

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 14 June 2000**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

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

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

**MEMBERS ABSENT:**

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE WONG YUNG-KAN

**PUBLIC OFFICERS ATTENDING:**

MR MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

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

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

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

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

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

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

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

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

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

MR KEVIN HO CHI-MING, J.P.  
SECRETARY FOR TRANSPORT

MR CLEMENT MAK CHING-HUNG, J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MS MARIA KWAN SIK-NING, J.P.  
SECRETARY FOR ECONOMIC SERVICES

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

MS EVA CHENG, J.P.  
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

### **CLERKS IN ATTENDANCE:**

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

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Road Traffic (Traffic Control) (Designation of Prohibited and Restricted Zones) (Amendment) Notice 2000 .....	207/2000
Security and Guarding Services (Amendment) Ordinance 2000 (25 of 2000) (Commencement) Notice 2000 .....	208/2000
Security and Guarding Services (Fees) (Amendment) Regulation 2000 (L.N. 134 of 2000) (Commencement) Notice 2000 .....	209/2000
Security and Guarding Services (Licensing) (Amendment) Regulation 2000 (L.N. 135 of 2000) (Commencement) Notice 2000 .....	210/2000

**Other Papers**

Report of the Panel on Constitutional Affairs - Development of the political system of the Hong Kong Special Administrative Region

Report of the Panel on Manpower 1999/2000

Report of the Panel on Public Service 1999/2000

Report of the Panel on Administration of Justice and Legal Services 1999/2000

Report of the Panel on Education 1999/2000

Report of the Panel on Trade and Industry 1999/2000

Report of the Panel on Economic Services 1999/2000

Report of the Bills Committee on Buildings (Amendment) Bill 2000

Report of the Bills Committee on Family Status Discrimination (Amendment) Bill 2000

Report of the Bills Committee on Entertainment Special Effects Bill

## **ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. Mr LAU Chin-shek will address the Council on the report of the Panel on Manpower 1999/2000.

### **Report of the Panel on Manpower 1999/2000**

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I submit the report on the work of the Panel on Manpower in 1999-2000 to the Legislative Council in my capacity as Chairman of the Panel and will highlight several of its main tasks.

With the rapid development of electronic commerce and application of information technology (IT), the Panel noted with concern the manpower shortage of IT professionals. In the Panel's view, the Administration should work closely with various training institutions with a view to providing sufficient training courses that are relevant to the needs of the market, in order to meet the needs of the industry. The Panel urged the Administration to be far-sighted in formulating its manpower planning and training strategies to equip the workforce with the necessary skills demanded by the market.

Members were concerned about the impact on local employment of China's accession to the World Trade Organization (WTO). The Administration informed members that it considered it necessary to formulate more focused training and retraining programmes and measures to assist the local workforce in adapting to the new challenges to be brought about by China's

accession to the WTO. The Administration has set up an interdepartmental Steering Committee to study in detail the implications of China's accession to the WTO for Hong Kong's employment market. The Panel requested the Administration to report to the Panel the results of the study before mapping out its manpower training strategy for the coming three to five years.

The Panel expressed concern that the Vocational Training Council (VTC) was trying to develop into a tertiary education institution to the neglect of the training needs of secondary school leavers. Members pointed out that the principal objective of the VTC is to provide vocational training for Secondary Three and Five school leavers. The Administration assured the Panel that the VTC would not develop into a tertiary education institution. To respond to the needs of the employment market, the VTC has enhanced training in general skills, such as training in language skills and computer operation. The Administration stressed that it would strive to secure more resources for the training of Secondary Three or Five school leavers. Some members also urged the Administration to take the lead in recognizing the Certificate in Vocational Studies in its appointment of new staff, so that it would be generally accepted by employers as equivalent to Secondary Five standard.

With regard to the result of the consultancy review of the Employees Compensation Assistance Scheme (ECAS), some members considered the three options put forward by the consultant unacceptable. The option of retaining the existing Scheme would result in a substantial increase in the payment of employees' compensation insurance levy by employers, while the other two options, one being capping the payment to each applicant at \$4 million and the other removing the common law payment, would reduce the protection for employees. Some members suggested that the Administration should consider a new option where the operation of the ECAS would be financed by fines collected for employers' non-compliance with the requirement of taking out policies pursuant to the Employees' Compensation Ordinance. Members also suggested that the Administration should consider increasing the level of fine on employers who did not take out the compulsory employees' compensation insurance and step up enforcement action.

Members expressed support for the Administration's proposals that where an employee who has been ruled to have been unreasonably and unlawfully dismissed makes a claim for reinstatement, the Labour Tribunal may make an order of reinstatement if the Tribunal considers it appropriate and reasonably

practicable without securing the consent of the employer. Members urged the Administration to introduce the relevant legislative proposals as soon as practicable. Some members considered that the dismissal of an employee who had taken part in a strike should be classified as unlawful dismissal so that he would be entitled to reinstatement. Other members held different views. The Administration considered that as the reinstatement of employees dismissed for participation in a strike had wide implications, the issue would need to be examined in detail by the Labour Advisory Board.

Employment relations were one of the main concerns of the Panel. A Subcommittee set up by the Panel was tasked to examine in detail issues relating to the right to organization, discrimination against trade unions, collective bargaining and the right to strike. The Subcommittee urged the Administration to look into the use of trade union funds for political purposes other than running in the election of the two-tier councils and the restrictions on the eligibility trade union office-bearers.

I wish to take this opportunity to thank members for their contribution to the Panel's work.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung will address the Council on the report of the Panel on Public Service 1999/2000.

### **Report of the Panel on Public Service 1999/2000**

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, I submit to the Legislative Council the work report of the Panel on Public Service for the period from July 1999 to May 2000 in my capacity as Chairman of the Panel.

The report accounts for the major work undertaken by the Panel over the past year. I will highlight a few key points here.

First, the Panel noted with concern that the Administration had made a series of civil service reform proposals as well as introduced schemes for the corporatization and contracting out of public services over the past year. The

Panel understood that the relevant proposals and schemes aimed at enhancing the efficiency and cost effectiveness of the Civil Service. However, the Panel was of the view that in formulating the relevant policies and measures, the Administration must strive to balance the interest of the Civil Service and the public, as well as carefully consider the impact of the scope and pace of reform on the stability and morale of the Civil Service. The Administration assured the Panel that in the course of reform, reasonable arrangements would be made for existing staff through manpower deployment and retraining, and retrenchment would be avoided as far as possible.

Among the relevant reform proposals, the Panel was inclined to support the streamlining of disciplinary procedures. However, it had reservations about the new civil service entry system and the retirement compensation scheme.

Members also expressed divergent views on the proposal to reduce the starting salaries of civil servants. Some members considered it necessary to ensure that the starting salaries of civil servants come close to those in the private sector. However, other members and civil service unions considered that it was unfair to civil servants since the relevant review was carried out when the economic recession in Hong Kong was at its worst. In this connection, the Administration agreed to carry out more frequent reviews of civil service pay in future and to allow the majority of existing staff to retain their original salary level on transfer to another grade.

The Panel also expressed concern about the fringe benefits of civil servants and employees of subvented organizations, the policy and mechanism for the adjustment of civil service pension, the policy on promotion and transfer, the civil service consultative machinery and the declaration of investment. With regard to the declaration of investment, the Panel urged the Government to refer to the practices of overseas countries and further review the relevant declaration system. At the same time, the Panel asked the Legislative Council Secretariat to compare the practice of Hong Kong and overseas countries in terms of the declaration of investment by civil servants. After further reviewing the relevant system, the Government agreed to issue additional guidelines and provide a review checklist to be adopted by Bureau Secretaries and Heads of Department in vetting and reviewing the declaration returns, in order to strengthen the monitoring measures.

Lastly, I wish to take this opportunity to thank members of the Panel and the Secretariat for their contribution to the Panel's work.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Miss Margaret NG will address the Council on the report of the Panel on Administration of Justice and Legal Services 1999/2000.

### **Report of the Panel on Administration of Justice and Legal Services 1999/2000**

**MISS MARGARET NG:** Madam President, I speak in my capacity as Chairman of the Panel on Administration of Justice and Legal Services. The Panel has discussed many issues in this Session. Today, I would like to highlight a few major ones.

On legal aid, the issue of the establishment of an independent legal aid authority was a matter of great concern to the Panel. Some members of the Panel were very disappointed about the Administration's decision not to implement the recommendations of the Legal Aid Services Council to establish an independent legal aid authority. They held the view that some of the reasons adduced by the Administration for its decision, such as resource implications and the possible impact on staff morale in the Legal Aid Department and so on, should not be the prime considerations. The Panel agreed to continue to take a strong interest in the general question of the independence of legal aid administration.

On legal education and training, the Panel welcomed the comprehensive review which was initiated by the two legal professional bodies and supported by the Administration as well as the law schools of the University of Hong Kong and the City University of Hong Kong. The Panel noted that the review would be carried out in two stages, namely, a consultancy stage to be followed by a further study by a Review Panel. The first stage of the review was expected to be completed by February 2001. The Panel would closely monitor the progress of the review.

The Panel requested the Administration to brief members on measures taken to restore confidence in the rule of law and judicial independence, following widespread concern over the Government's decision to request for an interpretation by the Standing Committee on the National People's Congress of Article 22 para 4 and Article 24 para 2(3) of the Basic Law in May 1999. The Administration reiterated that the Government would only seek an interpretation from the Standing Committee in highly exceptional circumstances, and that the request made in May 1999 was lawful and constitutional, and did not interfere with judicial independence. Some members have demanded that the Government should give an unequivocal assurance that it would not again seek an interpretation from the Standing Committee in order to restore confidence in Hong Kong's legal system, but the Administration declined to do so. Subsequent to the meeting, the Secretary for Justice was requested to provide a full explanation as to why the Government refused to give an assurance as to the future.

In response to the Panel's request, the Administration has agreed to introduce a leapfrog procedure to enable certain civil appeals to be made directly to the Court of Final Appeal (CFA) from the Court of First Instance. The Administration would implement the proposal by way of amending the Court of Final Appeal Ordinance in the next Legislative Session.

The Panel was dissatisfied with the time taken for the review of the applicability of the Personal Data (Privacy) Ordinance to Central People's Government offices. In February 1999, the Panel was advised that the review would need more time because of the complexity of the Ordinance. In addition, discussions with the Central People's Government were required. The Administration has no substantive progress to report since then. Some members held the view that whether an ordinance should bind the offices of the Central People's Government was a matter of principle, regardless of the complexity of the Ordinance. Moreover, the decision should not be subject to the consent of the Central People's Government. The Chief Secretary for Administration has been requested to expedite the review of the Ordinance.

The role of the Legislative Council in endorsing the appointment of judges of the CFA under Article 73(7) of the Basic Law was discussed by the Panel. The Administration considered that the Council's endorsement should only be

withheld if it was satisfied that the requirements set out in the Basic Law regarding judicial appointments had not been followed. Members took the view that the power conferred by Article 73(7) was a substantive power to be exercised responsibly and with due regard for the independence of the Judiciary. As the Judicial Officers Recommendations Commission was entrusted with functions to advise or make recommendations to the Chief Executive regarding the filling of vacancies in judicial offices, representatives of the Commission were invited to meet with the Panel and to provide information regarding the process for making recommendations for appointment of CFA judges. Since then, the representatives of the Commission have met once with the Panel.

Madam President, these are my short remarks on the Report.

**PRESIDENT** (in Cantonese): Mr YEUNG Yiu-chung will address the Council on the report of the Panel on Education 1999/2000.

### **Report of the Panel on Education 1999/2000**

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, as Chairman of the Panel on Education, I wish to report on the work of the Panel for the 1999-2000 Legislative Council Session.

Over the past year, the Panel has held discussions with the Administration on a number of issues of concern to the public and the education sector. I will now highlight some of the issues discussed by the Panel.

The Panel has urged the Government to review the Secondary School Places Allocation System (SSPA) — under which a student may be refused admission on the basis of sex — to remove all possible forms of discrimination from the education system. The Administration has pointed out that the Education Commission is reviewing possible options to replace the SSPA in the context of the overall review of Hong Kong's education system.

The Panel has expressed concern about the larger school sponsoring bodies (SSBs) occupying a predominant position in running the 1 800 aided schools, Direct Subsidy Schools (DSS), and kindergartens. The Panel suggests that the Government should accord priority to existing SSBs operating one to two schools in school allocation, given that such SSBs possess the necessary education experience.

The Panel has expressed disappointment over the Government's decision to suspend the implementation of the School Improvement Programme (SIP) projects in 109 schools costing more than one third of the construction cost of a new school, pending the outcome of a consultancy study to review the cost-effectiveness of the current steps and procedures for SIP implementation. The Panel considers that those schools with total project costs slightly in excess of the cost threshold should not be excluded from the SIP.

The Panel supports the framework of strategies drawn up by the Government to improve the language proficiency of students, which includes the strategy of improving the pedagogy of teachers through strengthening continuous professional development. The Panel considers that the native English-speaking teachers (NETs) scheme should be introduced in primary education rather than in secondary education, and has noted the Government's proposal to deploy NETs to primary schools on a district basis. The Panel also welcomes the Government's initiative to provide guidelines and learning materials in the form of publications, homepages and radio broadcast to enable parents to play the role as their children's first teachers.

The Panel has noted with concern that the Government has provided 50% financial support to the Open University of Hong Kong (OUHK) for the establishment of a Regional Learning Centre, as opposed to the 100% funding support for the establishment of the former Opening Learning Institute. The Panel has urged the Government to provide more financial support to fund the capital projects of the OUHK, so that the OUHK would have sufficient resources under its reserve fund for educational development in the future.

On enhancing the transparency of the management of University Grants Committee (UGC)-funded institutions, the Panel supports disclosure of information on the attendance records of members of the governing bodies of these institutions. The Panel also considers that the grievance and appeal

procedures put in place in these institutions should be widely publicized amongst both academic and non-academic staff members of the individual institutions concerned.

The Education Commission briefed the Panel on the consultation documents on "Proposed Framework for Education Reform" and "Review of the Education System: Reform Proposals". The Panel on Education of the new term of the Legislative Council will no doubt follow up on the final recommendations drawn up by the Education Commission in the light of the comments and suggestions received during the public consultation exercise which will end on 31 July this year.

Madam President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam will address the Council on the Report of the Panel on Trade and Industry 1999/2000.

### **Report of the Panel on Trade and Industry 1999/2000**

**MR CHAN KAM-LAM** (in Cantonese): Madam President, in my capacity as the Chairman of the Panel on Trade and Industry, I now table before this Council the work report of the Panel for 1999-2000 and briefly account for a few key areas of the Panel's work.

The protection of copyright has been one of the Panel's major concerns. The Panel welcomes the inclusion of piracy and counterfeiting activities to Schedule 1 of the Organized and Serious Crimes Ordinance. With the enhanced investigation and enforcement powers conferred under the Ordinance, the Administration is able to take more effective action to combat piracy activities. In fact, piracy activities have been remarkably reduced in recent months. However, the Panel notes that some optical disc manufacturers may have difficulties in verifying the authenticity of copyright authorizations. In order to provide assistance in this aspect, the Panel has exchanged views with the Administration and the copyright-based industry on the measures that could assist the manufacturers in the verification process. It has also urged the Administration to take proactive measures to combat piracy activities on the Internet.

The Panel welcomes the positive progress in relation to China's accession to the World Trade Organization (WTO). In reviewing the implications of China's WTO accession to the global economy and that of Hong Kong, the Panel notes that China's accession to the WTO will bring along opportunities and challenges to the Mainland as well as Hong Kong. With Hong Kong's profound trading experience, extensive business network, and close cultural and language semblance with the Mainland, Hong Kong will keep on securing a fair share of the emerging economic and trade opportunities, in particular its dominant position in banking, insurance and telecommunication sectors.

In view of the development towards high value-added and high technology industries, members are concerned about the competitiveness of the Hong Kong workforce. As a result, the Panel urges the Administration to assist the lower-skilled workers affected by the new economy, and take more proactive measures to induce foreign investors to set up joint ventures in China with Hong Kong's entrepreneurs.

In order to cope with Hong Kong's economic transformation, the Panel considers it necessary to strengthen its support in promoting innovation and technological improvements in the manufacturing and service industries. In this regard, the Panel takes a keen interest in the progress of the introduction of the Innovation and Technology Fund and the Applied Research Fund. The Panel also supports the speeding up of the construction of the Science Park, which aims at attracting advanced technology-based corporations or professionals from overseas to Hong Kong. The Administration has also assured that buildings in the Park would be built with necessary technological facilities to cater for the needs of hi-tech industries.

In order to enhance the competitiveness of Hong Kong, the Panel considers it necessary to nurture competition for the purpose of enhancing economic efficiency and promoting free trade, thereby benefiting the consumers. As a result, the Panel supports the proposed rice trade liberalization plan which aims at full liberalization of the trade by 2003. Members note that upon full liberalization, the Administration will exercise minimum control necessary to ensure a stable supply of rice for consumption by the population. They have cautioned the Administration that in the course of liberalization, close monitoring is required to avoid monopolization of the trade by a few major supermarket chains.

As small and medium enterprises (SMEs) are the backbone of Hong Kong economy, the Panel therefore pays special attention to the assistance given to them. In addition, the Panel fully supports the Administration's proposal to raise the approved commitment under the Special Finance Scheme for SMEs from \$2.5 billion to \$5 billion, so as to enable more SMEs to benefit from the financial guarantees provided under the Scheme.

The report carries a full account of other major work of the Panel. I so submit, Madam President. Thank you.

**PRESIDENT** (in Cantonese): Mr James TIEN will address the Council on the report of the Panel on Economic Services 1999/2000.

### **Report of the Panel on Economic Services 1999/2000**

**MR JAMES TIEN** (in Cantonese): Madam President, in my capacity as the Chairman of the Panel on Economic Services, I now give a brief account on several key areas of the work of the Panel to Honourable Members.

The Disneyland, a theme park to be built in Hong Kong, has been the key item on the agenda of the Panel throughout the entire Session. Subsequent to the conclusion of the agreement made between the Administration and Walt Disney Company Limited, successive Panel meetings were held to study extensive issues with regard to the project; including the financial viability, the economic impact and financial benefits to Hong Kong, as well as the legal liabilities of the Administration under the agreement. Moreover, the Panel is gravely concerned about the environmental impact of the project on Penny's Bay. After examining the Environmental Impact Assessment Study carefully, members of the Panel have urged the Administration to formulate sufficient measures to protect the nearby ecological environment. In addition, to promote the development of the theme park, members have advised the Administration to draw up relevant policies which will attract more mainland visitors to visit Hong Kong, and make the necessary infrastructure and manpower available to cope with the development of the entire project. In response to a request made by members, the Administration has agreed to submit periodical progress report to the Panel for follow-up actions in the future.

Monitoring the development of the power supply sector is another major concern of the Panel. Members generally support the implementation of the Demand Side Management (DSM) Programme and the idea of encouraging the public to make better use of electricity power, with a view to further enhancing energy efficiency and environmental conservation. However, as the rebate programme will incur costly administrative fees, the Panel has urged the Administration to examine whether or not it is necessary to extend the DSM Programme to residential users after the Programme is implemented to industrial and commercial users.

With regard to the proposal of China Light and Power Company Limited (CLP) in deferring the date of operation of the two generator units at Blackpoint Power Station to 2005 and 2006, the Panel has reiterated that unless there is information justifying the need of commissioning the two units to cope with demands by 2005-06, the cost of the two units should not be included in the net assets value of the CLP in calculating the permitted rate of return under the Scheme of Control Agreement (SCA). Furthermore, the Panel has also examined the possibility of requesting Hongkong Electric Company Limited (HEC) to purchase the two units of the CLP, so that the HEC may discontinue with its plan to build the additional Lamma Power Station.

With regard to increasing the interconnection capacity of the CLP and the HEC, the Panel has scrutinized the possible cost and efficiency of the proposal. The Panel has also looked into the possibility of changing the existing market structure to enhance competition in the power supply sector. The Panel urges the Administration to take the competition issue into consideration in the course of reviewing the SCA of the two power companies.

Concerning services and facilities of the Hong Kong International Airport (HKIA), the Panel has raised suggestions on a number of issues, including the policy of setting up a logistics centre in the HKIA, measures to lower handling fees charged by the air cargo terminals, and the implementation of various improvement works to make the airport better suit the need of users. With regard to a number of air traffic accidents happened ever since the commissioning of the new airport, the Panel has inspected their causes and urged the Administration to enhance staff training and set up an effective control mechanism, in order to ensure the safety and efficiency of air services.

The Panel has also studied a number of issues in relation to the development of sea and air transport in Hong Kong. Regarding the concept of the logistics centre, the Panel has urged the Administration to enhance the co-ordination between the marine, land and air transport agencies and different businesses, so as to materialize the one-stop-shop logistics service in the future. Furthermore, in view of the exorbitant container terminal fees charged by shipping agencies, which is unfavourable to the development of container port in Hong Kong, the Panel has urged the Administration to keep on discussing with the relevant parties and resolve the problem through negotiations.

Madam President, the Panel's other key areas of work are presented in the report tabled. I so submit. Thank you, Madam President.

## ORAL ANSWERS TO QUESTIONS

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

### **Brokerage-free Internet Securities Trading Services**

1. **MR FUNG CHI-KIN** (in Cantonese): *Madam President, recently, a securities company provides brokerage-free Internet securities trading services to its new clients. The company is a registered securities dealer, but not an Exchange Participant of the Stock Exchange of Hong Kong (SEHK). In this connection, will the Government inform this Council:*

- (a) *whether the rules and regulations that should be observed by securities dealers who are not Exchange Participants and the level of supervision on them are the same as those for Exchange Participants; if not, of the reasons for that;*
- (b) *given that investors involved in such brokerage-free Internet securities trading are not covered by the Unified Exchange Compensation Fund (UECF), how the authorities can ensure that these investors are properly protected; and*

- (c) *whether it has assessed if these brokerage-free securities trading services will lead to vicious competition in the securities industry; if the assessment result is in the positive, of the measures it will adopt; if the result is in the negative, of the justifications for that?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, first of all, I should like to thank the Honourable FUNG Chi-kin for giving me this chance to answer Honourable Members' questions in this Chamber on my second working day in the Financial Services Bureau. *(Laughter)* As regards the main question raised by Mr FUNG Chi-kin, my reply is as follows:

- (a) Under the Securities Ordinance, any business entity which carries on a business of dealing in securities or giving advice on investment in securities in Hong Kong is required to be registered as a dealer or an adviser with the Securities and Futures Commission (SFC). The registration requirements relating to securities dealers and investment advisers are set out in Part VI of the Securities Ordinance. Persons who are responsible for the supervision of business of dealing in securities or that of business as an investment adviser are also required to be registered as dealers or advisers. Also, no person can act as a dealer's representative or act as an investment representative unless he is registered as such. At the same time, any person or business entity intending to engage directly in the trading of securities directly on the SEHK must first become an Exchange Participant, formerly known as a member of the SEHK before the merger of the exchanges, and comply with the rules made by the SEHK. Securities dealers who are not Exchange Participants can only trade securities on the SEHK through an Exchange Participant.

All securities dealers registered with the SFC, be they Exchange Participants or not, must observe the relevant ordinances and subsidiary legislation and are subject to the same rules and regulations laid down by the SFC. Both Exchange Participant dealers and non-Exchange Participant dealers are subject to the same level of supervision by the SFC.

- (b) The UECF is established and managed according to the provisions of the Securities Ordinance. It is basically an SEHK-based compensation mechanism for investors, covering only clients of Exchange Participants. Under the Ordinance, the SFC is responsible for maintaining and administering the operation of the UECF. The SEHK is required to deposit a sum of \$50,000 with the UECF in respect of each trading right of each of its Exchange Participant as the basic source of funding for the UECF. Between 1991 and 1994, the SEHK also injected into the UECF 0.001 percentage point of its receivable income from the transaction levy, with a view to raising the reserve of the Compensation Fund to a prudential level. In early 1998, following the collapse of several securities companies, the SEHK and the SFC agreed to make additional injections totaling \$600 million into the UECF to meet compensation claims from the affected clients.

A securities company has recently offered to provide brokerage commission-free Internet securities trading services. Although the securities company concerned is associated with another securities firm which is an Exchange Participant, the company itself is not an Exchange Participant. Therefore, clients of the securities company are not covered by the UECF.

The SFC and the SEHK have recently reminded investors through the media that clients of non-Exchange Participants are not covered by the UECF. Under the Code of Conduct for registered dealers issued by the SFC, a registered dealer is required to disclose adequate information in its dealing with its clients, thus enabling investors to know the extent of protection they have. At the same time, each Exchange Participant is required by the Rules of the SEHK to display at its place of business its Exchange Participant certificate or branch certificate issued by the SEHK, as the case may be, for identification purpose.

The SFC issued a consultation document in September 1998 to consult public views on new investor compensation arrangements. The Securities and Futures Bill currently published in the form of a White Bill for public consultation provides a flexible framework for the future compensation scheme, enabling it to cover other types of

market intermediaries, including non-Exchange Participant dealers, in addition to Exchange Participants. The SFC is now undertaking a detailed study of the new compensation scheme in order to work out its mode of operation, financial requirements and substantive compensation arrangements. It is envisaged that the new compensation scheme would be put in place as soon as possible after the enactment and implementation of the Securities and Futures Ordinance.

I must however emphasize that the spirit of protecting investors does not lie in the establishment of a compensation mechanism for them. It is more important to enhance the integrity of the dealers and avoid defaults as far as possible by way of effective regulation. To ensure that all securities dealers (whether they are Exchange Participants or not) carry out trading for clients and manage their assets properly and honestly, securities dealers are required under the existing regulatory framework to meet the Fit and Proper Criteria laid down by the SFC. They are also required to observe all the relevant regulations including the Financial Resources Rules and the Internal Control Guidelines. The Financial Resources Rules stipulate that all registered securities dealers should maintain a certain amount of current assets to ensure that they are financially sound and capable to run their business. These Rules apply to both Exchange Participant dealers and non-Exchange Participant dealers. All of them are required to issue agreements and trading contracts to their clients, keep the documents and records relating to the transactions properly and deposit the clients' funds in designated trust accounts. The new Financial Resources Rules, effective from 12 June further raise the requirement on the financial resources of intermediaries and strengthen supervision over them to provide better protection for investors.

- (c) The existing Rules of the SEHK stipulate that all its Exchange Participants should charge their clients brokerage commission at a minimum rate of 0.25% of the transaction value. Securities companies which are not Exchange Participants are however not bound by this requirement. Although the company providing brokerage-free services recently is associated with another securities firm which is an Exchange Participant, it is not an Exchange

Participant itself. We understand that their mode of operation is to receive clients' orders through the non-Exchange Participant and have the transactions carried out on the SEHK through the associated company which is an Exchange Participant. The brokerage commission is paid by the non-Exchange Participant for the clients to the Exchange Participant. This practice does not violate any relevant legislation or rule. Some members of the brokerage industry have expressed concern over such business strategy and are worried that this might lead to vicious competition in the securities industry. Our stance is that the Government should not interfere with any legitimate commercial activities or inhibit free competition in any sector. The experience of the United States and the United Kingdom suggests that the removal of minimum commission does not necessarily mean that the small brokers would not survive. One of the special features of the Hong Kong market is that there is a very active retail sector. The local small brokers have over the years established their retail network and provided relatively more personalized services, which would be difficult to substitute regardless of the level of commission. To avoid being replaced under the force of free competition, it is important for the industry to enhance both its competitiveness and the value of the services it offers to clients.

**MR FUNG CHI-KIN** (in Cantonese): *Madam President, I thank the newly appointed Secretary, Mr Stephen IP, for his detailed reply. In referring to the practices of the relevant Exchange Participant and non-Exchange Participant in paragraph (c) of his main reply, the Secretary mentioned that such business strategy would not lead to vicious competition in the securities industry. In this connection, can I take it to mean that the Secretary is encouraging the existing Exchange Participants to set up registered securities trading firms to avoid the minimum commission requirement? One point I should like to raise is that the SEHK has decided to remove the minimum commission requirement in two years.*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I believe the Honourable Member understands the situation much better than I do. Apart from the recent example of brokerage-free Internet securities trading services referred to by Mr FUNG just now, I believe securities

dealers have also offered different forms of concessions to their clients in the past. This practice has been maintained all along. With respect to securities trading, actually there is a trend towards commission remission among the markets in Europe, the United States, Australia and Japan. As mentioned by Mr FUNG just now, the new stock exchange has already decided to implement the commission remission measures in April 2002. I think this is the world trend and also the general trend. We certainly respect the practices adopted by brokers, but most importantly, the major premise remains that they should abide by the law and observe all the relevant regulations and codes of practices laid down by the SEHK and the SFC. This is of utmost importance. At the same time, I also believe that our brokers will come up with a great many methods to enhance their competitiveness and thereby secure more clients.

**DR DAVID LI:** *Madam President, in view of the rapid development in information technology, how would the Government ensure that our laws remain enforceable in relation to e-commerce?*

**PRESIDENT** (in Cantonese): Dr David LI, could you please explain the relevance of your supplementary to the main question?

