truth that they are actually willing to work hard!

A Member said that the subject of a minimum wage has enabled Mr LEE Cheuk-yan to introduce motions, particularly this motion, every year. I believe Mr LEE would rather choose not to move this motion. Instead, he would rather hope that Members could pass this motion so that legislative work can be carried out immediately. After the imposition of a minimum wage, we will no longer need to introduce this motion for heated debates every year.

Earlier this year, a delegation from this Council visited Europe and met with representatives from British trade associations to discuss the issue of a minimum wage for a great number of Honourable colleagues from the business sector had expressed great concern about this issue. Actually, a formula is available for the calculation of a minimum wage. What is in dispute relates merely to the drawing up of a formula for setting a minimum wage for the first time. After the initial dispute, the minimum wage can then fluctuate according to the relevant index agreed upon by Members. In that case, Members will not need to introduce relevant motions every year.

I hope Honourable colleagues can support the motion moved by Mr LEE Cheuk-yan so that he will not need to move the motion every year. Should we succeed in introducing legislation, I believe Members from the labour sector and I will be more than happy to applaud for Members who vote in support of setting a minimum wage.

Thank you, Madam President.

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

(No Member responded)

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Legislative Council has debated time and again over whether a minimum wage system should be set up in Hong Kong. For example, the topic was included on the Agenda of the Legislative Council Meeting in April last year and that of the meeting of the Panel on Manpower in July last year. Today, the position of the Government remains unchanged. We do not support setting up a minimum wage system in Hong Kong, definitely not because we are biased towards the industrial and commercial sectors or employers but mainly

because it fails to target at the present economic situation or create for the working class job opportunities and satisfactory employment conditions. On the contrary, this may cause some people, especially lower-skilled workers and young people who lack working experience, to lose their jobs.

The Government has injected huge resources into education, training and retraining with the objective of enhancing the working skills of the working population through effective training to make them more competitive in employment and receive more generous reward. We think that this is a long-term strategy for maintaining prosperity and stability and continuous economic growth which can really benefit the working class at large.

Recently, some international authoritative organizations have conducted researches on the effects of the establishment of a minimum wage and they have also expressed their views. I will cite these views later to elaborate why the Government does not support the establishment of a minimum wage. I will also introduce a series of measures implemented by the Government to promote employment and improve people's living.

Some Members expect the minimum wage system to give grass-roots workers a certain level of income but legislation can actually not guarantee the achievement of this objective. The minimum wage system is focussed on "wages" but not "employment". When an employer thinks that the cost is too high after a minimum wage level has been set, he may abolish the original low-pay posts and introduce other substituting measures. These include an adjustment in production method to reduce the number of employees or to move away from Hong Kong even more business or production procedures and run business in adjacent regions in which labour and land resources cost are relatively inexpensive.

Many countries in Europe and America have implemented a minimum wage system for years and they have recently been concerned about the effect of a minimum wage on employment. For example, a research conducted by the Organization for Economic Co-operation and Development (OECD) in 1998 on the statutory minimum wage shows that the statutory minimum wage will be adjusted upwards from time to time and is often higher than the market wage level. However, wages at this level will cause an increase in the number of unemployed and have greater impacts on workers whose productivity is lower than the statutory minimum wage level. Actually, the reduction in job

opportunities as a result of the establishment of a minimum wage often strikes the heaviest blow to lower-skilled workers and young people because they are generally less competitive in the labour market. According to the result of the OECD research, if the monetary value of the statutory minimum wage is adjusted 10% upwards, the job opportunities of young people will be reduced by 2% to 4%.

The result of a research conducted by the Economic Research Service of the United States shows that, if the statutory minimum wage is increased by 10%, the job opportunities in the United States will be reduced by 4% to 16% while the corresponding rate of reduction in France will be 10% to 13%.

Artificially raising wages by administrative means will not only cause a group of low-pay workers to lose their jobs, but also have adverse effects on low-pay workers who keep their jobs. After wages have been increased to the statutory minimum wage level, as wages can no longer be used to adjust costs, employers may cut benefits or allowances other than wages or increase the workload of workers to offset the burden of new costs. There may ultimately not be any improvement to the overall wages of low-pay workers relative to their workload, and the statutory minimum wage will not be of any help to the unemployed.

Another fundamental problem with the statutory minimum wage is that it has distorted information on supply and demand in the labour market. Employers can no longer determine the basic wages of workers on the basis of the productivity and capability of workers as well as the business condition of companies. It will also make the working population less positive towards improving and upgrading the quality of their work and less willing to receive training and retraining. This tendency is not favourable to the long-term development of our economy.

The adverse effect of a minimum wage on the economy is most obviously felt during an economic adjustment period. It will distort the wage structure of the labour market and further restrict the determination and adjustment of wages. During an economic adjustment period, if wages can be flexibly and speedily adjusted downwards, it will help reduce production costs and product prices, thus increasing competitiveness and stimulating the overall demand. However, with the restraint of the statutory minimum wage, as wages cannot be flexibly adjusted downwards, it will affect the adjustment of the labour and product

markets, prolonging the unemployment cycle or worsening the unemployment situation and slowing down economic recovery. More seriously, the rigidity of the wage adjustment mechanism will turn the original short-term periodic unemployment into long-term structural unemployment.

Our labour market has the merit of being flexible and resilient, and quick and expedient in responding to economic restructuring, besides, labour can freely look for different jobs in different industries. Continuous economic growth has always been the major factor pulling an increase in the income of people. Making human resources investments is the most effective way to reduce the income differential. However, crippling the adjustment mechanism of the labour market will only impede the continuous growth of the economy as a whole and upset commercial activities, ultimately damaging the employment situation of the community.

We absolutely understand and comprehend Members' concern about the employment situation of the public and we also take this issue seriously. Yet, we must understand that a minimum wage cannot solve the problems. In recent years, the member states of the OECD generally tend to relax the restrictions under the statutory minimum wage system in order to increase the flexibility of their labour markets. This is not an accidental phenomenon. Should we learn a lesson from their experience? The community has evidently not reached a consensus on whether a minimum wage should be established and this is obviously shown by the different positions stated by Members today.

The Government has been striving to create an excellent business environment, promote economic growth, expand the economic foundation, improve the local economy and increase job opportunities and rewards for work. We have also injected huge resources into education, training and retraining as well as bore the expenses on social services such as medical expenses and public housing expenses. These policies directly or indirectly created a lot of job opportunities.

As regards human resources policies, we will continue to make efforts to assist the unemployed in receiving suitable training and finding jobs so that they will be detached from the Comprehensive Social Security Assistance (CSSA) net. We provide workers with lower academic levels and lower skills with training and retraining. In the year 1999-2000, a total of 78 086 retrainees completed the retraining courses offered by the Employees Retraining Board (ERB). In

respect of full-time courses, 23 277 retrainees, of whom 61.8% have lower than Secondary Three academic level, received retraining courses arranged by the ERB which covered various job types. After retraining, the placement rate of the workers is over 70% and they are by no means inferior to people of other academic background. In the future, the ERB will offer more retraining places and organize new courses that meet the market needs to benefit more unemployed people. The ERB will also offer more full-time courses, the percentage of which will be increased from 30% in the past to 50%, to cater for the needs of the unemployed.

In his Budget this year, the Financial Secretary announced that he had earmarked an additional \$300 million to assist the grassroots in employment and provide them with value-added training. Moreover, the Vocational English Campaign can comprehensively and directly help improve the language abilities of in-service workers.

The purpose of the Government in implementing the above measures is to improve the skills of workers. I understand that economic restructuring has increased the income differential and I agree that the Government is responsible for looking after the living of the low-income class. Setting up a social security safety net is an obvious example, but we do not approve of the establishment of a minimum wage system to artificially distort the supply and demand situation in the labour market. Conversely, we are making efforts to implement various value-added projects to actively upgrade the quality and qualification of local workers so that they can adapt to the transforming new economic order and make efforts to strive for results and improve their living.

I would also like to say that, when Members discuss the minimum wage, the examples of low wages given will easily conceal more rational debates. I would like to take the job opening of a low-pay babysitter registered with the Labour Department widely publicized by Mr LEE Cheuk-yan in the press as an example and give a detailed explanation. Is this an obvious case of exploitation of workers and hurting their dignity in which the Labour Department is the accessory? I have obtained from the Labour Department comprehensive information on the case and I will gladly explain the following facts to Members.

In this particular case, the employer is an average employee who lives in Tuen Mun. She receives average wages and her household income does not permit her to employ a foreign domestic helper at a monthly salary of \$3,670.

As she has to work, she needs someone to bring his child to the nursery, thus she is willing to spend part of his income on the employment of a part-time babysitter. She wants to employ a housewife who lives nearby. The babysitter is mainly required to bring her child to and from the nursery and as the babysitter works part-time, she does not need to do any housework. According to the Labour Department, this is a very common arrangement in many housing estates. After the babysitter has brought the child back to her home, she can continue to look after her children or handle other household chores. The child's mother will bring him home after she has finished work. This arrangement can allow employees, especially women, to engage in average work to continue working and it can also allow housewives living nearby to earn additional income. The housewife in the case earns additional income and has time to look after her own family and children. Thus, the highly humiliating hourly wage of \$10 simply and mechanically calculated for this arrangement fails to reflect such mutually beneficial community support that has existed for a long time in many places.

If we take this case as an example, ignoring the nature and arrangement of the work, and enact a law to rigidly specify the hourly rate at \$20, the employer in the case has to pay \$4,000. She can certainly not afford this and she may thus seriously consider giving up her job. There will be one more unemployed person in our community and the housewife living nearby will also lose the opportunity to earn \$2,000 additional household income.

In this case, six housewives living nearby have indicated that they are interested in applying for the job. This proves that there are social and economic needs for this mutually beneficial arrangement and it has nothing to do with the exploitation of workers or hurting the dignity of workers. I support the way the Labour Department has handled the case.

I would also like to clarify that if the Labour Department discovers that there is an obvious differential between the wage offered by an employer and the market wage, it will find out from the employer more about the situation before deciding whether it will recruit an employee for the employer.

In the year 2000, our unemployment rate has continued to drop steeply. The latest unemployment rate is 5.5%, a drop of 0.8 percentage point compared to 6.3% at the unemployment peak 12 months ago, and the number of people unemployed has also decreased by 26 000. Along with the continuous improvement in Hong Kong economy, the unemployment rate will continue to

drop and there will be a corresponding increase in the income of workers. I deeply believe that the existing human resources policies and the investments in training and retraining are sound and they will be most beneficial to our economy and labour in the long run.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, you may now reply and you have five minutes 12 seconds.

MR LEE CHEUK-YAN (in Cantonese): Madam President, I would like to respond to a case cited by the Secretary for Education and Manpower earlier. As the Education and Manpower Bureau has examined this case, I would also like it to examine why McDonald's can offer an hourly rate of \$11 only. The Secretary also raised the point that the setting of a minimum wage might cause one more person to lose his job. Putting it the other way round, however, the imposition of a minimum wage might also enable the woman's husband to earn a dignified wage so that he can support his family whereas his wife can take personal care of her children. Or perhaps the imposition of a minimum wage can enable the woman to earn a higher wage so that she can hire a domestic helper. There are simply many possibilities; it is therefore quite pointless for us to discuss this issue.