**DR DAVID LI:** *Madam President, the reason is that we are talking about Internet, and e-commerce is part of the Internet.*

**PRESIDENT** (in Cantonese): Dr David LI, please resume your seat first. According to my understanding, the main question asks about Internet securities trading services. However, your supplementary is on e-commerce, a subject matter much broader than that of the main question, which means that your supplementary has exceeded the scope of the main question. Will you please amend the wording of your supplementary to make it relevant to the main question?

Dr David LI, I will give you time to revise the wording. In the meantime, I will call upon other Members to raise their supplementaries.

**MR AMBROSE LAU** (in Cantonese): *Madam President, in the fourth paragraph of part (b) of his main reply the Secretary said, "the SFC is now undertaking a detailed study of the new compensation scheme in order to work out its mode of operation, financial requirements and substantive compensation arrangements. It is envisaged that the new compensation scheme would be put in place as soon as possible after the enactment and implementation of the Securities and Futures Ordinance." In this connection, may I ask the Secretary what does he mean by "would be put in place as soon as possible"? Does it imply that the Government would solicit opinions from the securities and futures sector and from the public? In addition, could the Secretary inform this Council how long the Government expects the new compensation scheme to be put in place after the implementation of the Securities and Futures Ordinance?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): I thank the Honourable Member for his supplementary. Madam President, although I am new on the post, I do know that we consulted the public on this matter in 1998. We certainly hope to make good use of this opportunity arising from the enactment of the Securities and Futures Ordinance to provide better protection for investors. At present, the SFC is examining the measures in great detail, with a view to setting out the relevant particulars under the Securities and Futures Bill before submitting them to the Legislative Council for consideration. I believe Members of the Council will take the provisions into careful consideration when scrutinizing the Bill. We will certainly consult the securities and futures sector when such need arises. Nevertheless, the most important point remains that the SFC is now undertaking a detailed study of the new compensation scheme. It is my hope that the Securities and Futures Bill could be expeditiously submitted to the Council in October or November, and I am sure the proposals contained therein will certainly be examined very carefully by Members of the Council. We naturally hope that the new compensation scheme can be put in place as soon as possible.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, with regard to the provision of brokerage commission-free services, the Secretary has remarked in paragraph (c) of his main reply that this practice did not violate any relevant legislation or rule. However, as we all know, this practice will obviously add to the operating cost. Indeed, as the Government has recently reminded investors through the media, "privileges will not be offered for no reason". For this*

*reason, I sense that there must be some special motives behind this reminder. Could the Secretary inform this Council of the Government's evaluation of this market strategy; whether it sees anything unhealthy in this strategy; and whether it will take a longer view in this connection?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, it is because we have taken a longer view that we believe we should encourage competition. As I said just now, this is the general trend. I am sure the Honourable Member is also aware that the brokerage commission rates chargeable in other markets including the United States, Australia and Japan are lower than that of ours. In order to enhance competitiveness, the new stock exchange has also decided to remove the minimum commission requirement two years later. This is a decided policy. Actually, the existing market competition can be turned to the advantage of investors. But then again, the most important point remains that investors must be adequately protected. Just now I spent considerable time reading out the measures we have in place to protect investors because I wanted Members to understand that even if there should be any commission-free services, Exchange Participant and non-Exchange Participant dealers alike would still be subject to the same level of supervision by the SFC. The only exception in this connection is the coverage of the UECF. As such, the SFC is currently undertaking a number of other efforts, with a view to extending the relevant protection to cover clients of non-Exchange Participant dealers.

**DR DAVID LI:** *Madam President, what avenue is in place to provide an effective redress mechanism for the users of the Internet securities trading services?*

**PRESIDENT** (in Cantonese): Dr David LI, you may now resume your seat.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, Dr David LI is rightly concerned with this matter, since the general trend is that more and more investors will be trading on the Internet. Actually, in the guidelines on regulation of Internet securities trading published in March last year, the SFC has already set out very clearly its approaches to monitoring

securities trading activities on the Internet. As I mentioned many times just now, we have currently published the Securities and Futures Bill in the form of a White Bill for public consultation. In this connection, we expect to proceed with the law drafting work in the coming two to three months, with a view to submitting the Bill to the Legislative Council for Members' careful consideration in October. Most importantly, in scrutinizing the Bill Members will be able to look into the provisions in this respect, in particular those proposed to enhance supervision over trading activities on the Internet.

**MR HUI CHEUNG-CHING** (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary mentioned that the experience of the United States and the United Kingdom had suggested that the removal of minimum commission did not necessarily mean that the small brokers would not survive. However, while the rates at which brokerage commission is chargeable are agreed between the brokers and their clients, the removal of minimum commission mentioned by the Government does not necessarily mean brokers will not charge their clients any brokerage commission. In view of the fact that a securities company has recently offered to provide brokerage commission-free Internet securities trading services, could the Secretary inform this Council how the securities dealers concerned would manage to survive; and whether a "lose-hit, win-take" situation would emerge as a result of their offering to provide brokerage commission-free services?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I thank the Honourable Member for his supplementary. Actually, Internet securities trading services are provided free of brokerage commission in many places. I believe Mr FUNG knows it much better than I do that many brokers do not rely solely on brokerage commission for their survival, since they have many sources of income in addition to brokerage commission. As a matter of fact, it does not follow that investors will flock to a certain broker just because he is willing to charge clients a lower rate. I believe if Mr HUI wishes to trade in securities, he will also take into consideration the quality of the services provided by the relevant broker, including the quality of such services as information collection, research and custody. He will consider whether the services provided are satisfactory, and whether the broker is a reliable person. Given that there is a very active retail sector in the Hong Kong market, it is well nigh impossible for a large securities company to absorb all the trading services

involved. Indeed, there are about 700 securities companies operating in Hong Kong presently. As I said just now, the minimum commission requirement will be removed in two years. We believe that free competition is good and will do good to investors, but most important of all, there must be sufficient protection for investors.

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

**MR NG LEUNG-SING** (in Cantonese): *Madam President, as referred to by the Secretary in the main reply, the SFC and the SEHK have recently reminded investors through the media that clients of non-Exchange Participants are not covered by the UECF. In this connection, could the Secretary inform this Council whether this is a formal measure to remind investors; and whether it is effective?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I have on hand a statement issued by the SEHK. As a matter of fact, statements of this kind have been published by the SEHK all along to inform investors of the extent of protection they have when trading with dealers who are not Exchange Participants. Insofar as securities trading is concerned, I believe it is most important to maintain the transparency of the transaction process, so that investors will know what possible risks they are exposed to when trading securities through dealers who are not Exchange Participants. In addition, as I have mentioned in the main reply, each Exchange Participant is also required to display at its place of business its Exchange Participant certificate for identification purpose. I believe statements and clarifications of such kind could, to a certain extent, enable investors to understand the relevant situations better. Besides, the press report on this Legislative Council question tomorrow should also be helpful to investors as well.

### **Franchised Buses Passing Through Central During Peak Hours**

2. **MR DAVID CHU** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the respective daily numbers of franchised bus trips passing through Central during the morning and afternoon peak hours at present;*
- (b) *of the respective numbers of passengers boarding or alighting in Central in respect of each such franchised bus during these hours on average; and*
- (c) *whether too many franchised buses passing through Central is a major cause of the traffic congestion in the district during these hours; if so, of the corresponding measures it has put in place?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, at present, there are about 950 franchised bus trips per hour entering and leaving Central during the morning peak period, that is, 7 am to 10 am. These include cross-harbour bus services and routes from various districts on Hong Kong Island such as Eastern, Southern and Western Districts. The route profiles showed that Causeway Bay, Wan Chai, Admiralty and Central are popular places where passengers alighted. For buses entering Central from Wan Chai, as passengers were set down en-route, the average occupancy rate of these buses is about 25% (about 30 passengers) per bus. Among these routes, the occupancy rate of certain routes from South Horizons and from Siu Sai Wan exceeds 80% (about 95 passengers) when they reach Central. For buses entering Central from the Western District, the average occupancy rate is some 90% (about 110 passengers).

In the evening peak period between 4 pm and 7 pm, there are about 930 franchised bus trips per hour entering and leaving Central. When buses heading for Wan Chai leave Central, the average occupancy rate is about 30% (about 35 passengers). Regarding buses leaving Central towards the Western District, the average occupancy rate approaches 60% (about 70 passengers), and the occupancy rates of some popular routes reach 80% or higher (about 95 passengers).

The traffic congestion in Central is a result of a combination of circumstances but mainly it is due to the overloading of major corridors at Central. As franchised buses are highly visible and concentrated in the trunk corridors and busy districts, they are generally perceived to be a cause of the

traffic congestion. According to the Transport Department's traffic survey in 1999, buses constitute about 8% of the total traffic volume in Central during the morning and evening peak periods. In terms of occupancy, buses entering and leaving Central carry nearly 40 000 passengers an hour during the morning and evening peak periods. The buses are efficient mass carriers and provide an essential service for many commuters to the Central area. To maintain efficient operation, the franchised bus services are regulated and adjustments are made where appropriate to their operations. We have implemented a series of improvement measures in Central since end 1998 as follows:

- (a) diverting over 20 bus routes to less congested roads;
- (b) rationalizing bus stops to reduce about 1 200 bus stopping per peak hour;
- (c) cancelling five low patronage bus routes;
- (d) reducing the frequency of some 20 bus routes according to passenger demand;
- (e) amalgamating and truncating six bus routes before reaching Central.

These measures have reduced about 900 bus trips daily to and from Central.

On the other hand, the Transport Department continues to regulate the growth of the franchised bus fleet to better match supply with demand. As far as possible, new services are provided through redeployment of buses from routes where there are spare capacities. For example, since the beginning of this year, 38 buses have been re-deployed from Hong Kong Island to serve the new development areas in Tseung Kwan O and Tin Shui Wai. The Transport Department will continue to pursue with bus companies to review and adjust bus routing and frequency where appropriate. To improve the bus network efficiency, more bus-bus interchange schemes are being planned. This would reduce the need for new long haul and direct bus routes to the busy areas.

**MR DAVID CHU** (in Cantonese): *Madam President, thanks for the Government's reply. According to our observation, the number of buses on roads is increasing while the occupancy rate is rather low. On many occasions,*

*there are no passengers in the buses at all. I would like to ask the Government: Since the present number of bus companies has increased, is there any correlation between this phenomenon and the competition among the bus companies? If there is such a correlation will the Government consider taking measures to avoid this situation so as to reduce traffic congestion, waste of resources and environmental pollution?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, there is certainly a direct correlation between competition amongst various bus companies and whether they can fully utilize their own resources. Since 1998, we have observed that some new bus companies have exerted a lot of efforts in improving their competitiveness. Therefore, even though they have not procured more buses, the number of buses running on the roads are larger than before. This will of course impact on traffic congestion. So, in the main reply, I have cited five or six measures implemented by the Government to improve traffic congestion caused by buses. I think the Government will certainly continue to monitor the supply and demand of bus services in order to ensure that bus resources can be fully and appropriately utilized and thus reduce congestion on the roads.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, as regards the fact that there are 930 to 950 bus trips per hour entering and leaving Central during the peak period, does the Government consider it a satisfactory figure? Are there any plans to reduce this figure on a gradual basis, particularly after the implementation of bus-bus interchange schemes?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the Government believes that bus frequency is not the best indicator. We certainly have to look at the demand figure. Therefore, the most important thing is to match demand and supply. However, in view of the current occupancy rate, we also consider that there is still room for adjustment in the number of buses entering Central and thus the bus-bus interchange schemes are formulated. We hope that the demand for bus services to Central can be reduced through this measure.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, it is said that the ferry service between Tuen Mun and Central operated by the Shun Tak China Travel Shipping Investment Limited will soon be terminated. Residents living in New Territories West and working in Hong Kong Island will have to turn to cross-harbour bus services. Has the Government estimated the number of bus trips to be increased and what measures must be taken to avoid traffic congestion in Central when that happens?*

**SECRETARY FOR TRANSPORT** (in Cantonese): *Madam President, the Government believes that the termination of ferry services from Tuen Mun to Central will have mild impact on the demand for bus services. This is because the number of ferry passengers only represents a small proportion of the overall patronage of bus routes and bus network. We therefore believe that this will not aggravate the traffic congestion in Central caused by buses.*

**MR LAU KONG-WAH** (in Cantonese): *Madam President, both high-ranking officials and Honourable Members reduced the use of private cars on the World Environment Day. Besides, thanks to the co-operation of other citizens, I feel that the traffic condition on that day was quite good. Today, the Secretary confirms in the third paragraph of the main reply that buses constitute about 8% of the total traffic volume in Central. In other words, the traffic volume of buses is small but the capacity is high. I would like to ask: Apart from the 8% represented by buses, what is the proportion of traffic volume accounted for by other categories of vehicles? Has the Government targeted at buses or has it applied a fair hand in formulating measures to regulate other categories of vehicles as well?*

**SECRETARY FOR TRANSPORT** (in Cantonese): *Madam President, I do not have any individual figures on the traffic volume of other categories of vehicles on hand. I will provide a written reply after the meeting. (Annex I) But as regards the traffic congestion in Central during peak hours, we believe we neither target at buses nor any other categories of vehicles. We must work out a solution for the overall situation. So, the simple answer is that that we would not target at buses.*

**MR LAU KONG-WAH** (in Cantonese): *Madam President, although the Secretary does not have any figures on hand, yet he has just said that consideration should be given to the overall situation. So he has not answered what measures would be taken against other categories of vehicles.*

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

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I can make a supplementary point. As regards regulating the use of roads by other categories of vehicles, we have in fact formulated a lot of measures. For instance, boarding and alighting from private cars or lorries are prohibited during peak hours. For some locations, such as Des Voeux Road Central, a large portion of the road westbound has been designated as bus only lane. These are traffic measures to restrict the use of roads by other vehicles.

**MR ANDREW CHENG** (in Cantonese): Madam President, I would like to follow up the supplementary question raised by the Honourable LAU Kong-wah. The Secretary's reply impresses that buses are actually efficient mass carriers, but they constitute only about 8% of the total traffic volume in Central. However, the Government now often reviews bus services, especially bus routes from the New Territories, inhibiting their entry into Central or Admiralty. As a transport policy, is such a practice something like putting the cart before the horse? Why does the Government not have any measures which make us feel that other vehicles are also under regulation? Take private cars as an example. There are policies in many countries stipulating that private cars are allowed to enter the urban areas during peak hours only if they are carrying four to five passengers. Why does the Government not pursue similar policy except recurrent review of its bus policy? Some Members even feel that bus services should be further reduced and even the Secretary has also expressed that there is room for adjustment. I was rather surprised to hear that. Can the Secretary tell us whether the Government's mass transport policy should facilitate mass carriers and more efforts should be made on other modes of transport which are smaller in scale?

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I have indicated in my answer to Mr LAU Kong-wah's supplementary question that a comprehensive transport policy has to be formulated in order to solve traffic congestion in Central. The Government's transport policy will not aim at imposing restriction on mass carriers. However, as bus network must be an efficient one, some of the measures will aim at amalgamating and truncating low patronage bus routes, in particular those long haul routes. If the number of passengers of long haul routes will reduce at the middle of the journey, we have to consider how to enhance efficiency or to provide interchange services to improve the efficiency of long haul bus routes. Thus, amalgamating and truncating bus routes and interchange schemes aim at improving the bus network efficiency rather than curtailing bus services. As regards other vehicles, as I have just said, some management measures have been formulated and others will also be considered. I believe today is not the time for us to discuss the overall transport policy. If there is such a request from Members, we are ready to brief them in the Panel on Transport.

**MISS EMILY LAU** (in Cantonese): *Madam President, in the main reply, the Secretary mentioned the amalgamating and truncating of bus routes and the implementation of more interchange schemes which are fully supported by the All Party Clean Air Alliance of the Legislative Council. Madam President, I would like to ask the Secretary: Did District Council members object to these suggestions when they were raised and discussed in the District Councils in recent months? What is the progress? How can residents be convinced that these measures will not cause inconvenience to them or make them pay more fares?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, interchange schemes and truncating of bus routes are measures meant to improve bus network efficiency. We hope that passengers will benefit from them. As a matter of fact, passengers of many interchange routes have been given concessions. Thus we feel that this is a good arrangement. During the consultation process in various districts, we found that they generally welcomed interchange schemes and did not raise strong objection. Of course, if there is any individual route which will cause particular great impact on certain districts,

they will express their views and we are ready to adjust the relevant bus service with reference to their opinions.

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

**MR FUNG CHI-KIN** (in Cantonese): *Madam President, the Secretary mentioned that there are some 900 bus trips per hour during the peak period and the efficiency of buses is high. But in my opinion, how can he claim that the efficiency is high as buses carry only some 40 000 passengers an hour or each bus carry some 40 passengers on average? I suggested in a motion debate that the Central bus terminal be moved outside Central .....*

**PRESIDENT** (in Cantonese): Mr FUNG, what is your supplementary question?

**MR FUNG CHI-KIN** (in Cantonese): *My supplementary question is that the Government has taken various measures but the effect seems to be not clear. Have they reduced 900 bus trips? Are these 900 bus trips during the peak or off-peak hours?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the number of bus trips reduced is based on the whole day. I have just mentioned that about 1 200 bus stopping per peak hour have been reduced. As we all know, bus stopping will seriously affect traffic flow because buses have often to line up and occupy the first or second lanes in order to stop. This will greatly affect other modes of transport. Thus, to reduce the number of bus stopping will greatly improve traffic flow. It is very difficult to make an accurate calculation on the number of bus routes entering and leaving Central as bus trips will also be affected by traffic conditions. However, the reduction of 900 bus trips on a whole-day basis is a factual figure. We hope that traffic congestion in Central can be gradually improved after the Government has implemented its measures one after another.

**Incidents Involving LPG Vehicles Inside Tunnel Tubes**

3. **MR LAW CHI-KWONG** (in Cantonese): *Madam President, will the Government inform this Council whether:*

- (a) *it has assessed the respective chances of explosion of vehicles fuelled by liquefied petroleum gas (LPG vehicles) on fire themselves or caused by the spreading of fire from other vehicles inside various vehicle tunnel tubes;*
- (b) *it has assessed if the means of escape inside various vehicle tunnels in Hong Kong are sufficient to cope with situations in which LPG vehicles are on fire inside the tunnel tubes; if they are assessed as sufficient, of the relevant details; if not, whether the relevant authorities have improvement plans; and*
- (c) *the Fire Services Department (FSD) and the Electrical and Mechanical Services Department (EMSD) have planned to provide special training for all tunnel company staff and drivers of LPG vehicles to deal with incidents involving LPG vehicles inside the tunnel tubes; if they have, of the details?*

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

- (a) The EMSD commissioned a Quantitative Risk Assessment Study in 1997 in relation to the introduction of LPG vehicles into Hong Kong. According to the Consultant's assessment, with a fleet of 18 000 taxis in the territory, the combined risk of explosion involving a LPG vehicle under the circumstances described is 1/70 000 per year. The Consultant also pointed out that there were over 4 million LPG vehicles operating in over 30 countries in the world, and there had been few road accidents involving the fuel system of LPG vehicles. Only four such accidents had occurred over the years and none of them happened inside a tunnel. They also only involved converted LPG vehicles. LPG vehicles are so designed that there is a number of safeguards to prevent accidental leakage of LPG, including a fuel cylinder with a high safety factor, valves for controlling excess flow

and emergency cut off of gas supply. In case a LPG vehicle inside a tunnel is on fire or affected by the fire spreading from other vehicles, its fuel cylinder and safety relief valve will serve to discharge excess pressure to prevent an explosion. In Hong Kong, all registered LPG vehicles must be original equipment manufacturer LPG vehicles (that is, without conversion) and they must meet stringent safety and performance standards before they are approved by the Transport Department (TD) and the EMSD. Moreover, vehicular traffic inside tunnels in Hong Kong is subject to a stringent control system including prohibition on overtaking or changing lane/straddling two lanes and there are also restrictions on speed limits. All these measures also serve to reduce the chances of accidents.

- (b) Each vehicular tunnel in Hong Kong is provided with adequate escape facilities in case of fire. All tunnels have a mechanical smoke extraction system, which can draw out the heavy smoke or have it discharged in a fixed direction. Each tunnel is also provided with emergency lighting which ensures adequate illumination inside the tunnel. In the event of fire, these facilities can facilitate tunnel users leaving the scene of the incident as quickly as possible via the entrance and exit at both ends of the tunnel. In case of a twin-tube tunnel, under the instruction of tunnel staff/firemen, tunnel users can proceed to the unaffected tube via the pedestrian cross-over facilities. Although the design of the Lion Rock Tunnel does not contain such facilities, the tunnel is equipped with a special drencher system that can segregate the fire zone to facilitate escape and rescue. At present, LPG vehicles in Hong Kong are restricted to taxis and public light buses, the risk level of which is more or less the same as their diesel and petrol counterparts. It is therefore not necessary to have additional escape facilities arising from the introduction of LPG vehicles.
- (c) The EMSD, together with the FSD and the TD held joint briefings with tunnel company staff in 1997, 1999 and 2000 on LPG vehicles and procedures to tackle emergencies in tunnels. The briefings covered the construction of LPG vehicles, safety equipment, characteristics of LPG, contingency measures, evacuation procedures and co-ordination with the FSD. The FSD and the

EMSD have also drawn up guidelines on handling emergencies involving LPG vehicles for the personnel concerned including the tunnel company staff. In future, the EMSD, in conjunction with the FSD, will continue to hold relevant safety talks. As for the drivers of LPG vehicles, the EMSD has published publicity leaflets explaining the safe use of LPG vehicles and distributed them to taxi drivers via taxi associations. These leaflets will also be sent to drivers of LPG public light buses. The LPG vehicles suppliers had likewise arranged briefings for the drivers before the LPG vehicles were put on the road.

**MR LAW CHI-KWONG** (in Cantonese): *Madam President, LPG is heavier than air, and so, in case of leakage, it will simply accumulate and explode when becoming over-heated. That is why some experts say that sprinkler systems should be installed to lower the temperature before the arrival of fire engines. Since the existing old airport tunnels are not managed by any management companies, may I ask the Secretary whether some sprinkler systems or alarm systems will be installed in these tunnels as a priority, so that the FSD can be informed in good time when accidents occur?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question?  
Secretary for Security.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, following in-depth studies, the FSD has noted that there is so far no worldwide consensus on whether or not automatic sprinkler systems are really the best way to put out tunnel fires caused by LPG explosion. Recently, only the United States has installed some kind of sprinkler systems in its tunnels — in three of its new tunnels. But even such systems are not automatic, and they do not sprinkle water. Instead, they sprinkle a mixture of water and chemical foam, because it is found that in case a fire breaks out in the cabin of a LPG vehicle travelling inside a tunnel, the sprinkler system of the tunnel may well fail to sprinkle water directly onto the part of the vehicle that catches fire; worse still, if the sprinkler system is not powerful enough, the water sprinkled out will probably fall on the fire and become steam upon contact, thus producing even greater dangers. And, if water is sprinkled out from all over the tunnel, there may be a cooling effect,

which makes all smoke sink and produces yet even greater dangers. That is why the FSD has come to the conclusion that the installation of automatic sprinkler systems is not the best way to put out tunnel fires in Hong Kong. Under the existing arrangements, when a tunnel fire report is received, the FSD will take the emergency measure of despatching two teams of fire engines to the scene as quickly as possible, with one entering from the north end of the tunnel and the other from the south. Prompt actions will then be taken to cool down the LPG cylinder or container and to stop any possible leakage, so as to bring the situation under control. I wish to take this opportunity to remind drivers that they should never try to put out any fire themselves because this can be very dangerous.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, under the existing laws, vehicles carrying Categories 1 to 5 Dangerous Goods and chemicals are forbidden to use tunnels. That is why these dangerous goods have to be transported by specified ferries. As far as I know, the quantity of dangerous goods and chemicals transported by specified ferries has been on steady decline. Has the Government noticed any vehicles carrying Categories 1 to 5 Dangerous Goods and chemicals using any tunnel? This is against the law and can lead to dangers very easily.*

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

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, all tunnel companies adopt the practice of stationing staff at tunnel entrances to spot vehicles that may be carrying dangerous goods. We cannot of course claim with any certainty that such spotting work can always ensure that all the vehicles using the tunnels are not carrying any dangerous goods. But I wish to point out that dangerous goods vehicles must be licensed, and they must display conspicuous signs. As for dangerous goods vehicles which are empty, tunnel staff would first inspect them before allowing them to enter the tunnels. Therefore, the possibility of this type of vehicles sneaking through the tunnels is indeed very small.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, almost all taxis in Japan also use LPG, and in the past 30 to 40 years, there was no record of any explosions or serious accidents involving the LPG taxis there. As far as I know, such an excellent safety record in Japan is due largely to its extremely stringent framework of safety regulation. May I ask the Government whether the introduction of LPG taxis into Hong Kong is accompanied by the adoption of similarly stringent safety standards and regulatory framework in place in Japan? If no, what differences are there?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question? Secretary for Economic Services.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the standards adopted by Hong Kong in respect of LPG taxis are similar to those of Japan, and so is the regulatory framework.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, in the United States, LPG vehicles are barred from all tunnels, and the Secretary for Security has mentioned that some new sprinkler systems have recently been installed in a number of new tunnels there. May I ask whether such advanced sprinkler systems should also be installed in the tunnels of Hong Kong?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question? Secretary for Security.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, let me repeat that the sprinkler systems that have been installed in the three tunnels in the United States do not sprinkle water, but a mixture of water and gases. And, instead of being automatic, they are manually operated. Why? It is because these tunnels allow the passage of dangerous goods vehicles. So whenever a vehicle of this type passes through one of these tunnels, the tunnel staff will be alerted by the highly sophisticated TV surveillance system, and it is only at this juncture that the sprinkler system is activated. In Hong Kong, our tunnels are not equipped with any sprinkler systems, but we can see that in general, water is not actually the best thing to put out vehicle fires, whether in the case of LPG vehicles, petrol vehicles or diesel vehicles, because fires caused by petrol or

diesel vehicles have to be put out by chemical foam. As mentioned by the Secretary for Economic Services, our tunnels are equipped with a mechanical smoke extraction system and emergency lighting; and in the case of tunnels in the urban areas, the fire-fighting and rescue personnel of the FSD can arrive at the scene within the six minutes of response time. Besides, in the Lion Rock Tunnel, there is a special drencher system that can segregate the fire zone. Therefore, we are of the view that the existing fire-fighting facilities are already adequate.

**DR RAYMOND HO** (in Cantonese): *Madam President, since LPG is higher in density and volatility, in case of leakage, it will often amass quickly near the ground. If we want to lower the temperature, we will have to use water. But what will happen if there is no water around, if we do not consider the possibility of installing automatic sprinkler systems? So, will the Government consider the possibility of using motorcycles (not ordinary vehicles because they may cause severe congestion inside a tunnel) to transport water to the scene, so that water can be used to fight the vehicle fire as quickly as possible?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question? Secretary for Security.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, let me repeat that according to the advice given to us by the FSD, sprinkling water may not always be the best way to fight vehicle fires, because petrol and diesel fires have to be put out by chemical foam. In the case of LPG vehicle fires, the first thing to do is to cool down the LPG cylinder or fuel tank, so that leakage of gas can be stopped. Besides, smoke must also be extracted by the smoke extraction system before the situation can be brought under control. That is why the Department does not recommend the use of water, nor does it think that people should follow the example of the driver in question, who tried to put out the fire himself. This can be very dangerous.

**MR ANDREW CHENG** (in Cantonese): *Madam President, we are discussing LPG vehicles now, but the Secretary has just referred to conventional vehicles like petrol vehicles. We also have another question, a written question, on*

*petrol vehicles today. Having read the reply to this written question, and having compared it with the main reply to the question we are now discussing, I wish to ask the Secretary whether there are enough fire extinguishers inside our tunnels. The Secretary advises us not to try to put out any vehicle fire ourselves as far as possible, but if there are fire extinguishers, we would of course hope that the chemical foam can provide some help. From the advice given by the FSD, we note that there may not be enough fire-fighting facilities inside our tunnels now. Therefore, may I ask the Secretary to clarify whether the existing tunnels (or at least government-run tunnels) are equipped with enough fire-fighting facilities to cope with the introduction of LPG vehicles?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the FSD has issued a set of guidelines for road tunnels. In this set of guidelines, a list of minimum requirements relating to fire-fighting equipment and facilities is set out on the basis of international standards. The specified fire-fighting facilities include portable foam fire-extinguishers, fire hose reels, fire escape communication systems, emergency telephones, CCTV surveillance, manually-activated fire alarm systems and installations facilitating fire escape, such as mechanical smoke extraction systems, emergency electricity generators, emergency lighting, exit signs and, if necessary, a service tunnel between two tunnel tubes. Because of all these measures, we are of the view that the existing tunnels are already equipped with enough fire-fighting and escape facilities.