A key point raised by the Secretary and a number of Members is that the establishment of a minimum wage system will produce the so-called negative impacts on employment. In his speech, the Secretary mentioned a research report published by the Organization for Economic Co-operation and Development (OECD). I have seen the report too. Perhaps it is the same as the one mentioned by the Secretary, that is, the "Employment Outlook June 1998". I am not sure whether the Secretary was referring to this report too. The OECD has drawn this conclusion (I would read it out in English for I find it quite difficult to translate): "Both theory and empirical evidence are inconclusive about the precise employment effect of minimum wage over some range relative to average wage." Judging from this, the OECD has been unable to draw any conclusion on this issue.

The Secretary and many Members have mentioned the point that a 10% rise in minimum wage will cause a 1% to 3% drop in the employment rate. What view did the OECD hold on this issue? The OECD pointed out in a recent report that existing information was insufficient to prove that a rise in the minimum wage level will definitely lower the employment rate of young people. This point was made in page 45 of the report. Therefore, I hope Members can look at the contents carefully when they refer to any study.

Earlier on, a number of Members raised the point that a rise in minimum wage will affect the employment rate of young people. If this is really the case, then what we should do is to provide young people with training so that they will no longer need to accept low-pay jobs. There should indeed be no problem with the drop in the employment rate of young people for they should undergo training rather than taking up employment. The training of young people and the retraining of low-skilled workers are two separate issues. This is because young people still have a long way to go and they are more receptive to new information. If we can make more efforts in training young people, they will not need to take up employment as well as accepting low-pay jobs. Therefore, no harm will be done even if the setting of a minimum wage will lower the employment rate of young people.

Many people have expressed the fear that small and medium enterprises may not be able to survive. I have made a careful calculation earlier and hope that Members can examine the figures provided by me. Let me cite an example. If the minimum wage is set at an hourly rate of \$25, the overall costs in wages in Hong Kong will rise by 0.6%, which is even lower than the increase resulted from the implementation of the Mandatory Provident Fund (MPF) Scheme. Some people have even outlined a horrified picture that the whole territory will crumble once the MPF is implemented. However, I am confident nothing like that will happen as the Hong Kong economy will surely continue to operate and not be affected by the implementation of the MPF. Neither will the setting of a minimum wage system produce any impacts too.

Earlier on, the Secretary and a number of Members mentioned about training. I wish to remind Members that the Government spends more than \$300 million annually on the provision of training. However, workers who have completed training courses have even failed to earn an hourly wage of \$25, our expected minimum wage, or a monthly wage of \$5,000 to \$6,000. Despite the fact that they have completed training courses, the wages they receive remain

low. I often ask this question: Can some of the training courses raise the monthly income of workers from \$5,000 to \$10,000? If the answer is affirmative, I believe the number of people lining up for the courses will even be greater than the number of those subscribing for tom.com shares. However, no such training courses are actually available. For these reasons, I hope Members can consider the point that training will not necessarily solve all problems.

Mr HO Sai-chu said a minimum wage system would break the "rice-bowls" of workers. The Conservative Party of Britain once made the same statement. However, it has already made a 180 degree U-turn by giving support to the setting up of a minimum wage system. I hope Mr HO will follow suit too.

Lastly, I want to tell the Democratic Party something quite irrational: "To release low-pay workers, vindicate minimum wage, pursue responsibilities for casting vetoing votes, terminate main-stream dictatorship and build up a young Hong Kong". I would like to present this to the Democratic Party and hope that it can support the setting up of a minimum wage system.

Thank you, Madam President.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

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

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

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

Functional Constituencies:

Mr LEE Kai-ming, Mr CHAN Kwok-keung and Mr CHAN Wing-chan voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Michael HO, Mr Eric LI, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr Howard YOUNG, Mrs Miriam LAU, Mr LAW Chi-kwong and Dr TANG Siu-tong voted against the motion.

Mr WONG Yung-kan abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr LAU Chin-shek and Miss Emily LAU voted for the motion.

Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Dr YEUNG Sum, Mr SZETO Wah, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung and Mr CHAN Kam-lam abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, three were in favour of the motion, 16 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, six were in favour of the motion, 12 against it and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 24 May 2000.

Adjourned accordingly at six minutes to Nine o'clock.

Annex I**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr LEE Cheuk-yan's supplementary question to Question 2**

The police have confirmed that while they do keep statistics on the number of identity card checks conducted by police officers, they do not keep separate figures for checks conducted by plainclothes officers and uniformed officers.

Annex II**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr LEE Cheuk-yan's supplementary question to Question 2**

The police have confirmed that while they do maintain statistics on the number of illegal immigrants arrested, they do not have information on the number found during identity card checks.

Annex III**WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Miss Emily LAU's supplementary question to Question 5**

From January 1999 to April 2000, the Transport Department and the Transport Complaints Unit received a total of 26 complaints against the charging of exorbitant fares by franchised buses serving the Tseung Kwan O district. This figure represents approximately 0.6% of the total number of complaints against services provided by franchised buses in the same period.

Annex IV**WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Mr Andrew WONG's supplementary question to Question 5**

Bus companies will review and introduce new route groups as and when necessary to reflect the changes in the operation of franchised buses and the nature of new service routes. The existing demarcation of route groups of the New World First Bus Services Limited, the Citybus Limited and the Kowloon Motor Bus Company (1933) Limited has evolved gradually in keeping with the development of Hong Kong over the years. The changes in the route groups of the three bus companies in the past decade are set out in Appendices I to III respectively.