### **Remarks Made by Officials of the Liaison Office of the Central People's Government in HKSAR**

4. **MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, recently, officials of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (SAR) have made some remarks in public, pointing out that the local media should not report views advocating the independence of Taiwan in the same way as ordinary news reporting, and cautioning local businessmen against doing business with Taiwan businessmen who advocate the independence of Taiwan, or they might run high risks. In this connection, will the Government inform this Council whether it has assessed if these remarks have adverse impact on the implementation of "one country, two systems" in Hong Kong as well as on the confidence of the public and overseas investors; if they have, of its ways to tackle the problem?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the SAR Government attaches great importance to public opinion on community affairs. We are aware of the concerns expressed by the people of Hong Kong and many Members of the Legislative Council over the remarks of the officials of the Central People's Government's Liaison Office in Hong Kong. In response to the concerns expressed, the SAR Government reaffirms our position in a statement that the Basic Law protects freedom of speech, of the press and of publication. Since the reunification, the local media have been as lively and robust as before, reflecting the freedom and diversity of our society. In line with the established policy, the SAR Government will continue to respect and protect press freedom in strict accordance with the relevant provisions in the Basic Law.

We have also made it clear that Hong Kong is a well-established international financial and commercial centre. Investors and businessmen operating in Hong Kong are free to choose their business partners. Hong Kong has always embraced the principles of economic freedom and free trade. We strongly believe that business decisions are best left to businessmen, and no officials should interfere with such decisions. The Mainland and Taiwan are our largest and fourth largest trading partners respectively. Maintaining and developing trade and economic relations are important to our prosperity and the interest of Hong Kong's business community. We will continue to protect firmly the principles of economic freedom and free trade. This is a pillar of our success and will not change.

We fully appreciate that the people of Hong Kong attach great importance to and very much cherish the rights and freedoms guaranteed by the Basic Law. We have therefore responded promptly, and reaffirmed in public statements our determination to fully implement "one country, two systems" and practise "a high degree of autonomy". The Chief Executive is very much concerned, and has discussed the matter personally with the Director of the Liaison Office, Mr JIANG Enzhu. Director JIANG reassured the Chief Executive that the Liaison Office and its personnel would strictly abide by the Basic Law, and would not interfere with commercial activities in Hong Kong. The decisive response of the SAR Government has reinstated and reinforced the confidence of the Hong Kong people and investors.

Madam President, let me stress once again that the determination of the SAR Government to implement the Basic Law in accordance with the "one country, two systems" principle is beyond doubt. It is also clear to the local community and widely recognized internationally that, since reunification, the Central People's Government fully respects Hong Kong's high degree of autonomy. The SAR Government will remain committed to the full implementation of the Basic Law in accordance with the "one country, two systems" principle, and work hard to maintain the confidence of the public and investors. We firmly believe our efforts in these areas will continue to receive the support of the Central People's Government and the people of Hong Kong.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, in the incident related to Mr WANG Fengchao, the SAR Government only made a statement in a low-profile manner to reaffirm the position of the Government in protecting the freedom of the press; but in the incident related to Mr HE Zhiming, the Chief Executive, Mr TUNG Chee-hwa, contacted Director JIANG Enzhu immediately and gained the assurance that the Office would not interfere with the commercial activities of the territory, which meant a denial of HE's remarks. As we look back on these two incidents, would the SAR Government agree that it has made a mistake in not taking a firm stance on the remarks made by WANG Fengchao and in not criticizing WANG for meddling with the freedom of the press in Hong Kong, thus sowing the seeds of a subsequent meddling of the internal affairs of the territory in a more serious manner by another official of the Office, Mr HE Zhiming? Will the SAR Government learn the lesson from these incidents and not condone the meddling of the internal affairs of the territory by Chinese officials in future?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, in these two incidents the SAR Government has taken seriously and equally the concerns expressed by the people of Hong Kong and we have responded promptly likewise. We have likewise also reaffirmed our position that in accordance with the principle of "one country, two systems", we will remain committed to the full implementation of the Basic Law, strictly abide by the stipulations therein and defend the rights and freedoms protected by the Basic Law. We have taken equally appropriate and effective steps in these two incidents to reinstate and reinforce the confidence of Hong Kong people.

**MISS CYD HO** (in Cantonese): *Madam President, I do not think the steps taken are the equally same. For in the incident related to Mr WANG Fengchao, the Chief Executive did not make personal contact with Mr JIANG and Mr JIANG did not issue a statement on the event .....*

**PRESIDENT** (in Cantonese): Miss HO, what exactly is your supplementary question?

**MISS CYD HO** (in Cantonese): *What I want to ask is: What is the motive behind the immediate step taken by the Chief Executive when he approached Mr JIANG Enzhu, the Director of the Liaison Office, when some official from the Office made some remarks on the commercial activities in the territory, but when some remarks were made on the freedom of the press, no attempt was made to contact Mr JIANG immediately for clarification?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, just as I have said, the SAR Government has taken appropriate and effective steps to reinstate and reinforce the confidence of the people of Hong Kong.

The Honourable Member asked earlier why we took a certain step when it comes to matters not related to business and another step when it is related to business. Madam President, I would like to point out that the first incident is related to the freedoms of the press, speech and publication. This is related to the freedom to disseminate information, closely related to commercial activities and entirely related to commercial matters. Therefore, one cannot say that it has nothing to do with commercial activities.

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

**MISS CYD HO** (in Cantonese): *Madam President, my supplementary question asked why the Chief Executive did contact Mr JIANG right away when it was about business and trade matters, but not so when it was about freedoms of the press and speech?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I shall repeat it to make it clear to everyone. The first incident is about freedom of the press, but in fact it is related to commercial activities as well. In our opinion, the SAR Government has taken appropriate and effective steps on the two occasions to reinstate and reinforce the confidence of Hong Kong people.

**DR YEUNG SUM** (in Cantonese): *Madam President, at first we have the remarks made by Mr WANG Fengchao which affected the freedom of the press, then there are the remarks made by Mr HE Zhiming which affected the freedom to trade. As the SAR Government takes these events seriously, may I ask if the Chief Executive plans to convey the events to the leaders of the Central Government in order to see to it that the officials in the Liaison Office will not make similar remarks again?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, those in charge of the organs of the Central Government in Hong Kong have stated repeatedly that their staff will abide by the laws of the SAR and that is entirely in keeping with the stipulations of the Basic Law. Director JIANG Enzhu has stressed to the Chief Executive recently that China will adhere to the Basic Law and the Central Government has always been mindful of the business of the SAR and that it is aware of the position of the SAR Government. The SAR Government is convinced that the organs of the Central Government in Hong Kong will continue to operate in accordance with the stipulations of the Basic Law.

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

**DR YEUNG SUM** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I was asking whether the Chief Executive had any plans to reflect the two incidents to the leaders of the Central Government for follow-up actions.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, we do not have any plans on that for the moment.

**MR ALBERT HO** (in Cantonese): *Madam President, my supplementary question is to follow up the question which Dr YEUNG Sum has asked. In the first event, that is, after Mr WANG Fengchao had made some remarks which subsequently made an impact on the freedom of the press, the officials of the Central Government did not say anything which would put the people's mind at ease, as Director JIANG Enzhu has done, on the other hand, they said that Mr WANG's remarks were right because they reflected the stand of the Central Government. That had the effect of making the people of Hong Kong feel even more shocked. When the Chief Executive goes to Beijing to report on his work, or at an earlier time, will he convey the worries of the people of Hong Kong to the officials in the hope that the officials of the Liaison Office will learn well the spirit of "one country, two systems", and refrain from making any remarks which will adversely affect "one country, two systems and a high degree of autonomy"?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, ever since the reunification, the Central People's Government has been acting according to the principle of "one country, two systems" and the stipulations in the Basic Law and showing respect for the "high degree of autonomy" in the SAR. As I have mentioned, the officials in charge of the organs of the Central People's Government in Hong Kong have repeatedly stated that they would act according to the Basic Law. As to whether the Chief Executive will talk about these things when he goes to Beijing to report on his work, I cannot rule out such a possibility.

**MISS EMILY LAU** (in Cantonese): *Madam President, in the main reply, the Secretary repeatedly mentioned that the SAR Government had made decisive response to reinstate and reinforce the confidence of Hong Kong people and investors. That confidence has to be reinstated shows that something must have gone wrong. Madam President, may I ask the Secretary, according to his assessment, what kind of negative impact the remarks made by these two deputy directors of the Liaison Office will have on the confidence of the public and the investors, and whether these remarks have categorically contravened the policy of "one country, two systems, a high degree of autonomy and Hong Kong people ruling Hong Kong"?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, we notice that there is public concern for these remarks and that these events may have caused uneasiness among the people and the investors to the extent that they may have worries. Therefore, the SAR Government has made a prompt and clear response, expounding its position on this issue and reassuring the public that it will adhere to the principle of "one country, two systems" and that it will fully implement the Basic Law and act according to its stipulations. We expect that with the SAR Government having made such a prompt and clear response, the confidence of the people of Hong Kong and the investors will be reinstated and reinforced.

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

**MISS EMILY LAU** (in Cantonese): *Madam President, the Secretary has not given a clear answer on the extent of damage done according to his calculations. He said that confidence has been reinstated, but how much was the damage made? The Secretary has not said whether the remarks made by these two officials have violated the policy of "one country, two systems, a high degree of autonomy and Hong Kong people ruling Hong Kong"?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I do not intend to make any assessment on the remarks made by any individuals. I think the important thing is that the position of the SAR Government is firm and unequivocal. Another important thing is that the organs of the Central People's Government in Hong Kong have made it clear that they will act according to the Basic Law. As to how in my assessment the degree of confidence has been affected, I am afraid I cannot give an answer to this question because the extent of the impact varies with each and every individual. Having said that, I think the important thing is that the SAR Government has taken proper and effective measures to reinstate the confidence of the people of Hong Kong and the investors.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I wish to add a few words here.

First of all, the Liaison Office made the relevant remarks on 31 May and as the Secretary for Constitutional Affairs have said, the Chief Executive and the Acting Chief Executive made a prompt statement the next day. The remarks made by officials of the Liaison Office would cause concern among the general public and the business sector. However, we think that as we have made a prompt statement, any concern that might have been aroused should have been dispelled in no time. So the impact of these remarks, if any, would be minimal.

In his reply just now, the Secretary for Constitutional Affairs also mentioned that the most important thing is that as we are close to the third anniversary of the reunification, the SAR Government can demonstrate clearly that we have been able to exercise our high degree of autonomy as provided for in the Basic Law in economic and trade affairs, and that we have been able to join international trade organizations in the capacity of an independent tariff area. In this regard, the Central Government has never made any intervention and we have the recognition and support of the international community. Therefore, we think that this is the best boost given to investor confidence.

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

**MR ANDREW CHENG** (in Cantonese): *Madam President, when the Secretary was making a reply just now, he has mentioned almost 10 times the Chinese words which when put into English mean "likewise" or "equally"; I have the feeling that he is trying to hide something. In the incident related to Mr WANG Fengchao, if my memory has not failed me, the Government did not even make any statement, or it made only a very low-profile statement and did not contact Director JIANG Enzhu. Given that, it is surprising to hear the Secretary use the word "equally". How can the Government convince us that this is a so-called "proper" move to make, rather than showing that it is only concerned about the interests of the business sector or the free economy, to the neglect of the freedom of the press and the interests of the public?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I wish to point out that with regard to the first event, Mrs Anson CHAN, the Acting Chief Executive, did make a formal statement to the press immediately. Later, the Chief Executive also talked to the press about his views on the event when he returned to Hong Kong. We are of the view that these two statements are adequate in clarifying the position of the SAR Government on this issue. I think this is an effective way to handle the events in question.

### **Legislation to Ban Smoking on Board All Incoming Flights**

5. **MR HOWARD YOUNG:** *Madam President, will the Government inform this Council whether it will consider introducing legislation to completely ban smoking on board all incoming flights?*

**SECRETARY FOR HEALTH AND WELFARE:** Madam President, there is at present no provision in the Smoking (Public Health) Ordinance governing the consumption of tobacco products inside an aircraft. Nevertheless, as a company policy, individual airlines may choose to impose control on smoking on board their flights.

In addition, under Article 50 of the Air Navigation (Hong Kong) Order, notices indicating when smoking is prohibited shall be exhibited in every aircraft registered in Hong Kong so as to be visible from each passenger seat therein. A person shall not smoke in any compartment of any aircraft registered in Hong Kong at a time when smoking is prohibited in that compartment by a notice to that effect exhibited by or on behalf of the aircraft commander. Non-compliance with this Article is an offence subject to a maximum fine of \$5,000. Thus, a breach of the prohibition will be an offence.

According to our latest information, the two local airlines which provide scheduled passenger services, namely, Cathay Pacific and Dragonair, have adopted a smoke-free policy on all their passenger flights. In addition, the Civil Aviation Department has recently conducted a survey in connection with smoking-free policy adopted by airlines that operate flights in and out of Hong Kong. Among the 43 airlines which have responded so far, 35 airlines, including the two local airlines, ban smoking totally on international passenger

flights. These 35 airlines account for over 83% of the passenger traffic to and from Hong Kong. Those who contravene such prohibition may be warned or prosecuted, depending on the policy of individual airlines and the penalty provisions of the jurisdiction to which the aircraft is subject.

In Hong Kong, it is our established policy to minimize public's exposure to environmental tobacco smoke, or the so called "passive second-hand smoke", to the maximum extent possible. From a health standpoint, we support the extension of such policy to all flights operating in and out of Hong Kong so that passengers on board can enjoy a smoke-free environment. To this end, the Health and Welfare Bureau and the Economic Services Bureau will explore the feasibility of introducing smoking ban on all incoming and outgoing flights. Banning smoking on foreign airlines involves complicated legal matters. The airlines will also need to be consulted to see whether there will be impact, if any, on their operation. We will seek the views of parties concerned before considering further actions.

It is, nevertheless, a noteworthy trend that an increasing number of airlines have restricted smoking on all their international passenger flights. According to the latest figures provided by the United States Department of Transportation earlier this month, 95% of the airlines in the world have either totally or partially banned smoking on their domestic or international flights. We will also take into account the international developments in considering the need for introducing smoking ban for all airlines through legislative means.

**MR HOWARD YOUNG:** *Madam President, I note that from the middle of the third paragraph of the main reply, the Secretary was responding from a health standpoint, and it was the Secretary for Health and Welfare who replied to my question. I would like to ask the Government whether it really views the subject as a health matter, or will it also regard this as a safety matter as well? I know at least one incident in Europe in which smoking in the toilet has caused a fire on board the aircraft, and that had been reported. Thus, does the Government view this purely as a health issue or is it something far beyond that?*

**PRESIDENT** (in Cantonese): Which Secretary will answer the question? Secretary for Economic Services.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, from the standpoint of civil aviation safety, the existing Air Navigation (Hong Kong) Order specifies the circumstances under which, when and where smoking is banned shall be exhibited in every aircraft registered in Hong Kong. A person who smokes when and where smoking is banned has committed an offence subject to a maximum fine of \$5,000. Under another article of the Air Navigation (Hong Kong) Order, if the reckless or negligent act of a person endangers the safety of an aircraft or its passengers, the person has committed an offence. Under criminal laws, a person who interferes with a smoke detector may have violated legislation related to property damaging. Apart from the above provisions, airlines registered in Hong Kong also ban smoking totally on board all passenger flights according to their own commercial decisions. The Secretary for Health and Welfare has just responded from a health standpoint and I support exploring the feasibility of banning smoking totally from a civil aviation standpoint. But we should first consult the relevant parties such as airlines and consider whether legislating to implement a total ban on smoking will affect the operation of the industry before deciding upon the next move.

**MR KENNETH TING:** *Madam President, does the Government know of any government in the world which has banned smoking on aircrafts regardless of whether or not there is a notice exhibited?*

**PRESIDENT** (in Cantonese): Which Secretary will answer the question? Secretary for Economic Services.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, as we do not have the relevant information on hand, we will check and verify such information later and then give a written reply. (Annex II)

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, does the Government know whether a total ban on smoking will affect the passenger volume? If not, why are more than 10% of the airlines unwilling to implement a total ban on smoking on board their flights?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, as the Secretary for Health and Welfare has just said, from a health standpoint, we support this proposal and the Economic Services Bureau supports exploring the relevant feasibility. However, we would like to consult the industry and examine whether there will be any influence before deciding upon the next move. This is the major reason why we would like to consult the industry.

**MR JAMES TIEN** (in Cantonese): *Madam President, among the 43 existing airlines, 35 airlines ban smoking totally on passenger flights while the remaining eight permit smoking probably because of the legislation of their countries. If Hong Kong legislates to ban smoking on board incoming flights, will the Secretary tell us if we need to conduct a review together with the governments of the countries to which other airlines belong? If the government of another country permits smoking by passengers but Hong Kong does not permit this, who has statutory power in this respect?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, as the inclusion of extraterritoriality provisions in local legislation will invariably arouse concern, we must carefully examine the feasibility of this proposal. The Government has also stated in the main reply that before implementing a total ban on smoking, consideration must be given to the scope of the ban on smoking. For example, is the ban only applicable within the Hong Kong territory or does it cover other places? Therefore, the implementation of this proposal may involve very complicated legal issues.

**MR HO SAI-CHU** (in Cantonese): *Madam President, the second paragraph of the main reply mentions the provisions of Article 5 of the Air Navigation (Hong Kong) Order and the Secretary has also said in his answer to a supplementary question that a passenger who does not observe the provision may breach the law. Does the Government have any record of any person being prosecuted for breaching this provision? If so, what are the figures? However, I believe the figure may be zero. If that is the case, does it indicate that it is not easy to enforce this provision, in other words, it is not easy to prosecute and punish offenders?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the records of the police indicate that there are five such incidents but the police have not pressed charges against anyone.

**MR HO SAI-CHU** (in Cantonese): *Madam President, does this show that this provision is difficult to enforce or has no effect at all? I would like to know if that is why the police have not pressed charges.*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, insofar as prosecution is concerned, I believe the law enforcement agency will consult the Department of Justice before deciding whether it is suitable to prosecute a person involved in an incident.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, I note that after the Secretary of Health and Welfare has answered the main question, all supplementary questions are answered by the Secretary for Economic Services. This proves that the Government knows that the problem is related to safety, rather than health alone. When the Secretary for Economic Services answered the Honourable Kenneth TING's supplementary question, she said that she would consider if other countries had legislation on this. Can the Government inform this Council if it can start with countries whose names start with the letter A, such as Australia, when it browses the relevant records to see if other countries have legislated in this respect so that it can find what it wanted more easily?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the information we have shows that nine countries have legislation on this. The situation cited by Mr TING is rather special and it bans smoking regardless of whether notices indicating when and where smoking is banned are exhibited. In this regard, we must make a detailed inquiry before answering the question. Yet, as far as we understand, nine countries have legislated to ban smoking on board flights.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, the Secretary said in answering several supplementary questions that a review would be conducted. I support conducting a review, but does the Government have a timetable showing when a decision will be made?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, airlines registered in Hong Kong have conscientiously banned smoking on board all passenger flights and one airline even bans smoking totally on board freight flights while another lets the aircraft commander decide whether smoking should be banned. Therefore, prohibition of smoking is not a big problem for aircrafts registered in Hong Kong. However, as aircrafts registered in foreign countries involve extraterritoriality, more complicated legal issues are involved. Thus, I would like to say that if we require that smoking be banned on board all flights only within the airspace or territory of Hong Kong, as airlines generally ban smoking totally during take-off and landing, this requirement may have already been met.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, the Secretary has not answered the part of my question concerning the timetable.*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, this is a complicated legal issue. Even if we know that the United States has implemented a ban on smoking on board all flights to and from the United States, it depends on whether other countries are willing to negotiate with the United States over extraterritoriality. Thus, this is not a simple issue and I cannot work out a timetable at this stage.

**MISS EMILY LAU** (in Cantonese): *Madam President, the Secretary for Economic Services has stated time and again that nine countries ban smoking on board flights, but the Secretary for Health and Welfare said in the last paragraph of his main reply that, according to the information of the United States, among the international and domestic flights in the United States, 95% of airlines have policies for a total or partial ban on smoking. This percentage is very high and*

*as so many airlines have already done so, will the Secretary for Economic Services tell us if the Government will hold discussions with airlines and ask more airlines to implement a ban on smoking even though legislation in this respect will involve more complicated issues? I believe most passengers oppose smoking on board flights, will the Government consider asking airlines to voluntarily impose control on smoking on board their flights other than introducing legislation?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, from a commercial or operational standpoint, when airlines voluntarily decide to ban smoking, they must have made the decision after commercial and operational consideration. I believe that this is different from broad-brush legislation. In fact, the International Civil Aviation Organization has encouraged its members to gradually ban smoking on board international flights and many countries have responded. I have just said that nine countries have made legislation for this while other countries have taken certain steps. Thus, as the Secretary for Health and Welfare has said in reply to the main question, we will explore the feasibility of legislating in this respect. However, as I have just said, airlines registered in Hong Kong enforce a total ban on smoking on board all passenger flights.

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

**MR HO SAI-CHU** (in Cantonese): *Madam President, will the Secretary brief this Council on the nine countries that have made legislation in this respect?*

**PRESIDENT** (in Cantonese): Mr HO, please take your seat first.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, I do not have the relevant information on hand. I will give a written reply later. (Annex III)

**PRESIDENT** (in Cantonese): Last oral question.

### **Sources of Air Pollutants**

6. **DR LUI MING-WAH** (in Cantonese): *Madam President, will the Government inform this Council of the respective percentages of each type of air pollutants from the following pollution sources, in the amount of that type of pollutants in the air of Hong Kong:*

- (a) *emissions from buses, container trucks, goods vehicles, minibuses, taxis and private cars;*
- (b) *gases emitted from industrial establishments in Hong Kong; and*
- (c) *air pollutants from the Mainland?*

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

- (a) In Hong Kong, the level of respirable suspended particulates (RSP) and nitrogen oxides in the air is consistently at a high level. According to analysis by the Environmental Protection Department (EPD), emissions from vehicles account for about 75% of the RSP and 80% of the nitrogen oxides in the air at the roadside of the urban area. 10% of the roadside RSP comes from buses, 40% from goods vehicles (including container trucks), 4% from light buses, 20% from taxis and 1% from private cars. As regards nitrogen oxides, 16% comes from buses, 34% from goods vehicles, 2% from light buses, 10% from taxis and 18% from private cars.
- (b) According to the EPD's analysis, local industrial sources contribute about 30% of the RSP and 9% of the nitrogen oxides present at the roadside of the urban area.

- (c) At present there are no data from which an analysis could be made of the impact of air pollutants from the Mainland on Hong Kong's air quality. In conjunction with the Guangdong authority, we are conducting a study on the air quality of the Pearl River Delta. The objectives of the study are to assess the extent of regional air pollution and to analyse the sources of pollutants with a view to identifying improvement measures required. On completion of the study in the early part of next year, there will be more information to help us assess the impact of regional air pollution on Hong Kong's air quality.

**DR LUI MING-WAH** (in Cantonese): *Madam President, the Secretary has answered my question, but I have a follow-up question which I think Members may also be interested in. And, that is, if emissions from vehicles and industrial establishments only account for a total of 78% of the RSP in the air, then what accounts for the remaining 22% come from? Moreover, emissions from these two sources only account for 89% of the nitrogen oxides, then what accounts for the remaining 11%? Can the Secretary give me a reply?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): *Madam President, according to the information I have on RSP and nitrogen oxides, the remaining figures can be accounted for as follows: about 22% of RSP and 11% of nitrogen oxides come from power plants, natural sources and regional pollutants.*

**MR EDWARD HO** (in Cantonese); *Madam President, in paragraph (a) of the main reply, the Secretary said that 40% of the roadside RSP comes from goods vehicles (including container trucks). This is a very sizeable proportion. May I ask the Secretary what short-term or long-term measures there are to reduce pollutant emissions from this type of vehicles, in order to improve our air quality?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, the fact that a large percentage of RSP and nitrogen oxides are emitted from goods vehicles is mainly due to two reasons. Firstly, this is due to the number of goods vehicles in Hong Kong. At present, there are about 40 000 medium and heavy goods vehicles, and 70 000 light goods vehicles, including goods vans. Secondly, this is due to the problems of this type of vehicles. Generally speaking, heavy goods vehicles tend to emit more pollutants than other types of vehicles.

As regards the way to deal with this problem, diesel catalytic converters will be installed in medium and heavy goods vehicles; whereas catalytic converters and particulate filters will be separately installed in imported heavy goods vehicles and light goods vehicles which are not manufactured in accordance with the European Union standards. As regards diesel vehicles, tax concessions will be offered to encourage vehicle owners and drivers to use diesel of a low sulphur content. We will move a resolution at the Legislative Council Meeting of 26 June to propose specific tax concessions.

**MR FRED LI** (in Cantonese): *Madam President, I learned from paragraph (a) of the main reply that the amount of nitrogen oxides emissions from private vehicles accounted for a large percentage of emissions, which is only second to goods vehicles, and far more than taxis, minibuses and buses. The Secretary has done a great deal in the area of environmental protection to tackle the problem of poor air quality, but nothing has ever been said about private vehicles. Since the figures in the main reply reflect that a large percentage of nitrogen oxides were emitted from private cars, will the Secretary tell us how the Government is going to tackle this problem?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, the Honourable Member was right in saying that the amount of nitrogen oxides emissions from private vehicles are far more than that from other types of vehicles. The major reason for this is private vehicles imported before 1992 were not fitted with catalytic converters. However, since 1992, legislation has been in place to provide that catalytic converters must be installed in all imported private vehicles. Therefore, it can be said that nitrogen oxides emission from private vehicles is only a transitional problem. In May, we announced that a whole package of measures will be introduced, and one of these

measures is we will consider adopting an effective means to discourage vehicle owners from using old model vehicles. I have also explained to this Council that, on the one hand, we will encourage vehicle owners to use new vehicles; and on the other, we will consider adopting certain effective measures, to let vehicle owners know that it is not cost-effective to hang on to their old vehicles. The inter-departmental task group is now working on the details of the plan.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, apart from nitrogen oxides and RSP, a lot of other elements, such as benzene and carbon monoxide, which are detrimental to our health are also air pollutants. May I ask the Secretary what the percentage of these two or other pollutants in the existing air pollutants is? As a matter of fact, most of these pollutants come from petrol vehicles. May I ask the Secretary whether there will be a drastic increase in the amount of benzene and carbon monoxide emissions in the future, if the Government proposes that petrol should be used for all goods vans? Has the Government made any estimates on the percentage of increase?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, the Honourable Member has raised two separate supplementary questions. The first question is, apart from RSP and nitrogen oxides, what the percentage of other pollutants in the air is. The second question is, if light goods vehicles switch over to petrol, how much reduction there will be in the amount of pollutants emissions?

According to the information on hand, the answer to the first supplementary question is RSP, nitrogen oxides and hydrocarbon. As regards to the percentage of RSP and nitrogen oxides in the air, since I have already provided Members with the figures, I will just talk about hydrocarbon. According to the figures in 1997, 28% of the hydrocarbon comes from private vehicles, about 19% from goods vehicle, about 7.6% from franchised buses and private buses, about 7% from light goods vehicles running on diesel and about 6% from taxis. These figures are provided by a publication on clean air in Hong Kong and the categorization used in the publication is different from that in my main answer. However, I hope that the figures which I have just read out may give Members a rough idea of the situation.

As regards the question on how much reduction there will be in the amount of pollutants emissions when light goods vehicles switch over to petrol, I do not have such information on hand. However, I would like to take this opportunity to explain that as far as light goods vehicles are concerned, the inter-departmental task group is still considering different options to deal with this issue. At present, we do not have a specific plan to compel all light goods vehicles to switch to petrol. As regards Mr LEUNG Yiu-chung's supplementary question on how much reduction there will be in the amount of pollutants emissions when light goods vehicles switch to petrol, I will give Members a reply in writing. (Annex IV)

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, I just said that benzene and carbon monoxide are found in air pollutants, and the health hazard of these two pollutants varies. One of them will cause cancer and the other is detrimental to human health. That is why I hope that the Secretary will give us a breakdown on these figures. Just now, the Secretary has only given us a general reply by saying that taxis account for 18% and so on. However, I would like to have more specific information on the percentage of benzene and carbon monoxide emissions because the hazard posed by these pollutants varies in degrees.*

*On the other hand, I am worried that there will only be reduction in RSP emissions but not pollutants in the air after light goods vehicles switch to using petrol instead of diesel as fuel; and the amount of benzene and carbon monoxide emissions may also be increase. I would like to know what is the anticipated increase in the amount of benzene and carbon monoxide if petrol is actually used instead of diesel?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, our whole air quality improvement programme is actually targeted at two types of air pollutants: firstly, RSP; secondly, nitrogen oxides. Why have we targeted at these two types of pollutants? Our main objective is to safeguard public health, for RSP and nitrogen oxides are most detrimental to human health.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, can the Secretary provide us with information on benzene and carbon monoxide in writing?*

**PRESIDENT** (in Cantonese): Secretary, as regards this question, will you provide this Council with such information?

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, we will provide Members with such information. (Annex V)

**DR RAYMOND HO** (in Cantonese): *Madam President, last year, this Council made a provision of \$1.5 million for the Government to conduct a study on air quality in conjunction with the Guangdong Province, but I am not aware of the scope of the study. Will the Secretary tell us whether the impact of wind direction was included in the study on the causes of air pollution in the two regions?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, Dr HO has a very good memory and we have actually reserved \$1.5 million to conduct a study in this area. We will look into the existing state of air pollution, the source and trend of pollution. As far as I know, the impact of wind direction on air pollution will also be included in the study.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, the Secretary just said that RSP and other pollutants are also emitted from power plants. Has the Government ever hold discussions with the power companies on whether alternate methods can be used for generating electricity, and what is the progress on such negotiations?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, the method of generating electricity by natural gas was introduced in 1996. It is the current policy of the Government that all new units of the power plant should use natural gas. I have some information at hand on the ratio between the fuel used in generating electricity and the existing power consumption. According to the information, 40% of the total power consumption is generated by natural gas, 53% by coal and 7% by industrial diesel oil. Our joint study with the Guangdong Province shows that the pollutants of power plants do not pose any significant threats to public health, mainly because the chimneys of power plants are designed in such a way that pollutants can easily be dispersed. Though the pollutants do not have any great impact on public health, they will certainly affect the regional air quality. One of the duties of the inter-departmental task group is to look into this problem. Upon the completion of the study on the air pollution problem in the two regions early next year, and when further data and information have been collected, the inter-departmental group will look into the gravity of the problem of pollutants emitted from sources other than vehicles and whether further measures will have to be introduced to tackle this problem.