Appendix I

Route Groups of the New World First Bus Services Limited

Existing route groups:

Hong Kong Island Routes

1. Urban routes
2. Mid-levels routes
3. Sightseeing routes

Cross-Harbour Tunnel Routes

4. Urban routes
5. Suburban routes
6. Express routes
7. Sightseeing and overnight routes
8. New Territories routes
9. Sha Tin racecourse routes
10. Air-conditioned bus routes (regular services)
11. Air-conditioned bus routes (sightseeing, special and overnight services)

Compared to the route groups operated by the China Motor Bus Company Limited, the number of route groups operated by the New World First Bus Services Limited has reduced by six as detailed below:

Urban limited stop routes, Eastern Corridor express routes, Southern District routes, Southern District express routes, Hong Kong Island air-conditioned bus routes and Airport routes.

WRITTEN ANSWER — Continued

Appendix II

Route Groups of the Citybus Limited

Existing route groups:

Hong Kong Island Routes

1. Urban routes
2. Mid-levels routes
3. Sightseeing routes

Cross-Harbour Tunnel Routes

4. Urban routes
5. Suburban routes
6. Express routes
7. Sightseeing and overnight routes
8. New Territories routes
9. Sha Tin racecourse routes
- * 10. Air-conditioned bus routes (regular services)
- * 11. Air-conditioned bus routes (sightseeing, special and overnight services)

Cross-Border Services

- * 12. Urban Kowloon and New Territories routes
- * 13. Cross-Harbour Tunnel routes

- * When the Citybus Limited took over the operation of 26 franchised bus routes from the China Motor Bus Company Limited in 1993, the Citybus had 10 bus route groups only. Later, it operated two new cross-border route groups in 1994 and split up the air-conditioned bus route group into the air-conditioned bus route group (regular services) and air-conditioned bus route group (sightseeing, special and overnight services) in 1997.

WRITTEN ANSWER — *Continued*

Appendix III

Route Groups of the Kowloon Motor Bus Company (1933) Limited

Existing route groups:

Kowloon Routes

1. Urban routes
2. Urban express routes
3. Special services

New Territories Routes

4. Urban routes
5. Rural routes
6. Sightseeing routes
7. Racecourse routes
8. Express routes
9. Special services

Cross-Harbour Tunnel Routes

10. Urban routes
11. Suburban routes
12. Express routes
13. Sightseeing and overnight routes
14. New Territories routes
15. Racecourse routes

Air-Conditioned Bus Services

16. Urban Kowloon and New Territories routes
17. Cross-Harbour Tunnel routes
18. Urban Kowloon Airport routes
19. Cross-Harbour Tunnel Airport routes
- * 20. Urban Kowloon and New Territories sightseeing and special routes
- * 21. Cross-Harbour Tunnel sightseeing and special routes
- * 22. Urban Kowloon and New Territories racecourse routes
- * 23. Cross-Harbour Tunnel racecourse routes

Cross-Border Services

- * 24. Urban Kowloon and New Territories routes
 - * 25. Cross-Harbour Tunnel routes
- * Since 1990, the KMB has launched six additional route groups.

Annex V

WRITTEN ANSWER

Follow-up answer by the Secretary for Housing to Question 18 asked by Mr LAW Chi-kwong

The breakdown of figures by housing estate as referred to in part (a) of the captioned reply is attached for Members' information.

Number of elderlies sharing the same public housing unit or part of the facilities inside a unit with unrelated persons (breakdown by estate)
(as at 1 April 2000)

<i>Name of Estate</i>	<i>Living in Converted One-person Flats</i>	<i>Sharing the Same PRH with Unrelated Persons</i>
Ap Lei Chau Estate	9	16
Butterfly Estate	0	4
Cheung Ching Estate	0	16
Cheng Fat Estate	0	7
Cheung Hong Estate	110	22
Choi Hung Estate	0	37
Choi Ha Estate	0	10
Choi Fai Estate	0	3
Cheung Hang Estate	216	1
Chung On Estate	0	1
Chun Shek Estate	86	9
Chak On Estate	66	25
Cheung On Estate	0	3
Cheung Shan Estate	0	3
Cheung Sha Wan Estate	0	25
Chai Wan Estate	0	34
Cheung Wah Estate	0	15
Choi Wan (I) Estate	0	16
Choi Wan (II) Estate	0	10
Choi Yuen Estate	0	40
Chuk Yuen North Estate	0	10

WRITTEN ANSWER — *Continued*

<i>Name of Estate</i>	<i>Living in Converted One-person Flats</i>	<i>Sharing the Same PRH with Unrealted Persons</i>
Chuk Yuen South Estate	668	28
Fu Heng Estate	0	2
Fuk Loi Estate	0	6
Fu Shan Estate	0	4
Fu Shin Estate	14	10
Fung Tak Estate	0	3
Fung Wah Estate	0	4
Hoi Fu Court	0	9
Hin Keng Estate	0	9
Hing Man Estate	0	22
Ho Man Tin Estate	0	24
Heng On Estate	0	6
Hing Tin Estate	0	1
Hau Tak Estate	0	1
Hong Tung Estate	0	23
Hing Wah (2) Estate	0	64
Kai Tin Estate	0	1
Kwai Chung Estate	0	10
Kwai Fong Estate	0	9
Kwong Fuk Estate	5	15
Kwai Hing Estate	0	6
King Lam Estate	190	4
Kwai Shing East Estate	0	6
Kin Sang Estate	0	1
Kwai Shing West Estate	0	28
Kwong Tin Estate	0	3
Kwong Yuen Estate	105	7
Kai Yip Estate	0	52
Ko Yee Estate	0	4
Lai On Estate	0	1
Lei Cheng Uk Estate	5	35
Lee On Estate	0	3
Lok Fu Estate	0	10
Lung Hang Estate	20	16

WRITTEN ANSWER — *Continued*

<i>Name of Estate</i>	<i>Living in Converted One-person Flats</i>	<i>Sharing the Same PRH with Unrealted Persons</i>
Lai King Estate	0	37
Leung King Estate	0	2
Lai Kok Estate	29	51
Lei Muk Shue (2) Estate	0	30
Long Ping Estate	0	3
Lei Tung Estate	378	22
Lam Tin (1) Estate	0	21
Lai Yiu Estate	0	6
Lung Tin Estate	0	3
Lok Wah South Estate	60	60
Lek Yuen Estate	0	28
Model Housing Estate	0	6
Ma Hang Estate	0	1
Mei Lam Estate	66	15
Mei Tung Estate	0	7
Ming Tak Estate	0	4
Ma Tau Wai Estate	0	23
Nam Cheong Estate	0	3
North Point Estate	0	3
Nam Shan Estate	0	31
Lower Ngau Tau Kok 1 Estate	0	54
Lower Ngau Tau Kok 2 Estate	0	56
Oi Man Estate	0	13
On Ting Estate	0	9
On Yam Estate	0	10
Pok Hong Estate	21	3
Po Lam Estate	0	16
Ping Shek Estate	0	10
Pak Tin Estate	0	25
Ping Tin Estate	0	1
Sun Chui Estate	61	34
Shun Lee Estate	0	16

WRITTEN ANSWER — *Continued*

<i>Name of Estate</i>	<i>Living in Converted One-person Flats</i>	<i>Sharing the Same PRH with Unrealted Persons</i>
San Fat Estate	0	2
Sha Kok Estate	94	76
Shan King Estate	0	4
Shek Kip Mei Estate	15	148
Sheung Lok Estate	0	3
Shek Lei (1) Estate	22	22
Shek Lei (2) Estate	0	9
Sau Mau Ping (1) Estate	0	13
Sau Mau Ping (2) Estate	0	70
Sau Mau Ping (3) Estate	0	58
Shun On Estate	0	16
Shatin Pass Estate	0	14
Shui Pin Wai Estate	0	22
Siu Sai Wan Estate	106	18
Shun Tin Estate	0	43
Sheung Tak Estate	0	1
Sun Tin Wai Estate	29	16
So Uk Estate	0	46
Sai Wan Estate	0	6
Shek Wai Kok Estate	43	21
Shek Yam Estate	0	2
Tai Ping Estate	0	1
Tsz Ching Estate	0	4
Tsing Yi Estate	13	4
Tai Hing Estate	0	36
Tai Hang Tung Estate	0	54
Tsz Lok Estate	0	6
Tsui Lok Estate	0	13
Tsui Lam Estate	0	7
Tsz Man Estate	0	7
Tin Yiu (1) Estate	0	3
Tin Yiu (2) Estate	0	4
Tsui Ping North Estate	26	29
Tsui Ping South Estate	0	24

WRITTEN ANSWER — *Continued*

<i>Name of Estate</i>	<i>Living in Converted One-person Flats</i>	<i>Sharing the Same PRH with Unrealted Persons</i>
Tsui Wan Estate	0	13
Tin Shui (1) Estate	0	1
Tak Tin Estate	0	9
Tin Tsz Estate	0	7
Tung Tau (1) Estate	0	14
Tung Tau (2) Estate	194	39
Tin Wan Estate	0	6
Tin Wah Estate	0	1
Tai Wo Hau Estate	0	85
Tai Wo Estate	90	3
Tai Yuen Estate	16	13
Un Chau Estate	0	1
Upper Ngau Tau Kok Estate	0	30
Upper Wong Tai Sin Estate	0	24
Valley Road Estate	0	42
Wah Fu (1) Estate	0	27
Wah Fu (2) Estate	0	30
Wo Che Estate	0	48
Wong Chuk Hang Estate	0	135
Wan Hon Estate	0	40
Wah Kwai Estate	153	10
Wo Lok Estate	0	22
Wah Ming Estate	231	3
Wah Sum Estate	0	3
Wan Tsui Estate	0	36
Wang Tau Hom Estate	0	18
Lower Wong Tai Sin (1) Estate	24	30
Lower Wong Tai Sin (2) Estate	0	6
Wan Tau Tong Estate	0	1
Yuen Long Estate	0	22
Yau Oi Estate	0	8
Yiu Tung Estate	0	3
Yue Wan Estate	0	37
Total	3 165	2 906

Annex VI**DISTRICT COURT (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Chief Secretary for Administration

<u>Clause</u>	<u>Amendment Proposed</u>
1	<p>By deleting subclause (2) and substituting -</p> <p>"(2) This Ordinance, except for this section and section 40, shall come into operation on a day to be appointed by the Chief Secretary for Administration by notice in the Gazette.</p> <p>(3) This section and section 40 shall come into operation at the beginning of the day on which this Ordinance is published in the Gazette."</p>
3	<p>(a) In paragraph (a), in the proposed definition "司法常務官", by deleting "主任" where it twice appears and substituting "官".</p> <p>(b) In paragraph (b), by deleting the proposed definition "action for personal injuries".</p>
9	<p>(a) In subclause (1), in the proposed section 14(1), by deleting "主任" where it first and secondly appears and substituting "官".</p> <p>(b) By adding -</p> <p>"(1A) Section 14 is amended by adding -</p>

ClauseAmendment Proposed

"(2A) The Registrar shall have and may exercise and discharge such other jurisdiction, powers and duties as may be conferred or imposed on him by or under rules of court or any other law.

(2B) The deputy registrars and assistant registrars may be called Masters."."