**PRESIDENT** (in Cantonese): We have already spent more than 17 minutes on this question. Question time shall end here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Debt Financing of Small and Medium Enterprises**

7. **MR KENNETH TING** (in Chinese): *Madam President, regarding the raising of funds by small and medium enterprises (SMEs) through securing loans from financial institutions, will the Government inform this Council:*

- (a) *given that the Special Finance Scheme for Small and Medium Enterprises (SFS) has stopped accepting new applications since 8 April 2000, when the processing of the outstanding applications for credit guarantees under the SFS is expected to be completed; and whether it has assessed if it is easier now than during the period when the SFS was in place for SMEs to secure loans from financial institutions; if it has, of the relevant details; if not, whether such an assessment will be made; and*

- (b) *whether it has assessed the adverse impact of the recent persistent rise in lending rates on the SMEs' opportunity to obtain loans from financial institutions?*

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

- (a) As at 8 June 2000, there were 196 applications on the waiting list of the SFS, requiring about \$210 million of guarantee. We envisage that the processing of all these applications will be completed around the end of February 2001 (about nine months from now).

In a survey conducted by the Hong Kong Monetary Authority in March this year on SMEs' financing conditions, the views of eight major banks and four SME associations were collected. In general, the respondents believed that there had been some modest improvement in the credit situation of SMEs. All banks interviewed indicated a neutral to positive lending stance to SMEs. Some of them revealed that they had either increased SMEs lending or planned to expand their loan business to SMEs. The report on the survey will be released around the end of June.

- (b) The persistent increase in lending rates will undoubtedly raise the borrowing cost of SMEs. However, with the gradual revival of the economy and of consumption expenditure, Hong Kong's general business sentiment and confidence have been improving. This will facilitate SMEs' operation and cash flow.

Besides, there is abundant supply of liquidity in the banking system and banks are competing aggressively for loan business. Moreover, as more and more local lending institutions have come to realize the development of SMEs loan market, they have become more positive in extending credit to SMEs. Thus, we believe that financial institutions would continue to adopt a positive stance with regard to SME loans despite the increase in interest rates.

Due to the above-mentioned positive factors, the negative impacts as a result of rising interest rate have been mitigated. According to a survey on business operating environment for SMEs conducted by the Hong Kong Productivity Council in March 2000, SMEs are generally optimistic about Hong Kong's business operating environment, including financing, investment climate and risk assessment, in the second quarter of 2000.

In fact, notwithstanding the successive interest rate increases in Hong Kong since the latter part of last year, investor sentiment has actually strengthened over the period. Overall investment expenditure has also resumed growth, at 5.6% in real terms in the first quarter of 2000, as opposed to the double-digit decline of 10.4% in the fourth quarter of 1999. The pick-up in machinery and equipment acquisition was particularly marked. This to a certain extent reflects that the financing of enterprises has not been unduly affected by the interest rate hike.

### **Huge Underwriting Losses of General Insurance Industry**

8. **MR AMBROSE LAU** (in Chinese): *Madam President, according to the quarterly newsletter "I lens" published by the Office of the Commissioner of Insurance last month, the general insurance industry registered poor performance in 1999. Total underwriting losses of the general business insurers for the year reached an unprecedented high level of \$1,062 million, the worst year since the Insurance Authority started to collect statistics in 1990. In this connection, will the Government inform this Council:*

- (a) *of the measures it will adopt to tackle individual insurance companies' deficiency in claims reserves; and*
- (b) *whether it will adopt measures to prevent cut-throat competition in the insurance industry and the closures of small and medium insurance companies?*

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

- (a) It is incumbent upon an insurer to make adequate provisions for its liabilities, in particular its outstanding claims. If an insurer is found to have under-reserved its claims, by virtue of section 35(1) of the Insurance Companies Ordinance (the Ordinance), the Insurance Authority will require the insurer concerned to top up the reserves to an adequate level either by way of internal transfer of funds from its free reserves or by injection of new capital. If there is no transfer of funds or injection of new capital, the Insurance Authority may consider taking action in accordance with the provisions of the Ordinance to protect the interests of policyholders. The Insurance Authority may, for example, restrict the relevant insurer from undertaking new businesses under section 27 of the Ordinance or limit the volume of business of that insurer under section 31.
- (b) We believe in free competition and have no intention of interfering with the commercial decisions of insurers. As the regulator of the insurance industry, the Insurance Authority will make every effort to ensure that insurers have the necessary financial resources to meet their liabilities in accordance with the provisions of the Insurance Companies Ordinance. In respect of general insurance business, the Insurance Authority will place particular emphasis on ensuring the adequacy of claims reserves.

### **Means to Replace Diesel Vans with Petrol Vehicles**

9. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, the Administration is studying viable means to replace diesel vans with petrol vehicles. In this connection, will the Government inform this Council:*

- (a) *of the progress of the study and the estimated implementation timetable;*
- (b) *whether it will consider providing the industry with financial assistance such as subsidies for purchasing petrol vehicles and petrol; if it will, of the details; if not, the reasons for that; and*

- (c) *given that emissions of petrol vehicles contain carcinogenic substances such as benzene, whether it will consider studying instead the feasibility of replacing diesel vans with liquefied petroleum gas (LPG) vehicles and launching a LPG van trial scheme; if not, of the reasons for that?*

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

Madam President, the Administration will look at a number of alternatives for phasing out diesel light vans in the longer term. Since we have yet to decide on the most effective and practicable option, it is too early to consider the granting of financial incentives. In the meantime, diesel vehicles (including light vans) will be encouraged to use ultra low sulphur diesel which can reduce the particulate and nitrogen oxide emissions of a diesel vehicle by 10% to 30% and 5% respectively. We will also provide a one-off grant to retrofit all pre-Euro diesel light vehicles, including vans, with particulate traps. The programme will start in September this year.

**Flooding Incident in North Western New Territories**

10. **DR TANG SIU-TONG** (in Chinese): *Madam President, regarding the serious flooding in North Western New Territories on 14 April this year, will the Government inform this Council:*

- (a) *of the monthly rainfall in North Western New Territories from March to June in each of the past five years;*
- (b) *of the justifications for the Drainage Services Department (DSD) allowing the Kowloon-Canton Railway Corporation (KCRC) to carry out works on the West Rail in Tuen Mun Nullah, Hung Shui Kiu Channel and Yuen Long Nullahs during the dry season up till 20 April 2000; of the works requirements the DSD imposed on the KCRC and its contractors to prevent drain blockage and the measures in place to ensure compliance with these requirements; whether the DSD has assessed the impact of the carrying out of the works during the rainy season on the draining capacity of the respective watercourses; if it has, of the details;*

- (c) *of the time when the DSD learned of the imminent severe rainstorms on 14 April; the corresponding measures taken by the DSD to prevent West Rail works from causing adverse effects on the draining capacity of the relevant watercourses, as well as how the DSD ensured implementation of these measures; and*
- (d) *whether it will conduct an independent inquiry into the flooding incident on 14 April to determine the parties responsible for the flooding and assist the residents who have suffered losses in claiming compensation; if it will, of the details; if not, the reasons for that?*

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

- (a) The monthly total rainfall (mm) records for the month of March to June over the past five years collected by the Hong Kong Observatory at Shui Pin Wai Estate rain gauge are as follows:

	<i>March</i>	<i>April</i>	<i>May</i>	<i>June</i>
1995	28.0	75.5	48.5	299.5
1996	85.5	127.5	279.5	238.0
1997	46.5	121.0	259.5	316.5
1998	33.0	163.5	368.5	572.0
1999	22.0	53.0	150.5	188.5
2000	19.0	809.5	84.5	

- (b) The rainfall intensity in Hong Kong varies significantly between wet season and dry season. The DSD has analysed the rainfall distribution over the year based on rainfall records since 1884. These records reflected that the risk of having an extreme rainfall in early and mid-April is very low. This is the reason of the DSD accepting the KCRC's dry season working proposal in major channels/nullahs up to 20 April. For any works to be carried out beyond 20 April, that is, within the period of wet season, the requirement will be much more stringent.

Regarding the details of all the temporary works in the major nullahs/channels, like those at Tuen Mun Nullah, Hung Shui Kiu Channel and Yuen Long Nullah, the KCRC has submitted proposals for the DSD's vetting and agreement. Some major conditions are:

- all the drainage diversion works shall be delivered according to the agreed/approved drawings.
  - all the side drains shall either be undisturbed or be maintained.
  - to follow the emergency procedure, such as the evacuation of plant and materials, removal of some agreed temporary works, under adverse weather conditions.
- (c) The Amber Rainstorm Signal was hoisted at 3.00 am on 14 April and the flooding in the Northern New Territories warning was issued at 4.35 pm.

On the aspect of flood prevention, the DSD has a preventative maintenance programme to inspect, desilt and repair the stormwater drainage system regularly before and during the wet season to ensure that any blockage found will be cleared and defects rectified immediately. Specifically, the DSD has required the KCRC also for active measures to ensure that there will be no adverse drainage impacts on the stormwater drainage system due to construction activities.

In order to ensure the proper implementation of the KCRC's measures, the DSD has carried out site inspection and maintained close liaison with the KCRC for improvement of the drainage within the site area since the commencement of West Rail works last year. The day-to-day supervision of site construction including drainage measures within the West Rail projects relies on the KCRC and its resident site staff. To further step up the attentiveness to the implementation of drainage measures by the KCRC, the DSD is having regular meetings with the KCRC to follow up all drainage matters.

- (d) Over the years, the DSD have built up reliable systems capable of investigating the causes of flooding incidents. Immediately after each heavy rainstorm, the DSD will collect information of major flooding incidents to identify the extent and probable causes of the flooding. With this information, the DSD can plan and implement improvement works to the existing drainage system.

The investigation by the DSD on the flooding in the North Western New Territories on 14 April is based on the DSD's site observation, drainage records, operational records of drainage installations and hydraulic analysis. The investigation has been carried out in a fair and impartial manner. We do not consider it necessary to carry out an independent investigation of the flooding event as it is unlikely that investigation by other party at a later time can gather more information of the flooding incident and come up with a more accurate representation of the flooding event. Individuals who suffered loss should make their claims to the party they consider liable. Each claim has to be investigated and assessed by the party involved and, where appropriate, the insurance companies.

### **Percentage Target for Qualified Teachers of Kindergartens**

11. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, in reply to a question raised by a Member of this Council on 17 November last year, the Government stated that it hoped to achieve the target of having at least 60% of the teachers in each kindergarten to be Qualified Kindergarten Teachers (QKTs) by September this year. In this connection, will the Government inform this Council of:*

- (a) *the current number of kindergartens which have achieved the aforesaid percentage target and its percentage in all kindergartens in Hong Kong;*
- (b) *the number of kindergartens which have yet to achieve the percentage target and the average percentage of QKTs among all the teachers in those kindergartens; and*
- (c) *the supply and demand of QKTs at present?*

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

- (a) According to a teachers' survey conducted in October 1999, a total of 708 kindergartens have achieved the target of employing at least 60% QKTs, accounting for 92% of all kindergartens in Hong Kong.
- (b) There are 61 kindergartens which have yet to meet the 60% requirement. Forty-four of them now have teachers attending QKT training course. They should be able to meet the 60% target in September 2000 if the teachers now undergoing training remain in the employ of these kindergartens on completion of training. The remaining 17 kindergartens will meet the requirement by nominating teachers to attend the QKT course in the 2000-01 school year, or by recruiting new QKTs in the next few months.
- (c) As indicated by the results of the above survey, there are now 4 943 QKTs teaching in kindergartens. The present requirement is for kindergartens to employ at least 50% QKTs; this translates into a demand for 2 059 QKTs. Based on the projected kindergarten enrolment for the 2000-01 school year, about 2 420 QKTs will be required to achieve the 60% target. On the whole, the supply of QKTs is sufficient to meet demand.

### **Choice of Chinese Character Input Methods**

12. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, regarding the choice of Chinese character input methods, will the Government inform this Council whether:*

- (a) *the Education Department (ED) has specified the Chinese character input method to be taught in information technology (IT)-related subjects in primary and secondary schools; if so, of the specified input method and the rationale for the choice; if not, the reasons for that, and whether it knows what the input method taught in most schools is;*

- (b) *it knows which Chinese character input method is most commonly taught in IT-related courses funded by the Employees Retraining Board (ERB) and run by training providers; of the criteria adopted for choosing the input method to be taught; and whether different input methods are available for trainees to choose; and*
- (c) *government departments have specified the Chinese character input method in which applicants should be well-versed in order to meet the entry requirements for vacancies requiring Chinese character input skills?*

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

- (a) The Curriculum Development Council (CDC) issued a consultation document "Information Technology Learning Targets" in November 1999 for a two-month consultation. The Ad Hoc Committee on the Development of IT Learning Targets under CDC, members of which include school and teacher representatives, has recently revised the document taking into account views collected during the consultation exercise and will submit the revised document to CDC in late June this year for endorsement. If the document is endorsed, the ED will distribute it to schools in July and implement the IT learning targets in September this year.

According to the recommendations of the Ad Hoc Committee, one of the learning targets for Primary One to Three students is to use Chinese handwriting input method as it is easy to learn. As for Primary Four to Six students, one of the learning targets is to use keyboards to input Chinese characters. At present, there are various types of Chinese character keyboard input methods. The ED does not intend to specify one particular method to be taught in schools. This is because an input method is only a tool to enable students to key in Chinese characters, so as to facilitate their learning through the use of computers. This approach is supported by the Ad Hoc Committee on IT learning targets of CDC.

Based on the ED's understanding from its regular school visits, for Chinese character keyboard input methods, most schools teach the "Quick" input method.

- (b) At present, some IT-related training courses funded by the ERB teach the trainees how to input Chinese characters to computers. The ERB courses are different from secondary and primary school curriculum. These courses are usually short-term and the main purpose is to teach skills which are required in real-life working environment, so that trainees can immediately join the labour market upon completion of training. Therefore, training bodies under the ERB and employer representatives of its trade advisory groups will, based on the prevailing needs of the market, recommend the type of Chinese character input method to be taught. Both the training bodies and employer representatives consider that the "Chang-jie" input method is most commonly used in local workplace at the moment. Hence, "Chang-jie" input method is taught in the retraining programmes at present. The ERB will consider teaching other input methods in the light of changing market needs.
- (c) There are certain grades in the Civil Service which require Chinese word processing skills, including the secretarial and calligraphist grades. However, these grades do not require candidates to possess the knowledge of any specific Chinese character input method as a condition of appointment. Instead, the required Chinese word processing speed (in terms of characters per minute) for entry, passage of probation or promotion will be specified. When candidates or staff concerned are required to be tested on their Chinese character input speed, they may choose any commonly used input methods they are familiar with.

### **Contingency Arrangements for Outbreak of Fires Inside Vehicle Tunnels**

13. **MR LAU KONG-WAH** (in Chinese): *Madam President, it was reported that there had been delays in the rescue and evacuation operations in response to an incident on 29 May in which a private car caught fire inside a tube of the Cross Harbour Tunnel. Regarding the contingency arrangements for the outbreak of fires inside vehicle tunnels, will the Government inform this Council:*

- (a) *of the details of the rescue and evacuation operations for that particular incident, including the respective response times of the tunnel company staff and firemen, and whether it has assessed if there are aspects which require improvements; if it has, of the details;*
- (b) *whether the location of that incident is within the range of coverage of the closed circuit television (CCTV) system of the tunnel company; whether it knows if the CCTV systems of other vehicle tunnels can cover the entire tubes; and whether it is necessary to extend the range of coverage of these CCTV systems; and*
- (c) *whether the fire extinguishing installations inside various vehicle tunnels are sufficient to cope with various types of fires, including those caused by vehicles loaded with inflammable substances or fuelled by liquefied petroleum gas?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, according to the report submitted by the Cross Harbour Tunnel operator to the Transport Department (TD), the control room staff of the tunnel operator detected at 1325 hours on 29 May 2000 via the CCTV that there was smoke in the Kowloon-bound tube. They immediately activated the standard fire emergency procedures, including informing the Fire Services Department (FSD) through the direct telephone line, dispatching the first rescue team to the incident scene, stopping vehicular traffic into the tunnel, alerting the tunnel users of the emergency situation, switching on the fire mode of the ventilation system and opening the emergency gate to facilitate the fire engines to access the incident scene.

The tunnel operator advised that their first rescue team arrived at the scene at 1328 hours and found that a private car was on fire. They attempted to control the fire, but failed. As fire officers were arriving, they proceeded to evacuate drivers and passengers in the tunnel. Majority of the tunnel users were evacuated by 1337 hours.

In addition to the call from the tunnel operator, the FSD received a 999 call on the fire at 1324 hours. The FSD arrived at the tunnel portal at 1328 hours and the fire scene at 1330 hours. The fire was suppressed at 1356 hours.

Having reviewed the incident, the Administration considers that the tunnel operator had responded and handled the fire incident generally in an effective manner and in accordance with established procedures. However, there are several areas on which we will work with the tunnel operator to improve. It took two minutes for the tunnel staff at the control room to detect the fire. The fire should have been detected as early as possible. The tunnel operator's staff reportedly took three minutes to reach the incident scene. The two rescue staff who arrived at the scene first had not complied with standard procedures on four aspects. Firstly, they did not wear smoke masks when entering the scene. Secondly, they used a fire extinguisher instead of a fire hose to control the fire. Thirdly, one member of the staff left the scene to help with evacuation, but should have stayed to work as a team. Fourthly, both members of the staff should have stayed at the scene to hand over the operation to the fire officers on their arrival. Failure to follow standard procedures may put the staff at risk.

We had identified several improvement measures. Firstly, the tunnel operator had been asked to enhance staff training in fire emergencies. Secondly, improvement in communication and evacuation of passengers especially for the bus passengers would be required. The TD will shortly co-ordinate a fire drill in the tunnel with participation from the FSD, the police and the bus operators. Thirdly, the CCTV monitoring system, built some 28 year ago, should be upgraded to enhance monitoring capability at the tunnel control room.

We are also looking into further improvement measures to enhance responses to fire incidents in tunnels. They will include a review of the need for upgrading of equipment in government tunnels; better planning and closer monitoring of fire drills and organizing more experience sharing sessions among the tunnel operators to review performance and the latest development in emergency management in the industry. We will also step up education for the public on safety guidelines in case of fire and other emergencies inside tunnels with the assistance of the tunnel operators, bus companies and the Road Safety Council.

The entire tube of the Cross Harbour Tunnel, including the location of the incident, is covered by the CCTV system of the Tunnel. The CCTV systems of all other tunnels cover the entire tubes.

The fire fighting installations including the fire extinguishers, fire hydrants and ventilation systems in all tunnels in Hong Kong fully complied with the FSD's requirements and are maintained by registered Fire Service Installation Contractors annually. They are considered adequate to cope with fire incidents in tunnels including those involving vehicles fuelled by liquefied petroleum gas (LPG). The staff of all tunnels have also been trained to handle fire incidents involving LPG-fuelled vehicles. Emergency handling procedures on LPG vehicles have also been drawn up by the FSD and Electrical and Mechanical Services Department for all parties concerned, including drivers and tunnel staff, to make reference and to observe. Vehicles carrying dangerous goods of Category 1, 2 or 5 are banned from using all tunnels in Hong Kong under the relevant tunnel legislation.

### **Overcharging and Over-enrolment by Kindergartens**

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

- (a) *if they have made a decision, or when they will make a decision, on whether or not to prosecute the operators of Gloria English Primary School and Kindergarten and Gloria Kindergarten (Norfolk Extension) for overcharging school fees in the 1997-98 school year; if they have decided not to prosecute, of the reasons for that;*
- (b) *of the reasons for imposing a higher fine only, but not lengthening the term of imprisonment, for overcharging and over-enrolment by kindergartens, when they proposed amendments to the relevant legislation; and*
- (c) *whether they will strengthen the monitoring efforts and adopt special measures to prevent overcharging of school fees and over-enrolment of pupils by kindergartens during the enrolment period in the next school year, and assist parents in obtaining information on the approved maximum numbers of kindergarten intake and fees?*

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

- (a) The Education Department has sought legal advice from the Department of Justice regarding the case of overcharging of school fees by the Gloria English Primary School and Kindergarten and the Gloria Kindergarten (Norfolk Extension). The Department of Justice has advised that the offences proscribed under the Education Ordinance are subject to section 26 of the Magistrates Ordinance, which provides that "in any case of an offence, other than an indictable offence, where no time is limited by any enactment for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information laid within six months from the time when the matter of such complaint or information respectively arose." Since the Education Ordinance does not specify a time limit, prosecution action against an offender for breach of the Ordinance must be instituted within six months after the occurrence of the offence. As the overcharging of school fees by the two kindergartens in the 1997-98 school year was only brought to the attention of the Education Department by parents in mid-1999, prosecution action could not be taken under the existing law. The Department is taking active steps to consider amending the provisions in the Education Ordinance with a view to extending the time limit for prosecution.

As regards parents' claims for refund of school fees overcharged for the 1997-98 school year, the Consumer Council has already approached the supervisor of the kindergartens for the purpose of mediation. The Education Department will liaise closely with the Consumer Council to provide the necessary information, and will keep a close watch on the development of the case.

The kindergartens concerned have not breached any regulations on charging of school fees this year. The Department will closely monitor their operation to prevent recurrence of similar incidences. The Kowloon City District Education Office will also step up supervision by making quarterly inspection visits to the two kindergartens. If necessary, the Audit Section of the Department will also deploy staff to check the accounts of the schools.

- (b) We have recently increased the fines under the Education Ordinance and the Education Regulations. The increases in the fine for over-enrolment in contravention of regulation 87 from \$5,000 to \$250,000, and that for overcharging of fees in contravention of regulation 61 from \$5,000 to \$50,000, should have sufficient deterrent effect. We have also reviewed the imprisonment terms specified in the Ordinance and the Regulations. We consider the existing provisions appropriate and have not proposed any change. This has the support of the Legislative Council Panel on Education.
- (c) The Education Department has adopted the following measures to prevent overcharging of school fees and over-enrolment by kindergartens, and to assist parents in obtaining basic information about kindergartens:
- (i) The Department will, in collaboration with the Committee on Home-School Co-operation, continue to publish the School Profiles of Kindergartens for reference by parents. When the profiles for the 2000-01 school year are compiled later this year, information on enrolment, school fees and other charges made by kindergartens will be included.
  - (ii) A circular was issued to supervisors of kindergartens in April this year to remind them of the rules and regulations which must be complied with when collecting school fees, registration fees and entrance examination fees. The circular also requires kindergartens to include in their pamphlets or admission application forms such basic information as school registration, enrolment, expected number of pupils to be admitted, school fees and other charges, so as to increase the transparency of their operation.
  - (iii) A Central Compliance Team was established in May this year to co-ordinate and handle matters relating to irregularities in schools.
  - (iv) At the beginning of the 2000-01 school year, inspectors from the Department will conduct headcount visits to kindergartens with past records of over-enrolment.

- (v) During inspections to kindergartens with past records of overcharging, information concerning school fees and other charges, such as notices and receipts, will be examined.

We believe that the above preventive and monitoring measures, coupled with the recent increases in fines, should have an adequate deterrent effect.

### **Management of Former Tamar Site by Hong Kong Tourist Association**

15. **MR FUNG CHI-KIN** (in Chinese): *Madam President, in July 1998, the Government granted the former Tamar site to the Hong Kong Tourist Association (HKTA) on short-term lease to enable recreational, entertainment and tourism promotion activities to be held, as well as to provide parking facilities. It is a two-year lease at a rental of \$1. In this connection, will the Government inform this Council whether:*

- (a) *it knows the respective numbers of activities organized by the HKTA and other commercial organizations as at the end of last month;*
- (b) *it is aware of the criteria and procedure adopted by the HKTA for processing applications by commercial organizations for holding tourism promotion activities at the site;*
- (c) *it is aware of the criteria adopted by the HKTA for determining the costs to be paid by commercial organizations for renting the site, and the amount of revenue received by the HKTA thereon; and*
- (d) *the authorities will continue to grant the site to outside organizations on short-term leases for holding activities when the current lease expires; if so, of the criteria and procedure to be adopted in processing such applications, and of the rental level; if not, the reasons for that?*

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

- (a) According to the HKTA, 23 events were held at the Tamar site between August 1998 and May 2000. Five of the events were organized by the HKTA whereas the remaining 18 events were organized by other parties.
- (b) Potential hirers of the Tamar site are required to complete and submit application forms to the HKTA for consideration and approval. The Association takes into consideration factors such as the nature and scale of the event, benefits of the event to the tourism industry and the community, and track record of the organizer in approving applications. The HKTA enters into hiring agreements with all successful applicants for use of the site.
- (c) The HKTA's policy is to collect a hiring charge of 8% of gross admission receipts or \$35,000 per day, whichever is the greater, from commercial hirers. As regards non-commercial and charitable hirers, a hiring charge of 8% of gross admission receipts or \$10,000 per day, whichever is the greater, is collected. This rental policy takes into account the market rate, initial set-up and site improvement costs, and operating costs including staff and maintenance costs.

According to the tenancy agreement between the Lands Department and the HKTA, any net revenue generated from the Tamar site project shall be shared equally between the two parties. The figures are not available at this stage as the tenancy agreement will only expire at the end of June.

- (d) The Lands Department will lease out part of the Tamar site as a fee paying carpark by tender upon expiry of the tenancy agreement with the HKTA. The remaining part of the site, around 22 000 sq m, will be allocated to the Tourism Commission for tourism-related activities for nine months from July 2000 to March 2001. Potential hirers will be required to submit applications to the Tourism Commission which will approve short-term use of the site for tourism-related activities beneficial to the tourism industry in Hong

Kong and other activities beneficial to the community. The charge to be levied would take into account the nature of the organizers and whether the activities involve sale of tickets for admission or other commercial element like renting out stalls for sale of merchandize and so on. Details of the charging arrangement are set out at Annex.

Annex

*Nature of Event Organizers*

*Hiring Charges*

- |  |  |
|--|--|
| (a) Approved Charitable Institutions and Trusts of a Public Character under section 88 of the Inland Revenue Ordinance | (i) If there is no sale of admission tickets or other commercial element, a hiring charge of \$1 per day.  |
|  | (ii) If there is a sale of admission tickets or other commercial element, a hiring charge of 10% of the total net income.                              |
| (b) Institutions/Organizations other than those in (a) above   | (i) If there is no sale of admission tickets or other commercial element, a hiring charge of \$1 per day.  |
|  | (ii) If there is a sale of admission tickets or other commercial element, \$35,000 per day or 10% of the gross ticket sales, whichever is the greater. |

**Schooling of Ethnic Nepalese Children and Youths Residing in Hong Kong**

16. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, regarding schooling of ethnic Nepalese children and youths, will the Government inform this Council:*

- (a) *of the number of school-age ethnic Nepalese children and youths residing in Hong Kong, and the number of those who are Hong Kong permanent residents;*
- (b) *of the current situation in respect of the education of these school-age persons in Hong Kong; and*
- (c) *whether it has plans, through setting up schools or other measures, to provide opportunities for all school-age Nepalese persons to receive basic education; if not, of the reasons for that?*

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

- (a) According to the statistics of the Immigration Department, as at 8 June 2000 there are about 1 660 school-age Nepalese children and youths (that is, aged between six to 15) residing in Hong Kong. The Government does not keep separate statistics on how many of these 1 660 individuals are Hong Kong permanent residents. However, according to the estimate of Immigration Department, about 80% of these 1 660 individuals are Hong Kong permanent residents and the rest are mainly dependents of Hong Kong residents. The latter will become Hong Kong permanent residents after having resided in Hong Kong for seven years.
- (b) and (c)

Under existing policy, all eligible local children, including Nepalese children (relevant eligibility criteria set out in Annex), many attend public sector school (that is, government and aided schools) in Hong Kong. In addition, they may choose to attend other private or international schools. These children may request placement assistance from the Education Department (ED) whenever necessary.