New

By adding -

"9A. Sections added

The following are added -

"14A. Appointment of temporary deputy registrars

(1) The Chief Justice may appoint a person to be a temporary deputy registrar if -

- (a) the office of any deputy registrar becomes vacant for any reason; or
- (b) he considers that the interest of the administration of justice requires that a temporary deputy registrar should be appointed.

ClauseAmendment Proposed

(2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary deputy registrar for a specified period only.

(3) A temporary deputy registrar shall, during the period for which he is appointed, have all the jurisdiction, powers and privileges, and discharge all the duties of a deputy registrar and any reference in any law to a deputy registrar shall be construed accordingly.

(4) The Chief Justice may terminate the appointment of a temporary deputy registrar at any time.

(5) A temporary deputy registrar may be called Master.

(6) In this section and section 14C, "temporary deputy registrar" (暫委副司法常務官) means a person appointed under subsection (1) to be a temporary deputy registrar.

14B. Appointment of temporary assistant registrars

(1) The Chief Justice may appoint a person to be a temporary assistant registrar if -

- (a) the office of any assistant registrar becomes vacant for any reason; or

ClauseAmendment Proposed

(b) he considers that the interest of the administration of justice requires that a temporary assistant registrar should be appointed.

(2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary assistant registrar for a specified period only.

(3) A temporary assistant registrar shall, during the period for which he is appointed, have all the jurisdiction, powers and privileges, and discharge all the duties of an assistant registrar and any reference in any law to an assistant registrar shall be construed accordingly.

(4) The Chief Justice may terminate the appointment of a temporary assistant registrar at any time.

(5) A temporary assistant registrar may be called Master.

(6) In this section and section 14C, "temporary assistant registrar" (暫委助理司法常務官) means a person appointed under subsection (1) to be a temporary assistant registrar.

ClauseAmendment Proposed

14C. Powers of temporary deputy registrars, etc. in case which is part-heard on termination of appointment

(1) If the hearing of any proceedings before a temporary deputy registrar is adjourned or if he reserves judgment in any proceedings, the temporary deputy registrar shall have power to resume the hearing and determine the proceedings or deliver judgment, notwithstanding that his appointment as a temporary deputy registrar has expired or has been terminated.

(2) Subsection (1) shall apply to a temporary assistant registrar as it applies to a temporary deputy registrar."."

14 By deleting the clause and substituting -

"14. Officer illegally demanding fees

Section 26 is repealed."

20 In the proposed section 32 -

(a) by deleting subsections (1) and (2) and substituting -

"(1) The Court has jurisdiction to hear and determine any action founded on contract, quasi-contract or tort where the amount of the plaintiff's claim does not exceed \$600,000.";

ClauseAmendment Proposed

(b) by deleting subsection (3) and substituting -

"(3) In this section and in section 34, the amount of the plaintiff's claim means the amount the plaintiff claims after taking into account -

(a) any set-off or any debt or demand the defendant claims or may recover from the plaintiff;

(b) any compensation, as defined in section 3 of the Employees' Compensation Ordinance (Cap. 282), paid to the plaintiff under that Ordinance; and

(c) any contributory negligence,

that the plaintiff admits in his statement of claim."

22

(a) By deleting the proposed section 35 and substituting -

"35. Jurisdiction for recovery of land

The Court has jurisdiction to hear and determine any action for the recovery of land, where the annual rent or the rateable value of the land, determined in accordance with the Rating Ordinance (Cap. 116), or the annual value of the land, whichever is the least, does not exceed \$240,000."

ClauseAmendment Proposed

- (b) By deleting the proposed section 36 and substituting -

**"36. Jurisdiction where title
in question**

The Court has jurisdiction to hear and determine any action which would otherwise be within the jurisdiction of the Court and in which the title to an interest in land comes into question if -

- (a) for an easement or licence, the rateable value, determined in accordance with the Rating Ordinance (Cap. 116) or the annual value, whichever is the less, of the land, over which the easement or licence is claimed, does not exceed \$240,000; or
- (b) for any other case, the rateable value, determined in accordance with the Rating Ordinance (Cap. 116) or the annual value, whichever is the less, of the land, does not exceed \$240,000."
- (c) By deleting the proposed section 37(4) and substituting -

"(4) Nothing in this section gives jurisdiction to the Court in proceedings for the recovery of land or relating to the title to land, where the annual rent or the rateable value of the land, determined in accordance with the Rating Ordinance (Cap. 116), or the annual value of the land, whichever is the least, exceeds \$240,000."

- (d) By deleting the proposed section 39.

ClauseAmendment Proposed

- (e) In the proposed section 40, by deleting "and 39".
- (f) By deleting the proposed section 42(3) and substituting -

"(3) If a defendant in an action or proceeding within the jurisdiction of the Court makes a counterclaim which is not within the jurisdiction of the Court but within the jurisdiction of the Court of First Instance, the Court may, either of its own motion or on the application of any party, order -

- (a) that the whole proceedings be transferred to the Court of First Instance; or
- (b) that the proceedings on the counterclaim be transferred to the Court of First Instance; and the proceedings on the plaintiff's claim, except for a defence of set-off as to the whole or a part of the subject matter of the counterclaim, be heard and determined by the Court; or
- (c) where the Court considers the whole proceedings should be heard and determined in the Court, that the matter be reported to the Court of First Instance or a judge thereof.

ClauseAmendment Proposed

(4) On the receipt of a report mentioned in subsection (3)(c), the Court of First Instance or a judge thereof may, as it or he thinks fit, order either

-

- (a) that the whole proceedings be transferred to the Court of First Instance; or
- (b) that the whole proceedings be heard and determined in the Court; or
- (c) that the proceedings on the counterclaim be transferred to the Court of First Instance; and the proceedings on the plaintiff's claim, except for a defence of set-off as to the whole or a part of the subject matter of the counterclaim, be heard and determined by the Court.