To enable non-Chinese children residing in Hong Kong to integrate into the local community as soon as possible, the Government encourages them to attend public sector schools. Therefore, the Government does not have any plan to set up schools specifically for certain ethnic groups (including Nepalese).

We are conscious that non-Chinese school children may not be able to adapt to the local education system initially. Therefore, the ED will, starting from the next school year, provide these school children with support services similar to those received by newly arrived children from the Mainland. The ED will provide subvention to non-governmental organizations for running induction programmes to help non-Chinese children improve their proficiency in reading and writing Chinese. In addition, the ED will provide a block grant to schools which admit these children. Schools may use this block grant to provide school-based support services, such as organizing tutorial classes or developing special teaching materials, for their non-Chinese students.

Annex

#### Admission criteria of children to public sector schools in Hong Kong

Admission to public sector schools is restricted to children holding one of the following documents:

- (a) Hong Kong Birth Certificate
  - (i) For birth registration effected before 1 January 1983, the birth certificate alone is sufficient proof of the holder's eligibility for admission to such schools;
  - (ii) For birth registration effected between 1 January 1983 and 30 June 1987, column 12 of their birth certificate must indicate their Hong Kong belonger status as "*Established*";
  - (iii) For birth registration effected on or after 1 July 1987, column 12 or 11 of their birth certificate must indicate their Hong Kong permanent resident status as "*Established*";

- (iv) Children whose Hong Kong belonger status or Hong Kong permanent residents status is shown as "*Not established*" in the birth certificate should have a Permit to Remain in Hong Kong - ID 235B or valid travel documents, with one of the endorsements listed in (c) below.

(b) Hong Kong Identity Card

A Hong Kong Identity Card issued on or after 1 July 1987 which does not bear the symbol "C" (for conditional stay) at line 6. If the symbol "C" is shown, the holder must have a valid travel document with one of the endorsements listed in (c) below.

(c) Travel Document

A valid travel document with any of the following endorsements:

- (i) "*Permitted to remain until (date)*" (the date showing the stay in Hong Kong to be still valid at the time of admission to school);
- (ii) "*Permission to remain extended until (date)*" (the date showing that the stay in Hong Kong to be still valid at the time of admission of school);
- (iii) "*The holder of this travel document has the right to land in Hong Kong. (Section 2AAA, Immigration Ordinance Cap. 115, Laws of Hong Kong)*";
- (iv) "*The holder arrived Hong Kong on (date) and was permitted to land*";
- (v) Permitted to stay with no condition attached;
- (vi) "*previous conditions of stay are hereby cancelled*"; or
- (vii) "*Holder's eligibility for Hong Kong permanent identity card verified*".

**Improvement to Job Placement Service by Labour Department**

17. **MR AMBROSE LAU** (in Chinese): *Madam President, in the Policy Objectives of the 1999 policy address, the Administration undertook to revamp the Job Matching Programme, develop a dedicated system for the construction industry in the website of the Interactive Employment Service, and revamp the Careers Advisory Service of the Labour Department. In this connection, will the Government inform this Council of the progress and achievements of the above initiatives?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, in date 1999, the Labour Department started to revamp the Job Matching Programme to introduce a group counselling service for interested clients. Supplementary individual counselling, group counselling is conducted through briefing sessions and workshops. During briefing sessions, placement officers will furnish job-seekers with updated information on the labour market; and through workshops, they will help job-seekers understand their own strengths and weaknesses and share with them the experiences and techniques in interpersonal relationships, communication and interview. After group counselling, placement officers will be able to know more about the job-seekers and can thus perform more effective job matching. Moreover, through group counselling, job-seekers can have more exchanges among themselves. They can share their experience in job-seeking and set up mutual support networks. All these will help them build up self-confidence and find employment. From January to May 2000, a total of 155 group counselling sessions of this kind have been organized for 954 job-seekers by the Labour Department. The feedback from participants is generally positive. The number of successful placements achieved in the same period under the Job Matching Programme is 4 571.

The Labour Department is developing a dedicated system for the construction industry at its Interactive Employment Service website so as to provide better employment services to employers and job-seekers of the industry. With the launching of the new web page, job-seekers will be able to input data such as the type of job/trade sought for, working experience, educational qualifications, expected salary and terms of employment (permanent/temporary) by simply pressing the appropriate keys to select information. This provides job-seekers with a more efficient and effective way of locating suitable job vacancies in the construction industry. Employers in the construction industry

can also make use of the web page to register job vacancies and select the right candidates quickly and conveniently. In addition, the latest statistics on people who have passed the trade tests in the industry will be made available on the web page for the employers' reference. The Labour Department has drawn up the function specifications of the new system and has commissioned a web page contractor to prepare the programs. Work is now progressing smoothly with most of the programs completed and put to test. It is expected that the new system will be formally launched later this year.

Meanwhile, the Labour Department is reviewing and revamping the career counselling services for youngsters and school leavers. The new scheme will focus on establishing partnership with related bodies and organizations as well as developing a high-speed information network with the aid of information technology. The aim is to provide more interactive information through the website of the Careers Advisory Service, thereby enhancing the effectiveness of the career counselling services. The website will provide job-seekers with updated and more detailed information on careers and further education. It will also contain new career orientation assessment tests which suit the local situation to help youngsters understand better their own personality and aptitude so that they will know how to choose suitable jobs for themselves. Chat-room and e-mail inquiry services will also be introduced. Moreover, the Labour Department will invite professional bodies of various trades and industries to provide the latest information on employment and training, and upload such information onto the web page so that youngsters and school leavers can, by browsing on-line or downloading, readily obtain comprehensive information about the job market. The various initiatives are expected to be completed by March 2001.

To cater for the needs at different levels of the community, the Careers Advisory Service plans to invite local universities to be its partners in conducting a research on the job-seeking skills of youngsters and developing a tailor-made software known as "Resource Kit on Career Counselling" for use in Hong Kong. The Resource Kit will contain guidelines on career counselling techniques, games and practices that are illuminating, and contact lists of bodies which provide careers information. We intend to distribute the software to all secondary schools as well as social service agencies offering youth counselling services, so that it will serve as an effective tool with which counselling teachers and social workers can provide better career counselling services. The development of the Resource Kit is expected to be completed by early 2001.

**Rationalization of Franchised Bus Routes and Bus Stops**

18. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the rationalization of franchised bus routes and bus stops to ease traffic congestion, will the Government inform this Council:*

- (a) *of the bus routes involved in the rationalization of bus stops on Nathan Road in February and March this year and the effectiveness of the rationalization; whether it has plans to rationalize the bus stops on Nathan Road in respect of other routes;*
- (b) *whether it has plans to rationalize the bus stops on other roads; if so, of the details and progress, and the criteria it will adopt to determine if rationalization of particular bus stops is required;*
- (c) *of the roads on which the traffic congestion is caused by an excessive number of franchised buses passing through; whether it has plans to rationalize the bus routes concerned; and*
- (d) *whether it will refrain from approving new bus routes passing through roads with heavy traffic?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, there has been a continual development in the bus network in recent years to cater for the increasing needs of the public for transport services. However, the growth in bus services has contributed to problems on roads which are already congested. As one measure to regulate bus service and to ease congestion along busy corridors, the Transport Department (TD) has implemented a number of schemes to rationalize bus stops in Central, Wan Chai, Causeway Bay, North Point, Yau Tsim Mong, Kwun Tong, Tsuen Wan, Yuen Long and Tai Po Districts.

The scheme to rationalize bus stops in Nathan Road (the entire road section between Boundary Street and Salisbury Road) was implemented during February and March this year. It involved a total of 97 bus routes travelling via Nathan Road and had reduced 900 (about 14%) stoppings per peak hour (from 6 300 to 5 400). The TD conducted a survey after the implementation of the Nathan Road exercise and the results indicated that the bus journey time on Nathan Road during the peak hours had reduced by about six to seven minutes on average (about 20%). The effectiveness of the exercise was found to be satisfactory.

After the rationalization exercise in Nathan Road in March, the TD took further action to reduce bus stops in Tsim Sha Tsui along Salisbury Road, Canton Road and Nathan Road (near Middle Road). This exercise which reduced the stoppings by 150 per peak hour was implemented during April and May.

The TD will continue to closely monitor the traffic situation in busy districts such as Central, Wan Chai and Causeway Bay in Hong Kong and Mong Kok and Tsim Sha Tsui in Kowloon to look for opportunities to further rationalize bus services travelling in these districts. The traffic situation of the roads in Central remains a concern and the TD will review the bus stops in the area later this year to see whether additional rationalization exercise is required. In developing plans for rationalization of bus stops, the TD will consult the police and the bus operators, and the relevant District Councils will be briefed before implementing such plans. The following criteria will be adopted in re-arranging the stopping points of the bus routes concerned:

- (a) bus stops within a short distance will be cancelled to reduce the number of stopping so as to alleviate traffic congestion on the road; and
- (b) route packages at each bus stop will be planned according to their destinations and the physical conditions of the stop, and stopping points of the various packages will be separated to enhance efficiency of services and avoid congestion due to concentration of boarding/alighting activities at individual bus stops.

In addition, the TD will also regularly review with the bus companies and adjust bus routes and frequencies. Since end 1998, five bus routes have been cancelled. About 40 bus routes have been rationalized through amalgamation and truncation/short working to reduce the number of buses entering the busy districts. New bus services will continue to be developed having regard to demand and traffic conditions and we will continue to encourage franchised bus operators to provide services particularly in areas not directly accessible by railway. To enhance the efficiency of the bus network, more railway-bus and bus-bus interchange schemes will be introduced to reduce the need of granting long haul bus services.

## **Voucher System for Tertiary Education**

19. **MISS EMILY LAU:** *Madam President, under the educational voucher system, prospective tertiary students may freely choose the university to attend, and universities are required to collect educational vouchers from their respective students who have been issued with such vouchers by the relevant authority and exchange them for government subsidies, instead of being subsidized through direct funding. Regarding the feasibility of adopting such a system in Hong Kong, will the executive authorities inform this Council:*

- (a) whether they are considering adopting such a system;*
- (b) whether any study has been or is being conducted on the adoption of such a system in Hong Kong; if so, of the relevant details; and*
- (c) whether and when they will conduct the relevant public consultation?*

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

(a), (b) and (c)

The Administration collects information on international practices in the higher education sector from time to time. In this context, we note that the education voucher system is implemented in a small number of places (for example, some states of the United States and Chile) and that there have been mixed comments on the merits of such a system.

The Administration currently has no plan to adopt a voucher system in the higher education sector, but will welcome discussion on the applicability of such a system in Hong Kong. As the voucher system is fundamentally different from the current funding mechanism, its implications on resources, students, institutions and the society as a whole should be examined carefully.

**Promoting Public Understanding of and Care for Nature**

20. **MRS SOPHIE LEUNG** (in Chinese): *Madam President, will the Government inform this Council whether the Leisure and Cultural Services Department (LCSD) has taken measures and organized activities, through making use of the 1 350 parks and gardens under its management, to promote public understanding of and care for nature; if it has, of the details and the criteria adopted for assessing the effectiveness of such measures and activities; if it has not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President, the LCSD has taken the following measures to promote public understanding of and care for nature in the parks and gardens under its management.

1. *Providing Information on Greening and Beautification of the Environment*

In 1999-2000, the LCSD planted 1.2 million plants, including 16 000 trees in its parks and gardens. In selecting plant species for these amenities, the Department takes account of the needs of the ecological system in aiming to conserve and beautify the environment. To help promote public awareness of these aims, the Department installs information plaques, plant labels and posters in major parks.

2. *Education and Promotion*

To promote public understanding of the environment in a more active manner, the LCSD organizes horticultural classes, nature conservation courses, green camps and guided tours in parks and plant nurseries. In 1999-2000, the Department organized 27 horticultural classes, 580 guided tours, 20 nature conservation courses and a 21-day green camp for 13 000 participants. To further strengthen the work in this area, the Department plans to open a Greening Education and Resource Centre at Kowloon Park within the next year.

### 3. *Direct Community Involvement*

To encourage the public to participate directly in conservation and nature-related activities, the LCS D organizes programmes such as the Hong Kong Flower Show, the Green Ambassador Scheme and Community Tree Planting Day. The Hong Kong Flower Show 2000 held at Victoria Park attracted 490 000 visitors over a 10-day period. Activities organized for the 2 500 green ambassadors recruited under the Green Ambassador Scheme attracted some 7 000 participants. To date, the Department has organized 37 Community Tree Planting Days, in which about 9 000 people have taken part.

The Department adopts a number of measures to assess the effectiveness of these programmes and activities. These include: recording the opinions and response of visitors and participants; assessing the number of participants in various activities; and conducting opinion surveys. Based on the results of these measures, the Department reviews the effectiveness of its programmes and activities with the aim of encouraging greater participation and ensuring that positive messages regarding the environment and nature conservation are being received by the public.

## **BILLS**

### **Second Reading of Bills**

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

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

### **ARBITRATION (AMENDMENT) BILL 2000**

#### **Resumption of debate on Second Reading which was moved on 31 May 2000**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Arbitration (Amendment) Bill 2000 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Arbitration (Amendment) Bill 2000.

Council went into Committee.

### **Committee Stage**

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

### **ARBITRATION (AMENDMENT) BILL 2000**

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

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

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bill**

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

### **ARBITRATION (AMENDMENT) BILL 2000**

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I would like to thank the House Committee for studying the Bill with expeditiousness and care. The House Committee decided that the Bill would not require scrutiny by a Bills Committee.

Madam President, the

Arbitration (Amendment) Bill 2000

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

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Arbitration (Amendment) Bill 2000.

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

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

### **BUILDINGS (AMENDMENT) BILL 2000**

#### **Resumption of debate on Second Reading which was moved on 16 February 2000**

**PRESIDENT** (in Cantonese): Mr Edward HO, who presented the Bills Committee's Report on the above Bill, will now address the Council on the Report.

**MR EDWARD HO:** Madam President, on behalf of the Honourable Ronald ARCULLI, Chairman of the Bills Committee on Buildings (Amendment) Bill 2000, I wish to report on the work of the Committee.

The Buildings (Amendment) Bill 2000 contains a package of proposals to improve and update the Buildings Ordinance. These include amendments to provide for building concessions for hotel developments, performance review of geotechnical design, provision of floor space for material recovery in new buildings, provision of access facilities in new buildings for use by telecommunication and broadcasting network operators, and revised fee structure for registration of Authorized Persons and Registered Structural Engineers.

As the Bill involves changes to the building concessions for hotel developments as well as improvements to building control, we have invited submissions from relevant parties, including representative bodies from the hotel and building industries. Except for the Federation of Hong Kong Hotel Owners Limited which has raised some points on the provisions relating to building concessions on hotel developments, other representations received are all in support of the Bill.

In examining the amendments to the Building (Planning) Regulations which provide for the building concessions for hotel developments, we note the concerns raised by the Federation of Hong Kong Hotel Owners Limited about the scope of concessions, and agree that there is a need to provide the Building Authority with more flexibility in deciding on the types of hotel supporting facilities which could be exempted from gross floor area calculations. We also share the Federation's view that since owners of hotel may not be aware of the changes in the use of the hotel or hotel area as they normally do not interfere with the management of the hotel, it would be unfair on the part of the Authority to hold owners liable for changes of use, unless such changes are known to the owners.

We welcome the Administration's positive response to the concerns that we raised and its agreement to take on board our suggestions in improving the drafting of the Building (Planning) Regulations. The Administration will introduce amendments to allow the Building Authority more flexibility to decide on the types of supporting facilities to be granted concessions, and to introduce defence provisions such that it shall be a defence for the person to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention.

The Bills Committee agrees to the amendments proposed and other textual amendments made to the Bill to be moved by the Administration. We also note that the Federation of Hong Kong Hotel Owners Limited has expressed support to the amendments proposed.

Madam President, as the Amendment Bill will bring about improvements in buildings control and has the support of the hotel and building industries, I would have no hesitation in recommending the resumption of the Second Reading debate on the Bill.

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

**DR RAYMOND HO** (in Cantonese): Madam President, I welcome the various proposals put forward by the Government in the Buildings (Amendment) Bill 2000. As regards the particulars of the Amendment Bill, I have already expressed my views at the meetings of the Bills Committee scrutinizing the Bill. Besides, other relevant opinions have also been covered in the report of the Bills Committee. Hence, I do not intend to repeat here any of my views on the proposed amendments.

Doubtless, the proposed amendments will improve on the existing Buildings Ordinance. But given the limited scope of the amendments proposed, it is not all a comprehensive review of the already obsolete Ordinance. In fact, the existing Buildings Ordinance was enacted a number of decades ago. But since it affects a great many aspects of all private developments, including their design and disposition, structural safety, hygiene facilities and environmental protection facilities, the Ordinance has already undergone a number of partial amendments over the years. However, with building design, construction techniques and technology advancing by leaps and bounds, many provisions in the Ordinance are left lagging behind the times and unable to address the practical needs. Indeed, the Buildings Ordinance is basically a very outdated set of laws. If we should adopt the approach of the Government, we would end up making amendments to the relevant part of the Ordinance in the wake of some surfaced problems. That way, the Buildings Ordinance will always be lagging behind the times.

On the other hand, some of the outdated provisions of the Ordinance also hinder the introduction of new technologies and new construction techniques to Hong Kong's new development projects in the future. As a result, the local construction industry can only stick to those inefficient and non-environmentally friendly processes, building designs and materials. This will impede the development of the construction industry as a whole and is therefore not in line with the contemporary requirements of society.

For these reasons, I moved a motion at the Legislative Council Meeting on 26 January this year to urge the Government to conduct a comprehensive review of the Buildings Ordinance. I hereby take this opportunity to urge the Government once again to expeditiously table a Buildings Ordinance that best meets the needs of the times.

Madam President, I so submit.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, land is precious in Hong Kong and our population density is one of the highest in the world. That is why our buildings are reputed for "having everything despite limited space".

As society develops, our requirements for building facilities also change. I recall that when I first bought a flat, it did not matter whether the building had broadband facilities for Internet access. However, broadband networks have now become indispensable. Some property developers even use this as a selling point, telling buyers that they can "live in 21st century style".

To accommodate the needs of the new age, the Government stipulates in the Buildings (Amendment) Bill 2000 that new buildings shall be provided with access facilities for telecommunications and broadcasting network operators to meet the new needs of society for information technology. While offering convenience to the people, this amendment also signals Hong Kong's development towards digitization.

Hong Kong's tourism has grown in recent years. The Chief Executive, Mr TUNG Chee-hwa, expects that the number of visitors this year will exceed 12 million. With the soon to be completed Disney theme park, the number of visitors to Hong Kong will certainly hit a new high. In order to promote

tourism and reduce the cost of the industry, the Building Authority will exercise discretion to grant building concessions to hotel developers. Certain ancillary facilities, such as hotel restaurants, may be excluded in determining the gross floor area. While this is welcomed by the industry, the relevant arrangements are not statutory and therefore not explicit enough. For this reason, the Bill amends the arrangements concerning building concessions for hotels to make the provisions more explicit, in order to dispel the doubts of the industry. The amended provisions provide more comprehensive amendments to the regulation of and penalty for cases where hotel owners use those facilities for purposes other than for hotel use, thus making the law more complete.

Moreover, for the sake of fairness, the Government will adjust the fees for the registration of Authorized Persons and Structural Engineers. Before the amendment, no matter whether the application is successful, the applicant has to pay a substantial fee. With the amendment, the applicant only has to pay an application fee, while the successful applicant shall pay the fees "for inclusion ..... of his name in the appropriate register". This arrangement is clearly more reasonable than before.

The Bill also amends the provisions on the performance review of geotechnical design, allowing the Building Authority to conduct a performance review in respect of works in areas with special geological conditions, such as sites in areas with groundwater, to avoid problems in geotechnical design. The Bill also authorizes the Building Authority to supervise projects in the scheduled areas where problems in geotechnical design have arisen, in order to safeguard public interest.

The part of the Bill that most deserves our support is the requirement that new buildings must have facilities for material recovery. As we all know, the landfills in Hong Kong are expected to be full by 2016. We will then have to rack our brains over the disposal of the vast amount of solid waste. Recovering and recycling useful materials is one way to reduce this problem. As I said in the motion debate on "Creating employment opportunities by providing support for the waste recovery and recycling industries" moved by me on 19 January this year, if buildings have facilities for material recovery, it will certainly facilitate the operation of the waste recovery industry. While reducing the problem of solid waste in Hong Kong, it would also create employment opportunities for local workers. The relevant amendment shows that the Government takes the public aspiration seriously. However, the Hong Kong Federation of Trade

Unions (FTU) and the Democratic Alliance for the Betterment of Hong Kong (DAB) hope that the Government will introduce more measures to support the waste recovery and recycling industries, in order to create a win-win situation for the environment and the economy.

On the whole, the Buildings (Amendment) Bill 2000 contains provisions that tie in with the present situation and future development of Hong Kong. For this reason, I support the relevant amendments on behalf of the FTU and the DAB.

Madam President, I so submit.

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

(No Member responded)

**PRESIDENT** (in Cantonese): I will call upon the Secretary for Planning and Lands to reply.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, first of all, I would like to extend my thanks to members of the Bills Committee, especially the Honourable Ronald ARCULLI for their very careful and efficient examination of the Buildings (Amendment) Bill 2000. As the Honourable Edward HO has already discussed the purpose and the major proposals of the Bill, I do not intend to repeat them here. We are pleased to see that all the Bill proposals are supported by members of the Bills Committee and the industry. I will later propose at the Committee stage several amendments based on suggestions made by the Bills Committee and endorsed by various parties. I will discuss the main points of and reasons behind each amendment then. Dr Raymond HO has said that the Buildings Ordinance warrants a review. In fact, I made a relevant undertaking in January and the Buildings Department is conducting a comprehensive review of this Ordinance now. We hope that we can brief Members on some of our views in the coming Legislative Session.

With these remarks, Madam President, I propose that the Bill be read the Second time.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Buildings (Amendment) Bill 2000 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Buildings (Amendment) Bill 2000.

Council went into Committee.

### **Committee Stage**

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

### **BUILDINGS (AMENDMENT) BILL 2000**

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

**CLERK** (in Cantonese): Clauses 2, 3, 4, 6 and 7.

**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 and 5.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam Chairman, I move that clauses 1 and 5 be amended as set out in the paper circularized to Members.

This is a technical amendment. The amendment to clause 1(3) seeks to raise the penalty under section 42(a) of the relevant Ordinance and to bring in line with the effective date of the provisions on penalty in the proposed regulation 23A(8)(a) in the Building (Planning) Regulations. As to clause 5 on the substitution of "telecommunication" by "telecommunications", it is meant to achieve consistency with the Telecommunication (Amendment) Bill 1999 passed in the recent Legislative Council Meeting on 7 June. The Bills Committee has endorsed the relevant amendments.

*Proposed amendments*

**Clause 1 (see Annex VI)**

**Clause 5 (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 Secretary for Planning and Lands be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 1 and 5 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedule.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam Chairman, I move that the Schedule be amended as set out in the paper circularized to Members.

The amendments to sections 2, 3 and 5 in the Schedule are of a technical and drafting nature. As to the amendments to section 4 under the Schedule, such as the proposed new regulation 23A(3)(b)(iv) of the Building (Planning) Regulations, where sub-paragraph (iv) "other supporting facilities as may be approved by the Building Authority" substitutes the former "other similar supporting facilities", the purpose of the amendment is give the Building Authority greater flexibility in granting building concessions to hotel developments so that the overall design of quality hotels can incorporate innovations in technology and service facilities. I am grateful to the Bills Committee and the Federation of Hong Kong Hotel Owners Limited for their valuable advice on this provision. Another major amendment is made to section 4 to the Schedule on the addition of the defence provision to the proposed penalty under regulation 23A(8). I will not repeat the reasons for this amendment as Mr Edward HO has spoken on them earlier. The proposed amendment, to which the Government has agreed, will give hotel owners an adequate and clearly defined defence. It can also ensure the hotel concessionary areas granted by the Building Authority will not be subject to abuse. All the amendments to the Schedule have been endorsed by the Bills Committee. Thank you, Madam Chairman.

*Proposed amendment*

### **Schedule (see Annex VI)**

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

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, as pointed out by the Secretary, in addition to making written representations to the Legislative Council about the proposed amendment and particularly about section 4, the Federation of Hong Kong Hotel Owners Limited has also expressed its relevant concerns to individual Members of the Council. In this connection, I understand that the Federation welcomes very much the attitude adopted by the Government towards the concerns raised.

With respect to the defence provisions mentioned by Mr Edward HO just now, the hotel industry points out that actually the day-to-day running of a hotel may not be taken charge of by the owners but by the management staff concerned. As regards hotel support facilities, the industry holds that a proactive and forward-looking approach should always be adopted, bearing in mind that Hong Kong is currently making an effort to promote e-commerce, and that a Disney theme park will be constructed in Hong Kong in the future. If concessions will be granted to only those hotel facilities already completed but not to those to be completed in the future, there can hardly be any room for manoeuvre. As such, I have consulted the Federation on this point. With regard to the attitude adopted by the Government this time around and the amendment proposed to enable hotels to enjoy some claw-back after their plot ratios have been raised, the hotel industry welcomes the Government's approach to offering concessions with flexibility. It is my hope that the passage of the Bill can really give hotel investors some encouragement and greatly boost their interest in investing in hotel developments before the construction work of the Disney theme park commences in 2005. In which case, the development of the tourism industry of Hong Kong as a whole would no doubt be benefited significantly.

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

(No Member responded)

**CHAIRMAN** (in Cantonese): If not, Secretary for Planning and Lands, do you wish to reply?

(The Secretary for Planning and Lands indicated that he did not wish to reply)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Planning and Lands 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): Schedule 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.

**BUILDINGS (AMENDMENT) BILL 2000**

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

Buildings (Amendment) 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 Buildings (Amendment) Bill 2000 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Buildings (Amendment) Bill 2000.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Family Status Discrimination (Amendment) Bill 2000.

**FAMILY STATUS DISCRIMINATION (AMENDMENT) BILL 2000****Resumption of debate on Second Reading which was moved on 16 February 2000**

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**DR YEUNG SUM** (in Cantonese): Madam President, I submit the Report in my capacity as Chairman of the Bills Committee on Family Status Discrimination (Amendment) Bill 2000.

The Family Status Discrimination (Amendment) Bill 2000 seeks to amend the Ordinance to clarify that it is not unlawful for an employer to afford benefits only to one or more immediate family members of his employees without affording the same to all immediate family members of the employees. To put beyond doubt that it has never been the Administration's intention to require an employer to provide benefits to every immediate family member of his employees, the amendments will be deemed to have come into operation when the Ordinance took effect on 21 November 1997. The Bill also expressly provides that relevant proceedings instituted under the Ordinance before 1 February 2000 will not be affected.

The Bills Committee has held altogether three meetings. I will now report on the main deliberations of the Committee.

The Administration has informed the Bills Committee that since the introduction of the Bill to the Legislative Council, the Administration has received some comments on the drafting of the Bill. These comments pointed out that the wording of the proposed new section 39A might lead to misunderstanding that discrimination in respect of benefits for employees themselves would also be covered by the proposed exemption which might be too wide. Thus, the Administration has proposed Committee stage amendments to the Committee to only amend sections 8, 9 and 16 of the Ordinance, instead of granting exemptions covering Parts III, IV and V of the Ordinance as proposed in the Bill.

Members support the objective of the Bill in general and agree to the amendments to be proposed by the Administration. However, some members have expressed reservations about the retrospective provisions of the Bill.

Some members have expressed concern that the retrospective effect of the Bill may result in the reduction or alteration of existing benefits, facilities or services for immediate family members of employees.

To address the concern, the Administration has undertaken to add a new provision to the Bill which expressly provides that the Ordinance shall not affect any term in any agreement or contract entered into before the enactment of the Ordinance under which an employer undertakes to afford any immediate family member of an employee, contract worker or commission agent access to benefits, facilities or services.

Some members have queried whether it is a correct approach of legislation if the Administration seeks to amend the law with retrospective effect whenever it considers that the law has failed to reflect the original legislative intent. A member has further pointed out that she has reservations about the retrospective provisions also because the possible effect of such provisions on the rights of the employers, employees or their immediate family members is unknown.

The Administration has explained that as the purpose of the Bill is to put beyond doubt that it has never been the Administration's intention to require an employer to provide benefits to every immediate family member of his employees, the amendments should be deemed to have come into operation when the Ordinance took effect. It is unsatisfactory to introduce amendments without retrospective effect because the relevant persons can still initiate proceedings in respect of former acts taken by an employer for affording benefits to only some immediate family members. Some members also share the Administration's view.

To address a member's concern about the effect of retrospective provisions on the rights of the employers, employees or their immediate family members, the Administration has at the Bills Committee's request considered the feasibility of saving existing rights and obligations under an agreement or settlement entered into before the enactment of the Bill. The Administration has prepared relevant Committee stage amendments. After consideration, a majority of members support the amendments.

Madam President, the Bills Committee supports the resumption of the Second Reading debate of the Bill. I so submit.