(5) Where an order is made under subsection (3)(b) or subsection (4)(c) and judgment on the claim is given for the plaintiff, execution thereon shall, unless the Court of First Instance or a judge thereof at any time otherwise orders, be stayed until the proceedings transferred to the Court of First Instance have been concluded.

(6) If no report is made under subsection (3)(c), or if on any such report it is ordered that the whole proceedings be heard and determined in the Court, the Court shall have jurisdiction to hear and

ClauseAmendment Proposed

determine the whole proceedings notwithstanding any enactment to the contrary."

(g) In the proposed section 43, by deleting "(whether or not the party has entered into a jurisdiction agreement under section 39)".

(h) By deleting the proposed section 44A(3) and substituting -

"(3) Upon a transfer under subsection (1), the Court shall have jurisdiction to hear and determine all or part of an action or proceedings, including a counterclaim, so transferred notwithstanding any enactment to the contrary."

23

(a) By deleting the proposed section 49(5) and substituting -

"(5) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs."

(b) In the proposed section 49(7), by deleting "cannot" and substituting "shall not".

27

(a) In the heading, by deleting "**Sections**" and substituting "**Section**".

(b) By deleting "are added" and substituting "is added".

(c) By deleting the proposed section 53.

<u>Clause</u>	<u>Amendment Proposed</u>
30	(a) In the heading, by deleting " Sections " and substituting " Section ". (b) By deleting the proposed section 59A.
32	By deleting the proposed section 63(1) and substituting - " (1) Subject to subsection (3), an appeal can, with leave, be made to the Court of Appeal from every judgment, order or decision of a judge in any civil cause or matter.".
39	By deleting the clause and substituting - "39. Sections added The following are added - "71A. Registrar may apply for order The Registrar may, in case of doubt or difficulty, apply summarily to the Court for an order for the direction and guidance of a bailiff, and the Court may make such order in the matter as may seem just and reasonable. 71B. Protection of Registrar (1) No action shall be brought against the Registrar for - (a) any act done or omitted to be done by any bailiff without directions from the Registrar; or

ClauseAmendment Proposed

(b) any direction given to any bailiff with regard to the execution or non-execution of process if -

(i) such directions are in accordance with an order from the Court under section 71A; and

(ii) no material fact is wilfully misrepresented or suppressed by the Registrar.

(2) In this section, "Registrar" (司法常務官) includes a Master."."

40

In the proposed section 72 -

(a) by deleting subsection (2)(f) and substituting -

"(f) providing that, in any case where a document filed in, or in the custody of, the Registry of the Court is required to be produced to any court or tribunal (including an umpire or arbitrator) sitting elsewhere than at the Court -

(i) it shall not be necessary for any officer, whether served

ClauseAmendment Proposed

with a subpoena in that behalf or not, to attend for the purpose of producing the document; but

- (ii) the document may be produced to the court or tribunal by sending it to the court or tribunal, in the manner prescribed in the rule, together with a certificate, in the form so prescribed, to the effect that the document has been filed in, or is in the custody of, the Registry,

and any such certificate shall be prima facie evidence of the facts stated in it.";

- (b) by deleting subsection (3).

41 By deleting the clause and substituting -

"41. Section substituted

Section 73A is repealed and the following substituted

-

"73A. Amendments of limits of jurisdiction and other amounts

The amounts mentioned in sections 32, 33, 35, 36, 37, 49, 52, 68B and 69B may be amended by resolution of the Legislative Council.".

ClauseAmendment Proposed

44 By adding before subclause (1) -

"(1A) The Judicial Officers Recommendation Commission Ordinance (Cap. 92) is amended in Schedule 1 by adding at the end -

"Registrar of the District Court
Deputy Registrar, District Court
Assistant Registrar, District Court".

Schedule 1 In item 1, in column 3, in paragraph (a), by deleting "where it first" and substituting "wherever it".

Schedule 2 (a) By adding before item 1 -

"1A. Jury Ordinance (Cap. 3) (a) Renumber section 5 as section 5(1).

(b) In section 5(1)(b)(i), repeal "或副司法常務主任" and "或助理司法常務主任".

(c) Add -

"(2) In this section -

(a) reference to Registrar includes reference to the Registrar of the District Court;

ClauseAmendment Proposed

(b) "Deputy Registrar" (副司法常務官) means Deputy Registrar of the High Court or of the District Court;

(c) "Assistant Registrar" (助理司法常務官) means Assistant Registrar of the High Court or of the District Court."

(b) In item 1, in column 3 -

- (i) by renumbering the paragraph as paragraph (a);
- (ii) in paragraph (a), by deleting "Order 61, rules 2(2) and 3(1)(b) and (6),";
- (iii) by adding -

"(b) In Order 61, rules 2(2) and 3(1)(b) and (6), add "或審裁處的司法常務官" after "書記主任"."

(c) In item 4, by deleting column 3 and substituting -

"(a) In section 2, in the definition "registrar", repeal "(司法常務主任)" and substitute "(司法常務官)".

ClauseAmendment Proposed

- (b) In sections 7A, 7B, 7C, 9(8) and 13(b), repeal "司法常務主任" wherever it appears and substitute "司法常務官".
- (d) By adding -
- | | |
|--|--|
| "6A. Labour Tribunal (General) Rules (Cap. 25 sub. leg.) | (a) In rule 7, repeal "或司法常務主任" where it twice appears. |
| | (b) In rule 12(2) and (3), repeal "司法常務主任" and substitute "司法常務官". |
| 6B. Labour Tribunal (Forms) Rules (Cap. 25 sub. leg.) | In the Schedule - |
| | (a) in Forms 5 and 17, repeal "區域法院司法常務主任" and substitute "區域法院司法常務官"; |
| | (b) in Form 17, repeal "區域法院司法常務主任" and substitute "區域法院司法常務官". |
- (e) By adding -
- | | |
|--|---|
| "8A. Tele-communication Ordinance (Cap. 106) | In section 15(2), repeal "副司法常務主任" and substitute "副司法常務官". |
|--|---|
- (f) In item 12, in column 3, by deleting "where it first" and substituting "wherever it".