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

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, as pointed out by the Chairman of the Bills Committee just now, this Bill seeks to remove the uncertainty over the interpretation of the original provisions relating to family status discrimination, and it also makes it clear that it is not an act of discrimination for an employer to provide fringe benefits to individual family members of his employees. We support such a move. The scrutiny of this Bill at times made me rather sad because it often made me remember that under the very poor economic conditions now, when workers claim their employment fringe benefits, their employers will often try to sever the employment relationship in an attempt to avoid the so-called employment protection. For example, some drivers have recently approached the Mandatory Provident Fund Schemes Authority, protesting that their employers have severed the employment relationship so that they can avoid the provision of their employees' legitimate protection. There have been many similar cases recently. We can see that some large organizations have been trying to retain their staff by also providing fringe benefits to the immediate family members of their staff on top of the benefits offered to the latter. So, since these employers are now worried that the passage of the Amendment Bill on family status discrimination may turn their current practice into an act of discrimination, the Hong Kong Federation of Trade Unions (FTU) will support the move to remove the uncertainty over the interpretation of the relevant provisions. I have been prompted to make these remarks by heart-felt sentiments.

As pointed out by the Chairman of the Bills Committee, we are very much concerned about the issue of retrospective effect. Throughout the whole process of scrutiny, the Government reacted to our concern with a very open attitude, and it allowed us to conduct studies with the Equal Opportunities Commission on ways of addressing our concern. In the end, an outcome acceptable to all was reached. For this reason, I will support this amendment on behalf of the FTU and the Democratic Alliance for the Betterment of Hong Kong.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Secretary for Home Affairs, please give your reply.

**SECRETARY FOR HOME AFFAIRS:** Madam President, I would like to thank Dr the Honourable YEUNG Sum and members of the Bills Committee for their hard work — their careful and efficient scrutiny of this Bill.

The Bill seeks to amend the Family Status Discrimination Ordinance to remove the uncertainty over the interpretation of the Family Status Discrimination Ordinance in relation to the provision of benefits to immediate family members of employees, contract workers or commission agents. Apart from their employees, contract workers or commission agents, it is a common practice for some employers and principals to extend certain employment fringe benefits to the spouse and children of their employees, contract workers or commission agents. However, we are aware that there is a body of legal opinion which considers that the Ordinance can be interpreted in such a way that makes it unlawful for an employer or principal to afford benefits to only some but not all relevant immediate family members of the employees, contract workers or commission agents. If the uncertainty is not removed at once, employers or principals wary of potential legal liabilities may withdraw benefits that they currently provide to these people out of goodwill, unless they are prepared to grant such benefits to all immediate family members concerned. This will result in these family members losing all the existing benefits. Also, to put beyond doubt that it has never been our intention under the Ordinance to require an employer or principal to provide benefits to every immediate family member in the care of his employees, contract workers or commission agents if such benefits are not granted, the relevant amendments in the Bill will be deemed to have come into operation when the Ordinance took effect on 21 November 1997. Some Bills Committee members have raised concerns about the retrospective effect of these amendments. We consider it necessary, otherwise the uncertainty in respect of former acts done before the enactment of the Bill

will linger on and parties concerned might have to resort to court proceedings to clarify their positions. However, to preserve the rights of claimants who might have already instituted proceedings in respect of a former act before the Bill was approved for introduction into this Council, we propose that proceedings initiated before the date of the Executive Council's approval for the introduction of the Bill, that is, 1 February 2000, will not be affected. I am glad that the Bills Committee was generally in support of these arrangements.

During the Committee stage, I shall move a number of Committee stage amendments to the Bill. First, in response to comments that the proposed scope of exceptions in clause 2 covering Parts III, IV and V of the Ordinance might be too wide, I shall move an amendment to clause 2, and propose new clauses 2A and 2B to limit the scope of the amendments to sections 8, 9 and 16 only. The new wording of these amendments will also address the concern that the proposed new section 39A in the original clause 2 of the Bill might lead to misunderstanding that benefits for employees, contract workers and commission agents themselves will also be affected by the Bill.

Second, to tie in with the amendments effected by clause 2 as amended and new clauses 2A and 2B, I shall also move an amendment to clause 3 so that instead of Part III, IV or V, it will refer to the relevant amended provisions under sections 8, 9 and 16 of the Ordinance.

Lastly, to address the concerns of some Members that the retrospective effect of the Bill might result in the reduction or alteration of existing benefits for such immediate family members, I shall propose adding two new clauses, clauses 4 and 5, to save existing rights and obligations under agreements and settlement agreements entered into before the enactment of the Bill respectively. Again, I am glad that the Bills Committee supports these Committee stage amendments.

Madam President, both employers and employees stand to benefit from the clarification on the lawfulness of affording the relevant immediate family members access to benefits, facilities and services under the Ordinance. I commend the Bill to this Council subject to the amendments that I shall move at the Committee stage. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Family Status Discrimination (Amendment) Bill 2000 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Family Status Discrimination (Amendment) Bill 2000.

Council went into Committee.

### **Committee Stage**

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

### **FAMILY STATUS DISCRIMINATION (AMENDMENT) BILL 2000**

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

**CLERK** (in Cantonese): Clause 1.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 3.

**SECRETARY FOR HOME AFFAIRS:** Madam Chairman, I move that clauses 2 and 3 be amended as set out under my name in the paper circularized to Members.

As I have explained at the Second Reading debate, we propose to amend clause 2, which in conjunction with new clauses 2A and 2B to be moved, will limit the amendments of the Bill to sections 8, 9 and 16 in lieu of exceptions covering Parts III, IV and V of the Ordinance. This will not detract from the original aim of clarifying what is not unlawful under the Ordinance, but will address the concerns that the scope of the proposed exceptions might be too wide and the wording of the proposed new sections 39A might cause confusion in relation to benefits for employees, contract workers and commission agents themselves.

As a consequential amendment, we propose to amend clause 3 so that it will refer to the relevant amended provisions under sections 8, 9 and 16 instead of Part III, IV or V of the Ordinance.

*Proposed amendments*

**Clause 2 (see Annex VII)**

**Clause 3 (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 Home Affairs be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 3 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

<b>CLERK</b> (in Cantonese):	New clause 2A	Discrimination against contract workers
	New clause 2B	Discrimination against commission agents
	New clause 4	Terms under existing agreements not affected
	New clause 5	Rights, and so on under settlement agreements not affected.

**SECRETARY FOR HOME AFFAIRS:** Madam Chairman, I move that clauses 2A, 2B, 4 and 5 as set out under my name in the paper circularized to Members be read the Second time.

As I have explained in moving the amendment to clause 2, we propose to add new clauses 2A and 2B, which in conjunction with the amendment to clause 2, will limit the amendments of the Bill to sections 8, 9 and 16 in lieu of exceptions covering Parts III, IV and V of the Ordinance. While clause 2 as amended will address the issues in relation to employees, new clauses 2A and 2B will address those of contract workers and commission agents respectively. Again, this will not detract from the original aim of clarifying what is not unlawful under the Ordinance, but will address the concerns that the scope of the proposed exceptions might be too wide and the wording of the proposed new section 39A in the original clause 2 of the Bill might cause confusion in relation to benefits for employees, contract workers and commission agents themselves.

New clauses 4 and 5 aim to save existing rights and obligations under agreements or settlement agreements entered into before the enactment of the Bill. This is to address the concern of some Members that the retrospective effect of the Bill might result in the reduction or alteration of existing benefits for immediate family members of employees, contract workers or commission agents.

Madam Chairman, with these remarks, I commend these clauses to Members.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now 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 clauses 2A, 2B, 4 and 5.

**SECRETARY FOR HOME AFFAIRS**: Madam Chairman, I move that new clauses 2A, 2B, 4 and 5 be added to the Bill.

*Proposed additions*

**New clause 2A (see Annex VII)**

**New clause 2B (see Annex VII)**

**New clause 4 (see Annex VII)**

**New clause 5 (see Annex VII)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now 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.

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

Council then resumed.

### **Third Reading of Bill**

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

### **FAMILY STATUS DISCRIMINATION (AMENDMENT) BILL 2000**

**SECRETARY FOR HOME AFFAIRS:** Madam President, the

Family Status Discrimination (Amendment) 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 Family Status Discrimination (Amendment) Bill 2000 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Family Status Discrimination (Amendment) Bill 2000.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Entertainment Special Effects Bill.

### **ENTERTAINMENT SPECIAL EFFECTS BILL**

#### **Resumption of debate on Second Reading which was moved on 23 February 2000**

**PRESIDENT** (in Cantonese): Mr Howard YOUNG, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR HOWARD YOUNG** (in Cantonese): Madam President, as Chairman of the Bills Committee on Entertainment Special Effects Bill, I would like to report on the deliberations of the Bills Committee.

*The Bill*

The Bill proposes to set up a new regulatory authority, to be called the Entertainment Special Effects Licensing Authority (the Authority). The Authority will be the Commissioner for Television and Entertainment Licensing (CTEL), who will be responsible for carrying out the following functions:

- (a) licensing of special effects operators;
- (b) issuance of permits for the discharge of special effects materials;
- (c) registration of pyrotechnic special effects materials;
- (d) regulation of the supply, use, conveyance and storage of pyrotechnic special effects materials;
- (e) approval and issue of codes of practice; and
- (f) surveillance by means of inspections and checks to ensure compliance with the regulatory requirements.

*The Bills Committee*

The Bills Committee has held three meetings with the Administration. It has also met representatives of the film industry and the Hong Kong Academy for Performing Arts to listen to their views.

Members note that whilst members of the film and entertainment industry support the proposals of the Bill, they also want to air their views and aspirations in regard to the detailed arrangements.

*Deliberations of the Bills Committee**Merits of the proposed regulatory regime*

Members note that the new Authority would provide a one-stop service for applications for special effects operator licences and permits/licences for storage, conveyance and discharge of special effects materials. The processing period for the issue of discharge permits would be reduced from the existing 12 working days to three working days for simple applications and six working days for complicated applications. This is a great improvement indeed. In addition, the register of pyrotechnic special effects materials to be maintained by the Authority will facilitate the sourcing by local suppliers and special effects operators of those materials from overseas suppliers or manufacturers and local suppliers.

*Training and licensing of special effects operators*

Under the new licensing system, a special effects operator, once licensed, will be permitted to use the special effects materials specified in his licence and will not be required to separately register for each discharge of pyrotechnic materials. This is also another great improvement.

Members note that to facilitate transition to the new licensing system, the Television and Entertainment Licensing Authority (TELA) had actually conducted training courses for local special effects operators between October 1998 and January 2000, and has issued provisional recognition to those who have passed the assessment on completion of the training course. A special effects operator who has been provisionally recognized may, within 90 days after the new legislation comes into force, apply for a special effects operator licence in the same stream and class of licence as provisionally recognized and will be exempted from separate assessment.

The Administration has informed Members that the TELA will conduct training courses again from June to November this year for the benefit of those operators who were unable to attend the earlier courses or failed in the previous assessment on completion of the training courses. In addition, operators may receive training under the supervision of licensed special effects operators and apply for a special effects operator licence after gaining sufficient experience.

*Information to be furnished in an application for a licence or permit*

During the discussions with the representatives of the film industry, a licensed special effects pyrotechnic operator with experience in filmmaking in both Hollywood and Hong Kong commented that under the current provisional registration system, applicants are required to supply extensive documentation far beyond what would be required in Hollywood. In view of this observation and the concerns expressed by the other representatives in this regard, Members have urged the Administration to minimize the paperwork burden on the applicants.

As the representatives are particularly concerned about the information to be furnished in an application for a discharge permit, Members have asked the Administration to hold further discussions with the film industry before setting out the requirements clearly in the guidelines to be drawn up for industry compliance. Members have pointed out that with a registration system in place, licensed operators have the responsibility to ensure public safety and the Government should allow greater flexibility and freedom for the film industry. The Administration has assured Members that the application procedures will be kept as simple as possible, having regard to the operational needs of the industry. The information required to be provided in such applications will also be kept to a minimum. The authority will handle such applications flexibly and ensure that a right balance is struck between meeting the operational needs of the industry and public safety concerns.

*Proposed licence and permit fees*

Another issue of concern to both the film industry and the Bills Committee is the level of licence and permit fees to be collected under the Bill. Members note that all the fees under the Bill will be prescribed by regulations which are subject to negative vetting by the Legislative Council. The Administration has pointed out that the fees to be charged under the Bill, whilst set on a full-cost recovery basis, will be kept to a minimum through streamlined procedures. In response to Members' request, the Administration has firstly provided a comparison between the licence and permit fees under the current regulatory regime and the estimated fees under the Bill. In addition, the Administration has also provided a comparison between the permit fees required under the current regulatory regime and such fees under the Bill for producing a typical entertainment special effects scene.

I would also like to inform Members that the comparisons show that the estimated fees are generally lower than the present fees. To reduce the economic impact of the additional licensing requirements under the Bill, the validity period of the special effects operator licences and supplier licences will be up to two years.

*Requirement for pyrotechnic special effects materials to be properly labelled and packed*

Clause 20(1) of the Bill stipulates that no person shall convey or store any pyrotechnic special effects materials in Hong Kong unless such materials have been labelled and packed in the prescribed manner. Clause 20(2) sets out the penalties for contravening subsection (1).

The Bills Committee has asked the Administration to:

- (a) clarify who should be responsible for meeting the labelling and packing requirement;
- (b) consider stipulating different penalty levels on first and subsequent breaches of the conveyance or storage requirement, which was not in the original Bill, with the penalties on first conviction lower than those currently proposed in clause 20(2); and
- (c) consider providing a defence to charges under this clause to persons who cannot be reasonably expected to have known that the materials in question have not been labelled or packed in the prescribed manner, such as the driver of the vehicle conveying the materials.

After examining Members' views, the Administration considers that the provision should apply to those who supply, convey or store such materials. However, it has agreed to include a defence provision for those who do not know and could not with reasonable diligence have known that the materials in question is not labelled or packed in the prescribed manner. In addition, it has also accepted the suggestion in item (b) of the above paragraph and will revise the penalties as follows:

- (a) on a first conviction, a fine at level 5 and imprisonment for three months; and

- (b) on a second or subsequent conviction, a fine at level 6 and imprisonment for six months.

*Membership of the Appeal Board panel and composition of the Appeal Board*

In response to the concern expressed by the Hong Kong Academy for Performing Arts, the Administration has proposed amendments to Schedules 1 and 2 of the Bill to ensure appropriate representation of the theatre industry on the Appeal Board panel and the Appeal Board to be established under the Bill.

*Subsidiary legislation to be introduced*

The Administration has informed Members that after the enactment of the Bill, it would aim to introduce the necessary subsidiary legislation in October 2000 in order that the main proposals under the Bill could be implemented by the end of the year. It has agreed to provide an undertaking in the Secretary for Information Technology and Broadcasting's speech to be made during the resumption of the Second Reading debate on the Bill that the Administration will maintain close liaison with the film and entertainment industry when drawing up the various regulations, codes of practice and guidelines. It has also undertaken to submit these papers to Members for scrutiny after extensive consultation with the industry.

The Bills Committee supports the Bill and the amendments to be moved by the Administration.

Members of the Bills Committee generally believe that seldom has there been any new system as such being established under new legislation which can render the application procedures simplified, the fee level lowered and the operation smoother. It is brilliant in many aspects indeed. We, therefore, strongly support this Bill and we believe that the industry concerned will also give their ardent support to it.

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

**MR MA FUNG-KWOK** (in Cantonese): Madam President, the film and entertainment industry in Hong Kong is renowned for its action scenes, especially the pyrotechnic stunt scenes which form an important element in the commercial action films. In producing these pyrotechnic stunt scenes, pyrotechnic materials are usually used in order to produce such special effects. However, the regulatory regime on the use of pyrotechnic materials adopted since 1993 has long been unable to cope with the development needs of the film and entertainment industry. The main problem with this is that in the past, the Administration would only issue permits for the use of pyrotechnic materials to special effects operators who had already registered with the Commissioner of Mines of the Civil Engineering Department. However, Hong Kong has been in lack of a registration system. In other words, only those special effects operators with overseas recognized qualifications can obtain the permits issued by the Administration.

Unless the film makers employ special effects operators with overseas qualifications recognized by the Commissioner of Mines, they cannot apply for permits for the use of pyrotechnic materials.

Even if the film makers employ special effects operators with overseas qualifications, they will also have to submit applications at the same time to five departments, namely the Civil Engineering Department, the Electrical and Mechanical Services Department, the Fire Services Department, the Hong Kong Police Force and the Marine Department in respect of the conveyance, storage, use and discharge of pyrotechnic materials and other dangerous goods. Whilst the procedures concerned are complicated and time-consuming, it simply cannot be done. Therefore, the industry has long been forced to operate under an unlawful condition. Whilst it is unfair to members of the industry, it also violates the spirit of safeguarding public safety. After a few years of negotiation and discussion, the Government finally set up an inter-departmental working group in October 1997 to conduct a comprehensive review of the existing regulatory regime concerning the use of pyrotechnic materials and other dangerous goods in film making.

The Entertainment Special Effects Bill on which we resume the debate today seeks to provide a new regulatory regime, which the Government has taken reference from the regulatory regimes in the United Kingdom and the

United States and has discussed with the industry concerned. This regime includes a regulatory authority especially set up for dealing with entertainment special effects matters. It is responsible for the licensing of special effects operators, and the issuance of permits. It also has to work out the regulatory requirements concerning the registration, supply, use, conveyance and storage of special effects materials, as well as to provide one-stop licensing service.

Madam President, members of the film industry have been longing for a regulatory regime on the use of pyrotechnic materials which can be compatible with the operation of the industry. Whilst the regime proposed has the general support of the industry, the training courses for special effects operators conducted by the Television and Entertainment Licensing Authority earlier on have also gained very positive response. I believe that the new one-stop regulatory arrangement can help remedy the shortcomings of the existing system and can better cope with the operational needs of the industry.

Nevertheless, since the new regulatory regime is new and not a few technical problems will be involved in the handling of pyrotechnic explosive materials, I hope that the Administration will, after the implementation of the new regulatory regime, set up a follow-up working group under the Film Services Advisory Committee. The working group will conduct irregular consultations concerning the operational and technical matters, listen to the opinions of the industry and the technical personnel, and consider further streamlining the application procedures and fine-tuning the regulatory regime.

Moreover, the Bill also provides that when storage of large amount of pyrotechnic materials is necessary, the person concerned has to apply for a fixed store licence, and the application for licence to operate this kind of stores must be lodged by individual suppliers of special effects materials. Madam President, in order to operate such stores, first of all, numerous requirements of safety-related ordinances have to be met. It is, therefore, natural that the operational and administrative costs will be exorbitant. However, the demand for stores of pyrotechnic materials is extremely unstable in the industry. Thus, private organizations can hardly have any incentives to invest on such stores. It is foreseeable that the industry will still have to face the problem of storing rather large amount of pyrotechnic materials in future.

Therefore, I hope that the Administration will consider providing certain assistance, such as providing inexpensive and conveniently located stores for use by the industry. This can help to effectively monitor the safety standard of the stores concerned on the one hand, and meet the operational needs of the industry on the other. At the same time, this can also ensure that the spirit of the Bill is being adhered to.

With these remarks, I support the Bill.

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, the Democratic Alliance for the Betterment of Hong Kong (DAB) supports the amendments to this Bill. It is because the new regulatory regime is an improvement to the existing way of dispersed management: A licensing authority is set up to provide one-stop service; the system of obtaining various permits for discharge of pyrotechnic materials is streamlined, to the effect that only one discharge permit is necessary for use in a specific period of time; a licensing system for special effects operators is set up to obviate the need to make separate registration for each discharge of pyrotechnic materials.

In short, the spirit of the amendments is to streamline and improve the existing system, to facilitate the operation of the industry and to meet its practical needs. The amendments can, therefore, gain the support of the film industry. Under the old system, in producing a shooting or action film with explosion scenes, the producer has to apply for various licences with different departments, which could be very time-consuming and efforts-wasting indeed. This system has unnecessarily increased the production costs and invisibly imposed numerous hurdles to the development of the film industry in Hong Kong. As a matter of fact, the film industry in Hong Kong had had a glorious time in the past. It was the second major film production base in the world after Hollywood. However, the film industry is now in a difficult period. The Bill may not, of course, help the film industry turn the corner, but it is at least a positive step forward in regard to the recovery of the film industry of Hong Kong.

The DAB believes that after the amendments to the Bill are enacted, a proper and efficient system will be in place. This will be beneficial to the production of action or explosion scenes in films, rendering the stunt films of Hong Kong more competitive in the international arena.

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

**MR TIMOTHY FOK** (in Cantonese): Madam President, as we all know, the action scenes in Hong Kong films are renowned in the world filming market. The pyrotechnic effects and stunt scenes are actually an important element in commercial action films. Therefore, no matter it is the production of Hong Kong or of Hollywood, such explosion scenes are just innumerable. However, since Hong Kong has long been devoid of a proper system, the pyrotechnic special effects industry has to operate underground in film making. As a result, the originally safe and professional operation has now become full of various latent and implicit dangers.

The Entertainment Special Effects Bill proposed by the Administration is very important to the development of the local film industry. It is beyond doubt that the Bill will provide much convenience to the industry, because the applicant has to apply for only one permit in order to discharge pyrotechnic special effects materials repeatedly at the same location during a specific period of time. Although the industry may worry that the application procedures concerned will be very complicated and time-consuming, the department concerned has already emphasized that in view of the operational needs of the industry, the application procedures will be streamlined as far as possible.

In regard to the storage of special effects materials, since the issue is rather complicated, the Government should work out a proper solution with the industry, instead of leaving the whole issue to the industry to work privately. The Government has already indicated that it is prepared to discuss with the industry in order to facilitate members of the industry to handle the related matters.

The designs of special effects explosion scenes vary greatly from one to another, which place special emphasis on originality and creativity. Therefore, some members of the industry have recommended setting up a committee to work as a communication channel between the industry and the Government. However, the Government is of the view that since regular liaison meetings are held between the Television and Entertainment Licensing Authority and members of the film industry, including those engaged in special effects production, and since this arrangement is also rather effective, there are already sufficient channels for consultation. I would think that we should, after this Bill is implemented, observe the situation and the effects concerned before deciding whether it is necessary to especially set up a related liaison committee.

I support the Bill.

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

(No Member responded)

**PRESIDENT** (in Cantonese): I will call upon the Secretary for Information Technology and Broadcasting to reply.

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, the purpose of the Entertainment Special Effects Bill is to introduce a new system which can keep abreast of the operation of the film and entertainment industry, and also ensure public safety and security, to regulate the use of dangerous goods for the production of special effects in films, television programmes and theatrical performances.

At present, the use of dangerous goods for the production of special effects in entertainment performances is governed by the Dangerous Goods Ordinance and the Gas Safety Ordinance. Since these two Ordinances are not specifically designed to meet the operational needs of the film and entertainment industry and are enforced by five different departments, the industry often encounters considerable difficulties in complying with the relevant requirements. In view of this, the Information Technology and Broadcasting Bureau conducted a comprehensive review of the relevant arrangements, and the Entertainment Special Effects Bill was subsequently drafted to provide a new regulatory regime which is user-friendly and helps to encourage compliance by the industry. In drafting the Bill, we have made reference to the Californian regulatory regime governing the production of special effects by the film industry in Hollywood. In so doing, we seek to develop a regime which will cater for the specific needs locally whilst at the same time drawing on the merits of the regulatory measures overseas.

I wish to thank Mr Howard YOUNG, Chairman of the Bills Committee on Entertainment Special Effects Bill, as well as other Bills Committee members for their efficient and detailed scrutiny of the Bill, and for the many constructive suggestions they made in the course of the scrutiny. Many organizations and individuals have also expressed their views on the Bill. After detailed studies, we agree to draw up a number of Committee stage amendments to the Bill with a

view to further improving the operation of the Bill. These amendments have been endorsed by the Bills Committee and I will explain the various proposed amendments later at the Committee stage. Now I wish to respond to issues which are of particular concern to the Bills Committee.

Firstly, the fees for the various licences and permits under the Bill. We very much appreciate the concern of Members and the industry on the level of these fees. These fees will be determined on the principle of cost recovery and we believe that they can be kept to a minimum through streamlined procedures. We have made it clear to the industry that these fees will be determined only on the basis of the costs involved in issuing the licences and permits, whereas the costs of inspection, enforcement and other work carried out by the Government will not be counted. Furthermore, given the many exemptions and relaxation of restrictions under the Bill, the number of permits required and the fees involved for producing a typical entertainment special effects scene will actually be lower than those required under the existing regulatory system. All the fees to be charged under the Bill will be prescribed by regulations, which will be tabled for approval by the Legislative Council as soon as possible in the next Legislative Session.

The second issue of concern to Members is whether the Bill can meet the operational needs of the industry in enforcement. I wish to reiterate that in devising the new regulatory regime, we had consistently consulted members of the industry through a diversity of channels and their views were taken on board as far as possible. The Television and Entertainment Licensing Authority (TELA) will give briefings to the industry prior to the implementation of the new ordinance to facilitate their understanding of the new statutory provisions and requirements. The TELA will also consult the industry and practitioners on the operation of the new regulatory regime after the new ordinance has come into operation, as suggested by the Honourable MA Fung-kwok. In the meantime, we will submit reports on the implementation of the new regulatory regime to the Film Services Advisory Committee on a regular basis. We will also review the operation of the new regime to ensure that it can meet the needs of the industry. On the proposal of providing storage facilities for pyrotechnic materials, we understand that the industry would like the Administration to build at a convenient location a permanent store for pyrotechnic special effects materials that charges reasonable fees. The TELA will continue to actively discuss it with the industry to find a solution that can address the needs of the industry.

The third issue of concern to Members is whether the Administration will provide guidelines for the industry to facilitate their understanding of and compliance with the requirements under the Bill. The Commissioner for Television and Entertainment Licensing may, in his capacity as the Entertainment Special Effects Licensing Authority, issue codes of practice to give guidance on the requirements under the Bill. We will proceed with the drafting of the codes of practice and the drafts will be submitted to the Legislative Council for Members' reference when we table the regulations under the Bill in the next Legislative Session. In the codes of practice, we will provide appropriate guidance on the various requirements under the Bill, such as the storage, conveyance and use of entertainment special effects materials, and we will set out in detail the measures to ensure safety in producing entertainment special effects. Other than the codes of practice, the Commissioner for Television and Entertainment Licensing will, as proposed by the Bills Committee, draw up a set of practical guidelines to provide in detail practical information for the industry, such as the information to be furnished in an application for a discharge permit and for producing different entertainment special effect scenes, to facilitate applications by the industry. The application procedure will also be streamlined as far as possible in that the applicant will be required to furnish only the necessary information, and the processing time will be minimized. In addition, we will provide in the practical guidelines further information on the liabilities of non-front-line personnel in the industry, such as directors of a corporation, and also on matters that require their attention under the Bill.

Similar to the preparation of the Bill, extensive consultation will be conducted with the film, television and theatrical production sectors in formulating the codes of practice, the practical guidelines and regulations under the Bill.

Madam President, the new regulatory regime under the Bill will greatly streamline the existing regulatory procedure and increase the efficiency of local film, television and theatrical productions. The proposed licensing system for special effects operators will help to build up a pool of locally qualified practitioners who will practise their trade safely. This is conducive to enhancing the professional expertise of the local special effects operators as well as safety in the production of entertainment special effects. We believe that the new regulatory arrangements will foster Hong Kong's attraction to overseas film producers as a venue for location shooting involving the production of entertainment special effects.

The Bill strikes a balance between the operational needs of the industry and the protection of public safety. It also contributes to the healthy development of the local film and entertainment industry in the long run. I hope Members will support the passage of the Entertainment Special Effects Bill to enable the industry to produce more creative and high quality entertainment special effects under the new regulatory system early. Thank you.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Entertainment Special Effects Bill.

Council went into Committee.

### **Committee Stage**

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

### **ENTERTAINMENT SPECIAL EFFECTS BILL**

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

**CLERK** (in Cantonese): Clauses 1 to 7, 9 to 12, 14, 16, 17, 18, 21, 22, 23, 25 to 46 and 48 to 66.

**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 8, 13, 15, 19, 20, 24 and 47.

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members.

I will give a brief account on the various amendments. The amendments to clauses 8, 13, 19 and 24 are made to improve the text of these clauses to make them more explicit. The amendment to clause 15 is proposed to tally with the Air Cargo Transshipment (Facilitation) Ordinance enacted last month with the objective of implementing an open policy in respect of air cargo transshipment. Through amending or exempting the control of air cargo transshipment, the Ordinance will facilitate the further development of Hong Kong into an international and regional air cargo hub. We propose exemption for pyrotechnic special effects materials defined as air cargo transshipment under the Ordinance to exempt them from registration under the provision of clause 14 of the Entertainment Special Effects Bill. We failed to incorporate this exemption into the Entertainment Special Effects Bill when it was introduced to the Legislative Council for scrutiny because the Air Cargo Transshipment (Facilitation) Bill was at the initial drafting stage and the definition of air cargo

transshipment was not confirmed. Now, with the enactment of the Air Cargo Transshipment (Facilitation) Ordinance, we must propose Committee stage amendments to effect this exemption.

Moreover, having considered the views of the Bills Committee and the Legal Service Division of the Legislative Council Secretariat, we propose to amend clause 20 to extend the scope of application of clause 20(1) to cover suppliers of pyrotechnic special effects materials. We also propose to divide the provisions of clause 20(1) for labelling and packaging into two to specify more clearly that any person who supplies, transports or stores pyrotechnic special effects materials must label and package the cargo in the manner specified under the Ordinance, otherwise, he will have committed an offence. Furthermore, we propose to divide the penalty for violation of this clause as originally specified in clause 20(2) into two levels, namely first offender and repeat offender levels, and to provide defence to people who do not know or may not know with reasonable diligence of the non-compliance, for instance, drivers transporting such materials.

Lastly, we propose to amend clause 47 to specify that if the Entertainment Special Effects Licensing Authority intends to cancel or suspend a licence or permit, or change a licence, permit or conditions, he must state the reasons for the relevant decision on the notice issued to the holder of the licence or permit in order to enhance transparency.

The Government and the Bills Committee have already arrived at a consensus on the above amendments, so I hope that Members will support and pass the amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 8 (see Annex VIII)**

**Clause 13 (see Annex VIII)**

**Clause 15 (see Annex VIII)**

**Clause 19 (see Annex VIII)**

**Clause 20 (see Annex VIII)**

**Clause 24 (see Annex VIII)**

**Clause 47 (see Annex VIII)**

**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 Information Technology and Broadcasting be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 8, 13, 15, 19, 20, 24 and 47 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

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

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam Chairman, I move that Schedules 1 and 2 be amended as set out in the paper circularized to Members.

The amendments to Schedules 1 and 2 seek to ensure that the composition of the Appeal Board panel and Appeal Board constituted under the Bill can represent the theatrical production sector in order to handle appeal cases related to theatrical production. These two amendments are made in response to the views expressed and endorsed by the Bills Committee and the relevant bodies. I hope that Members will support and pass these amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Schedule 1 (see Annex VIII)**

**Schedule 2 (see Annex VIII)**

**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 Information Technology and Broadcasting 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.

**ENTERTAINMENT SPECIAL EFFECTS BILL**

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

Entertainment Special Effects Bill

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

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Entertainment Special Effects Bill.

**MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Two proposed resolutions under the Kowloon-Canton Railway Corporation Ordinance.

The first motion.

**PROPOSED RESOLUTION UNDER THE KOWLOON-CANTON RAILWAY CORPORATION ORDINANCE**

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I move the first motion standing in my name as printed on the Agenda, that the North-west Railway (Amendment) Bylaw 2000, as set out in the paper circularized to Members, be approved.

Section 31 of the Kowloon-Canton Railway Corporation Ordinance empowers the Kowloon-Canton Railway Corporation (KCRC) to make bylaws and provides that they shall be subject to the approval of this Council.

At present, the Mass Transit Railway Bylaws empower the Mass Transit Railway Corporation to require a person who is reasonably suspected of committing or attempting to breach the relevant Bylaws (for instance, fare evasion) to give his personal particulars, including telephone number, for enforcement purposes. Having reviewed its East Rail and Light Rail operation, the KCRC has made similar amendments to its Bylaws to enable its staff to obtain the telephone number, in addition to name and address, of those passengers who are not able to pay the surcharge on the spot. This will enable KCRC staff to follow up with these passengers to remind them of the need to pay the outstanding surcharges within 14 days or to ensure the surcharge demand notice will be served to the correct address. The KCRC has consulted the Office of the Privacy Commissioner which indicated no objection to the legislative amendments.

The amendments under the North-west Railway (Amendment) Bylaw 2000 include:

- (a) enhancing the flexibility of the definition of "smart card" by including other forms in which the smart card technology may be utilized; and
- (b) enabling officials of the KCRC to obtain the telephone number of an offender.

The Amendment Bylaw was made by the KCRC on 12 May 2000. I commend it to this Council for approval.

Madam President, I beg to move.

**The Secretary for Transport moved the following motion:**

"That the North-west Railway (Amendment) Bylaw 2000, made by the Kowloon-Canton Railway Corporation on 12 May 2000, be approved."

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

**PRESIDENT** (in Cantonese): The second proposed resolution under the Kowloon-Canton Railway Corporation Ordinance.

**PROPOSED RESOLUTION UNDER THE KOWLOON-CANTON RAILWAY CORPORATION ORDINANCE**

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I move the second motion standing in my name that the Kowloon-Canton Railway Corporation (Amendment) Bylaw 2000 be passed, as set out in the paper circularized to Members.

Section 31 of the Kowloon-Canton Railway Corporation Bylaws empowers the Kowloon-Canton Railway Corporation (KCRC) to make bylaws and provides that they shall be subject to the approval of this Council.

At present, the Kowloon-Canton Railway Corporation Bylaws empower the Corporation to levy those East Rail passengers travelling without a valid ticket a surcharge equivalent to a maximum of five times the standard single adult fare between Hung Hom and Lo Wu. This is different from the corresponding Bylaws governing the KCRC Light Rail and the Mass Transit Railway, both of which set the surcharge at 50 times of the maximum adult single fares on the respective railways. In line with the arrangements for the Light Rail and the Mass Transit Railway, the KCRC has amended its Bylaws to give it the flexibility to increase the surcharge on East Rail to a maximum of 50 times of the highest standard class single fare.

Once the amendment to the Bylaw is passed by the Legislative Council, the KCRC plans to increase the level of surcharge for KCRC passengers to \$500 starting from 1 August this year, and that is, to the same level of surcharge for Mass Transit Railway passengers. And, it also plans to launch an extensive publicity scheme between June and July to remind passengers of the increase in the level of surcharge. The Government also informs the KCRC that if it thinks that it is necessary to increase the level of surcharge in the future, it should first conduct a consultation exercise. In addition to ensuring that the level of surcharge will achieve the desired effect, the consultation process is also the best publicity programme.

At present, the Mass Transit Railway Bylaws empower the Mass Transit Railway Corporation to require a person who is reasonably suspected of committing or attempting to breach the relevant Bylaws (for example, fare evasion) to give his personal particulars, including his name, address and telephone number, for enforcement purposes. Having reviewed its East Rail

and Light Rail operation, the KCRC has made similar amendments to its Bylaws to enable its staff to obtain the telephone number, in addition to name and address, of those passengers who are not able to pay the surcharge on the spot. This will enable the KCRC staff to follow up with these passengers to remind them of the need to pay the outstanding surcharges within 14 days or to ensure the surcharge demand notice will be served to the correct address. The KCRC has consulted the Office of the Privacy Commissioner which indicated no objection to the legislative amendments.

The amendments under the Kowloon-Canton Railway Corporation (Amendment) Bylaw 2000 include:

- (a) enhancing the flexibility of the definition of "smart card" in the Bylaw, by including other forms, (other than that of smart card) in which the smart card technology may be utilized;
- (b) providing to the Corporation the flexibility to impose surcharges up to an amount which is in line with that of other railway transport providers in Hong Kong;
- (c) providing with clarity the name of the station (the "Hung Hom Station") to avoid confusion with the Kowloon Station of the Airport Railway (AR); and
- (d) enabling the staff of, or persons authorized by, the Corporation to obtain the telephone number of an offender.

The Amendment Bylaw was made by the KCRC on 12 May 2000. I commend it to this Council for approval.

Madam President, I beg to move. Thank you.

**The Secretary for Transport moved the following motion:**

"That the Kowloon-Canton Railway Corporation (Amendment) Bylaw 2000, made by the Kowloon-Canton Railway Corporation on 12 May, 2000, be approved."

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

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

**MR CHAN KAM-LAM** (in Cantonese): Madam President, the DAB agrees to the proposed resolution under the Kowloon-Canton Railway Corporation Bylaws. However, the DAB hopes that when the KCRC intends to raise its surcharge in future, it should consult the Legislative Council at its own initiative so that it will not abuse the power vested by the legislation to impose penalties.

On the proposed raising of the penalties, that is the ceiling for surcharge, to 50 times of the maximum fare for ordinary tickets, the DAB is of the view that setting the penalty at such a high level is to give administrative flexibility to the KCRC and it is also meant to target at frequent offenders of the Railways Ordinance. However, there is no cause to penalize inadvertent offenders by requiring them to pay 50 times the fares for ordinary tickets.

In view of the fact that the maximum penalty for the MTRC is \$500<sup>1</sup>, the representative from the KCRC has revealed to the Panel on Transport that the KCRC has plans to raise the penalty for offenders on the East Rail up to \$500 gradually.

The DAB notes that the maximum fare for the East Rail is in fact much higher than that of the MTR, for a trip from Hung Hom to Lo Wu costs more than \$30. In other words, if we take this fare and multiply it by 50, the maximum fine permitted is as much as over \$1,000.

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<sup>1</sup> The Research and Library Services Division has confirmed with the Public Relations Department of the MTRC that the maximum fine at present is \$500. However, it has also been confirmed that this is only applicable to the MTR and the Tung Chung lines, the Airport Express has its own levels of penalty. At the time when the draft is being prepared, the MTRC has not yet replied as to the level of fines for the Airport Express.

We believe that a fine of \$500 should have a great deterrent effect on the passengers of the MTR and the KCR. Since the Government made a pledge that the KCRC will not impose a penalty higher than \$500 even though it has statutory power to impose a fine at 50 times of the fares. Hence, the DAB supports the proposed resolution.

Madam President, I so submit.

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

(No Member responded)

**PRESIDENT** (in Cantonese): I now invite the Secretary for Transport to speak in reply. Secretary for Transport, please speak in reply.

(The Secretary for Transport indicated that he did not intend to speak in reply)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the resolution moved by the Secretary for Transport, as set out in 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' BILL****First Reading of Members' Bill**

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

**SMOKING (PUBLIC HEALTH) (AMENDMENT) BILL 2000**

**CLERK** (in Cantonese): Smoking (Public Health) (Amendment) Bill 2000.

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

**Second Reading of Members' Bill**

**PRESIDENT** (in Cantonese): As the Smoking (Public Health) (Amendment) Bill 2000 presented by Dr LEONG Che-hung relates to government policies, in accordance with Rule 54(1) of the Rules of Procedure, the signification by the Secretary for Health and Welfare of the written consent of the Chief Executive shall be called for before the Council enters upon consideration of the Second Reading of the Bill.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, I confirm that the Chief Executive has given his written consent for the Smoking (Public Health) (Amendment) Bill 2000 to be introduced into the Legislative Council.

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

**SMOKING (PUBLIC HEALTH) (AMENDMENT) BILL 2000**

**PRESIDENT** (in Cantonese): Dr LEONG Che-hung, you may now move the Second Reading of the Bill.

**DR LEONG CHE-HUNG** (in Cantonese): Madam President, I move the Second Reading of the Smoking (Public Health) (Amendment) Bill 2000.

This Bill seeks to amend the smoking (Public Health) Ordinance (Cap. 371) so as to subject more restaurants to the requirement of designating "no-smoking area" in the premises and to expand the size of such "no-smoking area".

It also seeks to amend the Smoking (Public Health) Regulations and the Smoking (Public Health) (Notices) Order so that "prescribed health warnings" of cigarette packets and tobacco advertisement may be a combination of words, pictures and graphics. Under the current rules, the warnings are just words.

It is the Government's declared policy to minimize public's exposure to environmental tobacco smoke to the maximum extent possible. The Government has also stated repeatedly that its policy is to adopt a step-by-step approach in formulating and implementing anti-smoking measures.

Under the Smoking (Public Health) Ordinance, the manager of a restaurant which provides indoor seating accommodation for more than 200 persons, excluding the area used exclusively by a private event and separated by full height partition, is required to designate not less than one third of the accommodation as no-smoking area. This requirement has come into operation in July 1999.

It is now some one year since the implementation of the regulation. During this time, public sentiments yearning for more no-smoking areas in restaurants has been ever growing, as indicated by surveys conducted by the Council on Smoking and Health (COSH). It is therefore time to take another step to designate more no-smoking areas.

The Government's survey showed that there are only around 800 000 smokers out of Hong Kong's total population of more than 7 million (we have several smokers sitting in this Chamber at the moment — no, there are some others too). It belies any common sense, therefore, that the over 80% of Hong Kong's non-smoking population has to be subject to passive smoking while enjoying a great meal.

In a territory-wide survey conducted by the COSH in 1995, 84% of the respondents wanted half of the seats in restaurants to be designated as no-smoking seats. In 1999, the supporting rate rose to 94%. In fact, 74% in 1995 and 69% in 1999 wanted all restaurants to be smoke free. These reflect an overwhelming wish of the public or restaurant clients who want no smoking seats. Should restaurant owners make their choices on the basis of their patrons' aspirations?

In the same survey, 20% of respondents would frequent restaurants more if restaurants have no-smoking area, whilst only 3% would do so less frequently. If two restaurants offer the same service, 84% would choose the one with no-smoking area. These show that the overwhelming majority of the people want more and more no-smoking areas.

It is even more alarming when we look at health care cost. Although there is no direct study on restaurant workers exposed to passive smoking, a comprehensive study conducted last year showed that half of the non-smoking workers were exposed to passive smoking at the workplace. In addition, 80% of them require extra medical consultation due to the damage inflicted on their health, incurring an extra medical expenditure of \$118 million to \$208 million.

Madam President, immediately after the gazettal of the Bill, the tobacco industry launched fierce attacks by claiming that changing "health warnings" to a combination of words, pictures and graphics may affect the design of tobacco package and even constitute a breach of intellectual property rights. I would like to remind them that the Bill only states that health warnings "MAY" contain words, pictures and graphics.

Restaurant owners also reacted quickly in opposition to the Bill, saying that their business could be affected. In this respect, I believe the findings of the survey of the COSH, that is, the findings I quoted earlier, could have rid them of their worries. I would like to remind restaurant owners that it is the wish of the majority of their clients to designate no-smoking area. Should they, as restaurant owners, cater to the wishes of the clients who patronize their restaurants? Furthermore, as a good employer, they should provide their staff with a reasonable working environment by not subjecting their health to damage inflicted by passive smoking.

Madam President, over the recent years, colleagues in this Council have expressed serious concerns about the improvement of air pollution. They have even set up a coalition in an attempt to push the Government forward in expediting the implementation of various measures, including the enactment of legislation. I hope colleagues can refrain from setting double standards with respect to indoor air pollution.

Madam President, this Bill is the first ever Members' Bill with public policy implication being approved by the Chief Executive under Article 74 of the Basic Law. Of course, this has definitely no bearing on whether Honourable colleagues should support the Bill introduced by me. Yet, I hope we can take this as a gesture of the Administration that it is willing to improve the relationship between the executive authorities and the legislature, as well as a first step for more flexible consideration of Members' Bills to come.

Madam President, this Members' Bill is not my effort alone, but a joint effort of all advocates of anti-smoking. To them, in particular to the Action on Smoking and Health, I owe them my gratitude.

In the interest of public health, I recommend this Bill to Members. Thank you, Madam President.

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

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Pneumoconiosis (Compensation) Ordinance.

**PROPOSED RESOLUTION UNDER THE PNEUMOCONIOSIS (COMPENSATION) ORDINANCE**

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I move the motion which has been printed on the Agenda. The motion moved by me under section 10 of the Pneumoconiosis (Compensation) Ordinance today seeks to raise compensation for bereavement from the current level of \$100,000 to \$150,000. The aim is to enable the families of those workers who have been working laboriously in the construction industry over a long period of time — or for the prosperity of Hong Kong — and have thus inflicted health damage to receive better compensation for bereavement after their deaths.

Let me explain what the compensation for bereavement mechanism is all about before talking about my rationales, because I have been asked this question by many people before. Compensation for bereavement is granted under two conditions: Under the first condition, if a construction worker died before receiving medical assessment after contracting pneumoconiosis — probably because he has just discovered his illness — he would not be able to receive any money under the law. Subsequently, the law was improved for it was considered that family members of these workers should be granted compensation for the pain they suffered as a result of the deaths of the workers. Such compensation for bereavement is therefore given to family members of workers who die before receiving medical assessment. Of course, the amount of compensation is not considerable. Now let us look at the second condition. Compensation for bereavement can also serve as a basis for calculating the lowest compensation amount. What does this compensation amount mean? Members should understand that a worker who has contracted pneumoconiosis may receive compensation each month during the period pending medical assessment. After his death, we will have to calculate a so-called "death compensation amount" for him. If the death compensation amount is calculated to be less than the amount of money he was entitled to before his death, his family members may then receive compensation for bereavement. For instance, if the death compensation amount is calculated to be \$1 million whereas the worker has received compensation of up to \$1.1 million before death, he is deemed to have received all compensation he was entitled to. In this case, not a cent will be given to his family members. Under such circumstances, they will only be given the lowest compensation amount, that is, compensation for bereavement. Therefore, compensation for bereavement serves two purposes. It aims to improve compensation in the event of sudden deaths of workers so as to ensure that their family members will at least receive some money. In other words, they will at least receive the lowest compensation amount. This is the

main purpose for offering compensation for bereavement and, that is, to help those people who have scarified their health over a long period of time for the prosperity of Hong Kong.

Now let me turn to my rationales in seeking to raise the compensation amount. In order to do this, we will have to review a very important piece of history. The history will also help refute the first rationale put forth by Secretary Joseph WONG earlier. The first reason put forward by Mr WONG for raising his objection is that compensation for bereavement offered with respect to fatal accidents should not be pegged to compensation for bereavement offered to pneumoconiosis sufferers. The controversy lies in the fact that he sees that these two types of compensation should not be pegged to one another, but I think otherwise. In 1997, the compensation for bereavement offered with respect to fatal accidents was raised from \$70,000 to \$150,000. In 1998, however, compensation for bereavement offered to pneumoconiosis sufferers was only raised from \$70,000 to \$100,000. We can thus see that there is a gap of as much as \$50,000 between compensation for bereavement offered in relation to pneumoconiosis sufferers and to fatal accidents under two different pieces of legislation. The major rationale I hold is that the disparity should be ironed out for compensation offered under these two different situations is considered compensation for bereavement. Could it be said that one's suffering is more painful in this situation than the other one? Definitely not. Both situations will lead to the same degree of pain. Could it be said that the pain caused by the deaths of pneumoconiosis sufferers is less serious? Of course not. As both situations will lead to the same degree of pain, same compensation should be offered under both situations and the compensation amounts should be the same too.

Of course, the Secretary will say that these two pieces of legislation are completely different. For the one related to fatal accidents, it involves torts under common law and consideration of fault. On the other hand, no-fault compensation is offered to pneumoconiosis sufferers. Therefore, there should be a difference between the two. However, Members should bear in mind that the compensation amounts were entirely the same at the beginning for both of them were set at \$70,000. If these two types of compensation should not be pegged to one another, why were the compensation amounts offered the same at the beginning? Why were they both set at \$70,000? In examining the legislation related to compensation offered to pneumoconiosis sufferers, the Administration referred to other legislation and found out that the compensation for bereavement with respect to fatal accidents was set at \$70,000. As a result, the compensation offered to pneumoconiosis sufferers was set at \$70,000. We

can thus see that these two types of compensation were pegged at the beginning. The gap was only caused by the fact that compensation for bereavement offered in relation to fatal accidents was subsequently raised while that offered to pneumoconiosis sufferers was not raised accordingly.

The resolution moved by me today aims at ironing out the disparity between these two types of compensation so that same compensation for bereavement, that is, \$150,000, would be offered under both situations. One of the most important rationales is that we should not treat pneumoconiosis sufferers unfairly. Today, the Association for the Rights of Industrial Accident Victims and a group of victims raised the same question: Why should there be such a difference between the two? According to the Association, both the Association and pneumoconiosis sufferers share the view that they have been treated extremely unfairly and the contribution they have made to social construction has been ignored. Given the fact that they have made so much contribution to society, should we treat them in this way? Should they be treated so unfairly?

Of course, Secretary Joseph WONG will also put forward other reasons for his objection. The second reason he put forth is that since prices have generally dropped, there is no reason for the compensation amount to be raised to \$150,000. Members should bear in mind that what I am talking about is fairness. It is simply not fair that pneumoconiosis sufferers have not been given \$150,000 in compensation so far. Even if prices have dropped, they should be given fair compensation, that is, the same amount of money given to victims of fatal accidents.

I hope Members can pay particular attention to the third reason cited. I feel that Mr Joseph WONG was trying to mislead Members intentionally. Why? This is because the letter issued by the Secretary to us reads like this: "In addition to this form of compensation, family members of the deceased can also receive compensation ranging from \$610,000 to \$2.3 million offered in relation to death caused by pneumoconiosis. In other words, as far as family members of those died from pneumoconiosis are concerned, compensation for bereavement is not the only form of compensation available to them". Some Honourable colleagues asked me: Why should family members of the deceased still insist on raising the compensation from \$100,000 to \$150,000 as they have already been given compensation ranging from \$610,000 to more than \$2 million? This is exactly where the Secretary was trying to mislead us. This is because they might not be able to receive compensation ranging from \$610,000 to \$2.3 million, as I mentioned earlier. Why? As I explained earlier, if the death

compensation for a worker is calculated to be, say, \$1 million, whereas full compensation has been given to the worker before death, his family members will then be entitled to compensation for bereavement only. In other words, the entire compensation of \$1 million, made in terms of monthly payments, has been collected and spent. This sum of money was in fact made from the compensation payment we are talking about at the moment, which ranges from more than \$600,000 to more than \$2 million. The deceased might have spent all the compensation entitlement on a monthly basis so that not a cent was left after his death. This explains why it is necessary to offer compensation for bereavement. How much in compensation can his family members get? Definitely not the amount we were talking about, that is, from more than \$600,000 to more than \$2 million. In that case, how much will be given in his case? After his death, his family members will receive compensation for bereavement, that is, \$100,000 as mentioned earlier or the proposed \$150,000. The letter issued by the Secretary is thus misleading in the sense that people will be led to believe that the family members of the deceased would be given compensation ranging from more than \$600,000 to more than \$2 million. Actually, that was what the deceased got each month before he died but not at the time of his death. What should his family members do after his death? This is my concern. It also explains why I propose to raise compensation for bereavement from \$100,000 to \$150,000. What is happening at the moment is not that the people under question have been able to receive compensation ranging from more than \$600,000 to more than \$2 million and I am requesting that they be given an extra \$50,000. This is definitely not the case. I hope Members can see clearly the misleading.

Lastly, I would like to discuss whether raising the compensation for bereavement will impose a financial burden on employers. I would like to remind Members that, at the Legislative Council Meeting held on 17 May, the proposal of reducing the levy rate from 0.3% to 0.25% was passed. I made it very clear at that time that I would move a motion in the hope that the compensation could be improved and urged Members to render support. I also told Members very clearly then that the Pneumoconiosis Compensation Fund had so far accumulated \$480 million. Moreover, only more than \$100 million has been paid out from an annual income of more than \$200 million. To what extent will the resolution proposed by me today, if passed, affect the financial position of the Fund? I was told by the Fund management that the extra money involved would be \$1.47 million if calculated in 1999 terms. This means that if compensation offered in 1999 is calculated on the basis of \$150,000 instead of \$100,000, an extra spending of \$1.47 million will be needed. However, \$1.47 million is equal to only 0.8% of an annual spending of \$180 million! In other

words, my proposal will only cause the spending to rise by 0.8%. The industry is no longer required to bear extra levy for the levy rate has been reduced since 17 May. As this improvement will not incur any financial burden, why can we not raise the compensation amount? What we are asking to make is only a very small step. It will not impose any substantial impact on anyone. We can also see that the Fund is now "flooding", then why can we not put the proposal into implementation? Today, I would like to urge Members to agree raising the compensation amount from \$100,000 to \$150,000. I hope Members can render me support.

Thank you, Madam President.

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

"That, with effect from 16 June 2000, the First Schedule of the Pneumoconiosis (Compensation) Ordinance be amended, in Part V, by repealing "\$100,000" and substituting "\$150,000"."

**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.

**MR KENNETH TING** (in Cantonese): Madam President, we are very sympathetic towards those people who suffer from diseases caused in the course of their work and to those who die from the same cause. The Liberal Party and the Federation of Hong Kong Industries support the idea that the families of these workers should be granted compensation to relieve the pains of losing their loved ones. However, in determining the amount of compensation, we need to take into account the interest of the community as a whole as well as the economic situation. With this principle in mind, the Liberal Party does not agree to raising the compensation for bereavement under the Pneumoconiosis (Compensation) Ordinance from \$100,000 to \$150,000. The Liberal Party is of the view that the grounds for such a proposal are not justified, nor are they in line with the overall situation.

The proposal raised by Mr LEE does not reflect the reality of the situation. The Government used to have a proven mechanism to revise the compensation for bereavement by factoring in the inflation rate every two years. From 1998 to the present, our society has been under the impact of deflation. The current

deflationary rate for commodity prices is as high as 6%. So the compensation revised since 1998 will have a higher market value under such circumstances. It is therefore not proper to raise the compensation at this point in time.

In addition, the Pneumoconiosis Compensation Fund has in recent years registered an expenditure in excess of revenue by over \$20,000 annually. So, we ought to think of ways to achieve a balance of income and expenditure and to reduce costs, instead of thinking ways to exhaust this Fund. Recently, the Government has lowered the levy rate from the value of products in the manufacturing industries and quarries from 0.3% to 0.25%. This is a right approach. However, to provide relief to small and medium enterprises in their difficulties, we suggest that the collection of levy should be suspended for one year. That will quicken the pace of recovery for the economy and reduce unemployment.

Under the existing mechanism, any proposal to amend the compensation amount should first undergo discussions in the Labour Advisory Board and subject to the consent of the representatives of the employers and employees before it is passed. But the proposal in question has not been passed by the Labour Advisory Board and it has not even been discussed there. Therefore, we cannot lend it our support.

Madam President, any arrangement which will impact on labour relations must be handled carefully. It must be accepted by both parties before it is implemented. The resolution in question has not undergone any consultation and it lacks sufficient justifications. The Federation of Hong Kong Industries and the Liberal Party therefore are unable to lend it their support.

With these remarks, I oppose the resolution. Thank you.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, the resolution proposed by Mr LEE Cheuk-yan on behalf of the Hong Kong Confederation of Trade Unions is very simple. Only a number is changed. Under the proposal, the amount of compensation for bereavement payable to the family of a person who dies of pneumoconiosis is raised from \$100,000 to \$150,000. But I believe what deserves more of our attention is the care shown by the idea behind the amount of compensation given to the deceased and the bereaved family.

Most of the workers who contracted pneumoconiosis worked in the construction industry before. So, they may be called the unsung heroes who have contributed significantly to the prosperity of Hong Kong. In the course of their work, they contracted the disease because in the past top priority was given to efficiency and occupation to the neglect of safety. It can be said that the community and the Government owe these pneumoconiosis sufferers and their families a debt.

I have been fighting hard for better compensation terms for workers who have contracted pneumoconiosis. While I agree that the compensation package has seen some degree of improvement in the last decade, I cannot agree that it is sufficient. Mr LEE Cheuk-yan's motion today proposes to deal with only a very narrow item, which is an increase in the amount of compensation for bereavement payable to the family of a deceased worker. Mr LEE has explained very clearly the rationale for raising the compensation to \$150,000 and I will not repeat it here. However, I would like to tell Members two cases.

The first case is about a worker by the surname of CHEUNG, who has contracted pneumoconiosis. He died more than three years ago. His family obtained \$14,000 as funeral expenses and \$70,000 as compensation for bereavement. But at that time, Mrs CHEUNG wanted to bury her husband with his whole corpse in a grave, and the burial alone cost over \$100,000. So, Mrs CHEUNG in fact had no compensation at all for the loss of her husband, and she had to dick into her own pockets to meet the expenses.

Another true story is about a Mr CHAN, a worker who also contracted pneumoconiosis. He died between April and May last year. What his four sons got was only \$100,000 in compensation for bereavement. But because his sons are still attending post-secondary classes, the financial burden for the family is great and the compensation is limited in meeting their living expenses.

If I were asked what amount is sufficient as compensation for bereavement, I daresay \$150,000 is not a sufficient amount. Once you have actually come into contact with people who have contracted pneumoconiosis and their families and understood their difficulties, I believe you will agree with what I say. After all, since the Pneumoconiosis Compensation Fund can well afford every additional payment in terms of compensation to workers, why should we be so mean to pneumoconiosis victims?

Just now, Mr Kenneth TING pointed out that workers who have contracted pneumoconiosis have already been given compensation. They should spend according to their means and save some money for their families. But can they save any money for their families, given that such workers must spend a fortune on medical expenses and personal care or even other expenses? Most likely, they would have used up their savings or even have borrowed money to make ends meet. How can they save any money for their families?

Madam President, yesterday, Secretary Joseph WONG issued a letter to all Members asking them to oppose Mr LEE Cheuk-yan's resolution. To this I must say I find it very much disappointing and regretful! I think I understand why government officials wanted to lobby Members of this Council in opposing whatever policy not to the liking of the officials in general. But what we are talking about is not a matter of policy or principle. It is just a humanitarian issue. We just want to help families of workers who have contracted pneumoconiosis. While government officials may refuse to provide assistance, must they go to such great lengths as to send a letter to each and every Member to lobby for support? The government officials may well let Members decide what vote to cast. The act of the government officials is not only superfluous but also outrageous, if I may venture to say so.