ClauseAmendment Proposed

- (g) In item 24, in column 3, in paragraph (b), by deleting "或" and substituting "、".
- (h) By adding -
- "39A. Estate Agents (Registration of Determination and Appeal) Regulation (L.N. 17 of 2000)
- (a) (i) In section 2, in the definition "Registrar", repeal "(司法常務主任)" and substitute "(司法常務官)".
- (ii) In sections 3(2) and (3), 4(2) and 5(2) and Schedule 1 (Form 2), repeal "司法常務主任" wherever it appears and substitute "司法常務官".
- (b) In Schedule 1 (Forms 1 and 2), repeal "司法常務主任" and substitute "司法常務官".".

Annex VII

AIR CARGO TRANSHIPMENT (FACILITATION) BILL 2000

COMMITTEE STAGE

Amendments to be moved by the Secretary for Trade and Industry

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 1	<p>(a) In section 1, in paragraph (b) of the proposed definition of "機場貨物轉運區", by deleting "總監" and substituting "關長".</p> <p>(b) In section 2, in proposed section 2AA -</p> <p style="padding-left: 40px;">(i) in subsection (1), by adding ", after consultation with the Airport Authority," after "may";</p> <p style="padding-left: 40px;">(ii) in subsection (2), by deleting "公布的通知" and substituting "刊登的公告".</p> <p>(c) In section 5, in proposed regulation 6AA(7), by deleting everything after "particulars of" and substituting -</p> <p style="padding-left: 80px;">"-</p> <p style="padding-left: 120px;">(i) the person who committed the act or default or gave the information; and</p> <p style="padding-left: 120px;">(ii) the act, default or information,</p> <p style="padding-left: 40px;">of which he is aware at the time he serves the notice."</p>

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 2	<p>In section 2, in proposed section 9A(4), by deleting everything after "particulars of" and substituting -</p> <p>"-</p> <p>(i) the person who committed the act or default or gave the information; and</p> <p>(ii) the act, default or information,</p> <p>of which he is aware at the time he serves the notice."</p>
Schedule 4	<p>(a) In section 2, in proposed regulation 5A(3), by deleting everything after "particulars of" and substituting -</p> <p>"-</p> <p>(i) the person who committed the act or default or gave the information; and</p> <p>(ii) the act, default or information,</p> <p>of which he is aware at the time he serves the notice."</p> <p>(b) In section 4, in proposed regulation 3A(3), by deleting everything after "particulars of" and substituting -</p> <p>"-</p> <p>(i) the person who committed the act or default or gave the information; and</p>

ClauseAmendment Proposed

- (ii) the act, default or information,
of which he is aware at the time he serves the notice."
- (c) In section 6, in proposed regulation 3A(3), by deleting everything after "particulars of" and substituting -
- "-
- (i) the person who committed the act or default or gave the information;
and
- (ii) the act, default or information,
of which he is aware at the time he serves the notice."
- (d) In section 8, in proposed regulation 3B(3), by deleting everything after "particulars of" and substituting -
- "-
- (i) the person who committed the act or default or gave the information;
and
- (ii) the act, default or information,
of which he is aware at the time he serves the notice."
- (e) In section 10, in proposed regulation 4A(4), by deleting everything after "particulars of" and substituting -
- "-

ClauseAmendment Proposed

- (i) the person who committed the act or default or gave the information; and
- (ii) the act, default or information,
- of which he is aware at the time he serves the notice."
- (f) In section 12, in proposed regulation 7A(3), by deleting everything after "particulars of" and substituting -
- "-
- (i) the person who committed the act or default or gave the information; and
- (ii) the act, default or information,
- of which he is aware at the time he serves the notice."
- (g) In section 14, in proposed regulation 3A(3), by deleting everything after "particulars of" and substituting -
- "-
- (i) the person who committed the act or default or gave the information; and
- (ii) the act, default or information,
- of which he is aware at the time he serves the notice."

ClauseAmendment Proposed

Schedule 5 In section 2, in proposed regulation 3A(4), by deleting everything after "particulars of" and substituting -

" -

(i) the person who committed the act or default or gave the information; and

(ii) the act, default or information,

of which he is aware at the time he serves the notice."

Schedule 6 In section 3, in proposed regulation 4BA(4), by deleting everything after "particulars of" and substituting -

" -

(i) the person who committed the act or default or gave the information; and

(ii) the act, default or information,

of which he is aware at the time he serves the notice."

Schedule 7 In section 2, in proposed regulation 4A(5), by deleting everything after "particulars of" and substituting -

" -

(i) the person who committed the act or default or gave the information; and

(ii) the act, default or information,

of which he is aware at the time he serves the notice."

ClauseAmendment Proposed

Schedule 8 In section 2, in proposed section 4A(4), by deleting everything after "particulars of" and substituting -

" -

(i) the person who committed the act or default or gave the information; and

(ii) the act, default or information,

of which he is aware at the time he serves the notice."

Schedule 9 In section 2, in proposed section 11A(4), by deleting everything after "particulars of" and substituting -

" -

(i) the person who committed the act or default or gave the information; and

(ii) the act, default or information,

of which he is aware at the time he serves the notice."