Madam President, colleagues in this Chamber today are going to vote for or against the resolution. This may be a very simple matter. The voting may do little to affect the Pneumoconiosis Compensation Fund and the economy as a whole. But to the victims of pneumoconiosis and especially their families, the voting of today is of enormous import.

Madam President, I urge Members to vote for the resolution. Thank you.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, sorry, I am coughing only and I am not suffering from pneumoconiosis myself. If Members have the opportunity to come into contact with the pneumoconiosis sufferers, they will then know that their symptoms are not like mine. Rather, they have to inhale oxygen for each step they take and they need a large amount of oxygen in order to survive in the rest of their life. In fact, I believe there is consensus in society that pneumoconiosis sufferers should be given compensation. For a long time in the past, organizations on behalf of pneumoconiosis sufferers have petitioned the Legislative Council many times. Every time, I would feel sorry for them because it was a hard journey for them to come here. They were often panting upon arrival, and they could not talk until after having been seated for some time. They have already got some compensation in respect of medical services they need in their daily life. But as regards other relevant facilities they also need, they have also requested improvement. Of course, the Fund has also done something for them, but compared with their needs, there is still great disparity. At present, it is provided that a compensation of \$100,000 will be paid after their death. But since there is sufficient money in the Fund and they actually and objectively need the money, we hope that the compensation amount can be increased to \$150,000. We feel that it is not unreasonable. Even if there is no money in the Fund, we should give them compensation under such situations, not to mention that there is money in it. I therefore hope that colleagues of the Legislative Council can support the amendment. Having had contact with pneumoconiosis sufferers for so many years, we understand their situation. Frankly speaking, it is not unreasonable to raise the compensation amount from \$100,000 to \$150,000. If we should factor in some savings they should make, it would be too mean and stingy of us. If Members have come into contact with them, they would know that their health conditions are different from ours. They have to carry oxygen cylinders with them and they have to make a lot of efforts in order to walk. They are leading such a life. So, I earnestly hope that other colleagues would support the resolution.

Moreover, I would also like to say that, if my memory has not failed me, these organizations have also suggested increasing compensation for pain and suffering for a number of years. Since we now suggest that compensation for bereavement should be increased to \$150,000, why should the compensation for pain and suffering not be revised? I think it really should be revised. Hence, the Hong Kong Federation of Trade Unions and the Democratic Alliance for the Betterment of Hong Kong fully support today's resolution.

**MR ANDREW CHENG** (in Cantonese): Madam President, the Democratic Party supports Mr LEE Cheuk-yan's motion. The Democratic Party is pleased to see that after almost two years, this Council has the chance now to hold a formal debate on the proposal of Mr LEE Cheuk-yan. I can remember in 1998, Mr LEE Cheuk-yan was forced to withdraw his amendment in respect of the compensation for bereavement at the last moment, because the Administration had threatened to withdraw all the amendments to the Pneumoconiosis (Compensation) Ordinance, which had totally shattered the prospects for a debate on the issue.

In 1998, the Secretary for Education and Manpower stated in this Council that increasing the compensation for bereavement under the Pneumoconiosis (Compensation) Ordinance to \$150,000 would create financial burden on the Pneumoconiosis Compensation Fund (PCF). However, this problem should no longer exist as the Secretary sought the approval of this Council to reduce the rate of levy of the PCF on 17 May, in view of the healthy financial position of the PCF, with a surplus of \$480 million. Therefore, the Democratic Party considers it is time we reviewed and increased the amount of the compensation. Can the Administration not be more generous as the surplus of the PCF is so immense? Why the Administration still has to haggle over every penny in disregard of the fact that the PCF has a \$480 million surplus? Furthermore, why has it to mention the overall price index drop in the recent two years and the families of the deceased may get other kinds of compensation? How can it espouse such a callous viewpoint?

Very often, the sufferers contracted the disease because of prolonged engagement in certain industries such as the construction industry, which have damaged their pulmonary function. Because of their lengthened suffering and the need of long-term care by their families, it is fair and square to compensate them via the PCF levied from the industry. The Secretary has mentioned in the previous debate and in his letter addressed to Members of this Council yesterday that the principle for compensation under the Pneumoconiosis (Compensation) Ordinance was different from the Fatal Accidents Ordinance, therefore the bereavement compensation under the two Ordinances should not be pegged. However, when the compensation for bereavement in respect of pneumoconiosis was drawn up with reference to the compensation amount of the Fatal Accidents Ordinance. We should be aware of the fact that losing a member of the family is a heartbreaking thing, could it be said that the grief of losing a family member who dies of pneumoconiosis is less than losing a family member who dies in an

accident? Why can the family of a fatal accident victim get a compensation of \$150,000, while the families of a pneumoconiosis victim can only get a compensation of \$100,000? Could it be said that even the bereavement compensation has to be divided into different classes? The Administration should not say that because the families of a pneumoconiosis victim may get other kinds of compensation, such as the pneumoconiosis fatality compensation, therefore it should be less than the bereavement compensation under the Fatal Accidents Ordinance.

Madam President, when the Administration threatened Mr LEE Cheuk-yan to withdraw his amendments, it raised a number of reasons, as well as stating that it would look into relevant issues, but those were customary excuses of the Administration. Given such excuses, we consider the Administration has no genuine intention to improve the situation and has totally ignored the agony of the pneumoconiosis patients and their families. Despite we have heard the announcement of the Secretary for Education and Manpower, Mr Joseph WONG, in 1998 that the Administration would study carefully relevant suggestions, what exactly has the Administration done in the past two years? I hope the Secretary can answer my question later. As he is leaving the Education and Manpower Bureau soon, therefore I hope he can give us a more positive answer before his departure.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, I support the resolution of Mr LEE Cheuk-yan. The major reason behind my support is that whenever I see workers suffering from pulmonary diseases, I know that they have been suffering the torment for years, besides, they are not the only people to suffer, as their families have to suffer, too. Just a moment ago, some colleagues have mentioned that these patients have to be taken care of even if they want to take a walk, because they have to carry oxygen cylinders or breathing apparatuses with them, making it very inconvenient for them in moving about, thus they need the help of their families. Of course everybody understands that as most of these pneumoconiosis patients come from the construction industry, their families are usually not wealthy at all, thus it is hard for them to hire someone to look after them. Very often, members of their families have to quit their own jobs in order to look after these patients. However, the general compensation around \$3,000 from the Government is not

sufficient to support the livelihood of the patients, not to mention to take care of their families. It is outright insufficient. Therefore, from a realistic point of view, it is not sufficient even they are receiving pecuniary assistance.

The proposal made today is to increase the compensation amount, because families of the deceased have to put up with not only the sorrow of the past, but also the bereavement of the loss of loved ones. In fact, these families did not only have to look after their ailing kin painstakingly in the past, they also have to face the reality of bereavement after their passing away. Therefore, no amount of compensation can make up for the loss, as money cannot make up the grief of losing their loved ones. Can anyone tell me how much should one be compensated for the loss of loved ones? It is totally immeasurable. Today, we just want to seek a meek increase in the compensation, so that the bereaved families may get a tiny bit of consolation. But if this tiny bit of consolation is denied them, I shall feel extremely painful.

Moreover, just now I heard some Members suggesting that as we have surplus in the Pneumoconiosis Compensation Fund (PCF), we should therefore consider how to cut the rate of levy, and that was the only proper direction. I think I would rather not criticize these people for lack of conscience, in fact, people making these remarks have not actually met the grief-stricken workers face to face, and have not faced squarely to the contribution these workers have made to society as well as the construction sector. As Members have recognized and confirmed that when these worker performed such works in those days, there were no safety precautions at all to prevent such mishaps from happening; and once they contracted the disease, their lives would be shortened.

Despite we are capable of improving the compensations today, some people care to venture that as the price index has gone down and there is surplus, thus we should consider how to reduce the rate of levy or to aid the development of the industry. I think this is looking at the issue from upside down. In other way round, as the PCF has surplus, why can we not consider increasing the compensation? In fact, I consider a number of other compensation items insufficient, a view which is supported by several pneumoconiosis organizations as they have constantly requested the Administration to increase the amount of other compensations. However, to our surprise, some Honourable colleagues have asked for a reduction in the rate of levy, which is so distressing that no words can describe. Actually, once you have met some pneumoconiosis patients and realized the conditions of their families and livelihood, you would

think about how they dedicate their lives just for the purpose of the occupation and the purpose of making a living. I am not asking Members to sing them praises or to eulogize them, I just want the Administration to provide them with a tiny bit more of compensation, a tiny bit of solace. Why can we not achieve that? Why we are so mean? I really think that some colleagues are quite mean, because to my surprise, they have asked for a reduction in the rate of levy. How can my colleagues in this Council utter things like this? Madam President, I hope my colleagues can think it over, as the proposed increase is actually not that much, and each bereaved family can only get just a couple of ten thousand dollars more. Why not granting them just about \$50,000 more? Just a moment ago, Mr LEE Cheuk-yan has just worked out a series of figures, it can be seen that according to the calculation a few years ago, the annual expenditure of the PCF will only go up by something more than a million dollar. Why can we not achieve that? Why our society is that merciless? I hope our society and Government can show a little more conscience and bring the ruthlessness to an end.

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

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

(No Member responded)

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the Government does not support Mr LEE Cheuk-yan's resolution which seeks to increase the compensation for bereavement payable under the Pneumoconiosis (Compensation) Ordinance from \$100,000 to \$150,000. We oppose this motion mainly for three reasons.

Firstly, just now Mr LEE Cheuk-yan already explained on behalf of the Government that the compensation for bereavement as provided for in the Pneumoconiosis (Compensation) Ordinance and that under the Fatal Accidents Ordinance are granted on completely different principles. While the amounts of compensation under the two Ordinances had been the same for some time in the past, it does not follow that all their adjustments must also be the same; and they are actually subject to two separate review mechanisms. Therefore, our conclusion remains that the proposal of pegging the amount of compensation for

bereavement under the Pneumoconiosis (Compensation) Ordinance to the amount of compensation for bereavement under the Fatal Accidents Ordinance is not justified.

Secondly, the amounts of the various compensations under the Pneumoconiosis (Compensation) Ordinance are reviewed on a regular basis. The compensation for bereavement payable under the Ordinance was increased from \$70,000 to \$100,000 when the amount was last revised by the Government in August 1998. So, we do not see any pressing need to increase the amount of this compensation to \$150,000 before the review in the latter half of the year is completed.

The third and the most important reason why we oppose the resolution is that all compensations under the Pneumoconiosis (Compensation) Ordinance are payable out of the Pneumoconiosis Compensation Fund, for which the source of income is the levy from construction works and quarry products. Given that the Fund is managed by the statutory Pneumoconiosis Compensation Fund Board which is responsible for, among other things, determining the amount of compensation under the Pneumoconiosis (Compensation) Ordinance, we consider it inappropriate to pass any resolution which may influence the Board before fully considering the views of the Board. In fact, I learn that the Board and the Hong Kong Construction Association have written to Honourable Members asking them to vote against this resolution.

Just now Mr LEE Cheuk-yan pointed out that for cases in which the pneumoconiotic had received compensation from the Fund before his death, the compensation that his family members will receive is the compensation for death — I repeat, compensation for death, not compensation for bereavement — notwithstanding that the minimum amount of compensation for death is pegged to the amount of compensation for bereavement. In my letter to Honourable Members, I referred to those who did not receive any compensation before they died, in which case their family members can, in addition to the compensation for bereavement, receive compensation for death ranging from \$610,000 to \$2.3 million. Therefore, these are two completely different circumstances so there is no misleading at all.

For the above reasons, I urge Members to oppose Mr LEE Cheuk-yan's resolution.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, you may now reply.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, firstly, I want to respond to the point raised by Mr Kenneth TING. He said if the amount of compensation was increased, the interest of the community as a whole would be affected and this would not fit the economic situation. I do not see how the proposal can have such serious consequences. The demand is only a minor one and would not add to the burden of employers. So, I hope Members would not exaggerate by saying the increase would affect the interest of the community as a whole. Secondly, I hope Mr TING would not say I am trying to do whatever possible to exhaust the Fund. I have no intention to do that. I am just proposing that the Fund spend an extra 0.8% each year. If I wanted to spend all the money in the Fund, I would not have suggested to do just that. Instead, I would have to devise a number of other means to spend all the \$400 million.

I just wanted to accomplish a small thing with this resolution. I want to maintain a fair principle. I have explained that the pains and sufferings caused by fatal accidents and bereavement due to pneumoconiosis should be the same. Secretary Joseph WONG said that the two types of cases were treated in the same way in the initial stage did not mean they should be treated the same in later stages. Is everyone convinced by what he said? Secretary Joseph WONG said that the two types of cases have different review mechanisms. One of them is a review by the Department of Justice while the other, a committee of the Education and Manpower Bureau. Despite that, the principle should be the same, which means any compensation for bereavement should in principle be adjusted with reference to inflation and developments in the community. That is why the compensation for bereavement in fatal accidents was improved in 1997. Should compensation for pneumoconiosis victims not be adjusted accordingly? Some may ask: Since there is deflation, does it mean the amount of compensation should be reduced? What I am saying is that we should return to the 1997 position. What I have in mind is the amount payable in 1997. That is to say, even if we have deflation now, the compensation for bereavement

in fatal accidents should be maintained at \$150,000 and there is no proposal to reduce it. Hence, I am still having that amount in mind and I hope to be able to bring the two kinds of compensation to the same level. I hope Members can note this and support the proposed increase in compensation.

Secretary Joseph WONG also clarified the point that if the relevant worker had not received any compensation before his death, his family should be able to receive compensation between \$630,000 and \$2 million-odd; otherwise his family can receive a minimum of \$100,000 or \$150,000 in compensation for bereavement. A moment ago, Mr LAU Chin-shek cited some examples to explain that \$150,000 was simply insufficient. So, what we are asking is just a very small improvement, which I hope everyone will consider. Just now, many said the Pneumoconiosis Compensation Fund Board may need to review many procedures due to the change. In regard to this, I want to ask: How many people will have passed away before the review is completed? Do we really want them to wait? Some may not live to see the completion of the review which we say would take some time. Secretary, we can ill-afford to wait. So, I hope Members can vote for my proposal as far as possible. If there are Members who have been talked into withholding support for my proposal, would they please return to their natural course by voting for my proposal during this last minute. More importantly, I would urge Members to listen to the call of the victims, or if they cannot do so, to the call from your inner self. For example, Mr WONG has heard the call from his inner self.

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

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

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

Mr HO Sai-chu and Mr Ambrose LAU voted against the motion.

Mr NG Leung-sing abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, nine were in favour of the motion and 14 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present, 20 were in favour of the motion, two against it and one 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.

**PRESIDENT** (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. Honourable Members should be very familiar with the recommendations, so I shall not repeat them here. I just want to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue his speech.

First motion: Development of the HKSAR's political system.

## **DEVELOPMENT OF THE HKSAR'S POLITICAL SYSTEM**

**DR LEONG CHE-HUNG** (in Cantonese): Madam President, I move the motion printed on the Agenda be passed.

First of all, I have to declare that today I move this motion on behalf of the House Committee of the Legislative Council. In other words, this is not a personal motion of mine.

I also want to take this opportunity to congratulate the Panel on Constitutional Affairs of the Legislative Council on completing a comprehensive Report on the Development of the Political System of the Hong Kong Special Administrative Region, which comprehensively reviews all aspects of the development of political system, including the election of legislators, the election of the Chief Executive, the relationship between the executive and the legislature, the accountability of the Chief Executive and the executive to the legislature, the system of contractual appointment of principal officials, and ministerial system and so on. The report depicts the existing systems, identifies the problems, and cites foreign cases. What is more, it brings out opposing views of legislators and those of individuals or groups concerned about the development of Hong Kong, and gathers a lot of unbiased recommendations.

Here I want to apologize to the respectable Honourable Andrew WONG. This motion should have been moved by him. However, I have been forced to hijack his motion. It is my sincere belief that, given the zeal and learning of Mr WONG in the political system of representative government over the years, he, if given the chance to be the mover, is in a better position than I in bringing out the essence of the development of political system, which is a topic of enormous complexity.

As the development of the political system in Hong Kong concerns the well-being of people of every sector, the Administration should conduct an extensive consultation properly as soon as possible. During the last five months, the Panel on Constitutional Affairs has discussed different aspects of the development of the political system with many organizations, academics and citizens, playing, it can be said, a spearheading role in inducing discussions of the issue among members of the general public. However, the Government acts like a "slow coach", failing to set a realistic timetable for a general review of our political system even after the lapse of a long period of time. It is hoped that the Secretary for Constitutional Affairs will not disappoint us again in his reply later.

As a matter of fact, the majority of Members are not asking for immediate drastic reforms or the instant introduction of direct elections for the Chief Executive and all seats in the Legislative Council. Most colleagues just want the Administration to conduct a review and consultation as soon as possible.

With regard to the question as to whether or not our study should proceed in accordance with the timetable and speed prescribed by the Basic Law, many colleagues do hold different views.

As prescribed by Article 68 of the Basic Law, the ultimate aim is the election of all Members of the Legislative Council by universal suffrage. However, with regard to the first three terms of the Legislative Council, Annex II to the Basic Law has already prescribed the method of its formation.

The Basic Law, however, was drawn up in the 1980s and promulgated in the 1990s. Ever since the implementation of different levels of representative government in Hong Kong from the 1980s onwards, most of the people, sharpened by practice and participation over the years, have become more intelligent and politically matured. The blueprint which was congruent with the political situation and public opinions in Hong Kong in the 1980s is probably no longer so now.

I have to stress that I am not advocating the immediate adoption of popular election. However, if the Basic Law is indeed designed to suit the special social conditions in Hong Kong, then must careful consideration be also given to the views and wishes now held by the people of Hong Kong? I am of the view that the Government should hold a "referendum" on the issue of the development of the political system and then conduct a review and set a specific direction of development on that basis.

According to the Basic Law, for the current term, the second term and the third term, holders of one half of the seats in the Legislative Council shall be returned by functional constituencies. In recent days, there have been suggestions in the community calling for the retention of seats for functional constituencies or even increase them further after the third term.

For 12 years, I have been a legislator returned by functional constituency. I think I am qualified to evaluate functional constituencies and comment on the justifications to retain or abolish them. In fact I made known to voters my views on functional constituencies long ago. It has been so for years.

Genuine democracy and a genuinely representative system of government naturally should progress in the direction of popular election by one-person-one-vote. However, at the time when the representative system of government was first brought in, members of the general public generally believed that it was necessary to ensure that the representative assemblies were able to get representatives from major professions in order that their expertise could be made use of in running Hong Kong. So in 1985 there timely emerged elections for functional constituencies.

In the evolutionary process of progressing from an appointed colonial assembly to an assembly returned by popular elections based on the system of one person one vote, functional constituencies have indeed played a very important role. Because of the elections for functional constituencies, the work of a representative assembly can be assured of participation by persons from different sectors and possessing different talents. There are also channels through which different sectors can uphold their own interests.

Having been around for more than 10 years, functional constituencies can be said to have fulfilled their glorious transitional historic mission. The development of political system in Hong Kong should no longer remain at the transitional stage. It ought to move on to the mature stage of genuine representative system of government with full democracy. Surely, my personal will cannot determine the question as to how quick we should proceed next. It has to be determined by members of the public, including the electorates of functional constituencies.

According to some people, "representatives of functional constituencies are very important as they serve as bridges between their constituencies and members of the public". Perhaps no one will dispute this. In reality, as members of the public gradually show greater intelligence, and as the people know more and more about their rights and privileges, the conflicts of interest between the community and individual functional constituencies also become more prone to accentuation and explosion. Even within an individual functional constituency, conflicts among different classes or groups are also on the increase. As a result, representatives of functional constituencies not only cannot serve as bridges but even have to walk on the tightrope painstakingly. A typical example can be seen in the controversy over the issue of adding Chinese medicine practitioners to the medical constituency. No wonder representatives of functional constituencies are suffering from schizophrenia occasionally.

However, so long as functional constituencies still exist, their representatives are still required to do their very best to play their roles as speakers of their constituencies, policy advisers, leaders of their constituencies, and bridges between their constituencies and members of the public. So long as a legislator still retains his seat, he must discharge his duties accordingly so as to render the Council accountable to all the people of Hong Kong.

Nevertheless, can full direct elections solve all the problems in relation to the governance of Hong Kong?

In fact, Hong Kong's existing constitutional structure is not very much different from that of the colonial era, with the Chief Executive heading an executive-led government, and making appointments to the Executive Council so as to get his advisers in running Hong Kong. So Members of the Executive Council do not have mandate from the people. Civil servants within the executive machinery all along stress their political neutrality. However, they are required to shoulder the political mission of making all the policies. No wonder there is political schizophrenia. Furthermore, civil servants are all appointed, and, therefore, do not have a popular mandate.

On the other hand, though all Members of the Legislative Council are returned by elections, and enjoy a popular mandate, they have no real powers in the formulation of policies. The Basic Law provisions on private bills and voting in groups further limit the powers of the Legislative Council. In short, the Legislative Council is an assembly endowed with accountability but devoid of real power.

So long as such a constitutional framework remains unchanged, there is very little that the Legislative Council can do even if all its Members are returned by popular election.

At the same time, it is not at all pleasant for the Government. Speaking on a certain occasion last year, the Chief Secretary for Administration frankly admitted that it is not always pleasant for an executive-led government endowed with authority but not blessed with votes to run the administration.

However, I have to point out that the executive and the legislature each have their own roles, and there must be checks and balances between them. In criticizing the Government or its policies and in amending government bills, we are just performing our monitoring duty. Government officials need not take such criticisms to their hearts. Of course, Members of the Legislative Council should not criticize just for the sake of making criticism so as to degrade the officials.

Can the situation in which powers and responsibilities of governance are not matched with popular mandate be improved? I am of the view that the Chief Executive may appoint some legislators to the Executive Council and, at the same time, assign ministerial responsibilities to certain Members of the Executive Council. These suggestions do not breach the Basic Law at all.

Three things can be achieved at one go by adopting the ministerial system. In the first place, Members with seats in both the Legislative Council and the Executive Council can improve communication between the two bodies. In the second place, upon the appointment of elected legislators to the Executive Council and the assignment of ministerial responsibilities to them, then popular mandate, public accountability, and the powers of governance can be combined. In the third place, civil servants can then be solely responsible for the implementation of policies, and remain neutral politically.

The proposal for ministerial system is not to seize power from the executive-led Government. What is more, there is not the slightest intention to change it from executive-led to legislature-led. On the contrary, it is to bestow upon the executive-led Government a stronger popular mandate.

Madam President, among the recommendations contained in the report prepared by the Panel on Constitutional Affairs is a request asking the Government to consider adopting an agreement system so as to render principal officials accountable for the political responsibilities arising from their decisions, and look into the need for principal officials to resign voluntarily on making serious mistakes in formulating or implementing policies. I am very much in favour of the system of accountability. These recommendations can be further brought into effect by the adoption of the ministerial system, under which any person accepting the political appointment as a minister must be prepared to be "beheaded" for policy blunders. Civil servants, who are responsible for the implementation of policies only, need not shoulder such political consequences.

Madam President, time does not allow me to present the report's contents and recommendations in detail. I think many Honourable colleagues will comment on all the aspects one after another in due course. I only hope that the Secretary for Constitutional Affairs will make a positive and constructive response.

With these remarks, I beg to move.

**Dr LEONG Che-hung moved the following motion: (Translation)**

"That this Council urges the Government to consider the views expressed by Members of this Council on the "Report on the Development of the Political System of the Hong Kong Special Administrative Region" tabled by the Panel on Constitutional Affairs and related matters."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr LEONG Che-hung as set out on the Agenda be passed. We will now proceed to the debate.

**MR HOWARD YOUNG** (in Cantonese): Madam President, the Liberal Party agrees in principle to the four recommendations presented in the report, and considers those recommendations to be in the right direction. We are of the view that all specific recommendations should be considered in the overall review of the political system of the Hong Kong Special Administrative Region (SAR), instead of considering them piecemeal. The review should be comprehensive and commence well before 2007.

The report suggests developing constitutional conventions requiring principal officials to resign voluntarily on making serious mistakes in formulating or implementing government policies. To render principal officials liable for political responsibilities, it is also suggested that a contract system be adopted. These suggestions are designed to rectify a current situation, in which principal officials responsible for implementation of policies possess powers but take no responsibility. This is in line with the spirit of the so-called "ministerial system" long advocated by the Liberal Party.

At present, the politics in Hong Kong has a serious problem, namely, the lack of a clear delineation of powers and responsibilities. Though the Executive Council possesses great powers, it needs not shoulder any responsibility. At present, the so-called collective responsibility is tantamount to having not even a soul to shoulder responsibility. Principal officials responsible for implementation of policies possess powers but need not be held responsible ultimately. Even when there are serious mistakes, such as in the cases of the new airport, the avian flu and the recent piling scandals of the Housing Department, they still need not resign voluntarily. At worst, they would be subjected to no more than reprimand by the Legislative Council.

The Liberal Party thinks that at this stage the Government might make contractual appointments to ministerial posts from the ranks of those able to make contribution to society from among Legislative Council Members, members of the industrial and commercial sectors, professional circles, civil servants and academics in accordance with the needs of society. The ministers will also become Executive Council Members in order to take part in the formulation of policies. A minister has a well-defined policy portfolio and may put into effect his political concepts. He may also have the opportunities to take part in the formulation of policies. However, he, unlike today's invisible Members of the Executive Council, is required to be ultimately responsible for misfired policies. According to a survey conducted by Lingnan University early this year, most of those interviewed agree that policy-makers should take the blame and resign in the event of serious mistakes in their policies.

Moreover, there is also something wrong with the relationship between the executive and the legislature. According to Article 64 of the Basic Law, "The government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region." However, at present the relationship between the executive and the legislature is rather tepid, with little communication and co-operation between them. As a result, the two sides are often confronting each other. Members of the Legislative Council are always in the passive, voting against disagreeable proposals when called for voting. In order to provide successful escort for policies, the executive also exerts all means to lobby legislators. Such a tug-of-war is unpleasant to both parties. If things remain like this, it will impede the Government's administration, and impact adversely on the development of political parties. Furthermore, it is going to be difficult to improve the quality of public policies.

The Liberal Party holds that the Government should strengthen its communication with the Legislative Council, especially so when major policies are in the offing, in order that timely discussions can be held with political parties or legislators for their views. So the Liberal Party is very much in favour of the report's recommendation asking the Chief Executive to regularly attend Legislative Council meetings to answer questions raised by legislators in respect of major issues, and the Chief Secretary for Administration to hold regular meetings with leaders of political parties.

The Liberal Party is of the view that with improved communication, the executive can be rendered more accountable to the legislature, the relationship between legislators and government officials improved, the consensus on policies between the two sides strengthened, and the resistance to the implementation of new policies by the Government accordingly reduced.

With regard to the election of the Legislative Council, the Basic Law already provides for the methods of its formation prior to the year 2007. Regarding the post-2007 arrangement, the Liberal Party holds that the Government should launch the consultation in 2003. The SAR will be five years old by the year 2003, which, furthermore, is not going to be an election year. There should be room in society for large-scale consultation work. So the timing is more suitable. Around early 2005, having gone through two years' thorough consultation and taken into consideration the situation following the formation of the third term Legislative Council in 2004, the Government might then make a final decision on the post-2007 electoral arrangements. Adequate preparation for specific matters like voters' registration and demarcation of constituencies can then be made in the next two years. As Hong Kong is changing constantly, the Liberal Party disapproves of conducting consultation now. As time changes, views held by members of the industrial and commercial sectors and those of the general public also change. It is impractical and wasteful to conduct consultation too early.

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

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

**MR GARY CHENG** (in Cantonese): Mr Deputy, what the Democratic Alliance for the Betterment of Hong Kong (DAB) advocates for the development of our political system has long been spelt out in our political platform, and made known to the public on different occasions, including during debates held in this Chamber earlier this year. I do not want to repeat all that, but only wish to comment on the Report on the Development of the Political System of the Hong Kong Special Administrative Region presented by the Panel on Constitutional Affairs.

The report is the outcome of efforts made by the Panel over the last few months, during which there were public consultations, researches into foreign experiences, and discussions among Panel members. With opinions collected from different groups and individuals, the report probably reflects the views held by every social sector in Hong Kong with regard to the development of political system, covering the ultra-conservatives as well as the extreme radicals. It can be said that recommendations presented by the report constitute the greatest consensus achievable among Panel members, who are legislators with or without party affiliations.

Most of those recommendations are, of course, not conclusive, the reason being that when preparing the report, the Panel noted the considerable complexity of the issues being studied and the need for eventual follow-up. The Panel suggested that the Government review the political system of the Hong Kong Special Administrative Region (SAR). Also suggested is the idea that the Government should conduct extensive consultation as soon as possible so as to gain an understanding of public opinions. A realistic timetable should, it is also suggested, be set for the review too.

The DAB holds the view that in order to be "realistic", it is, first of all, necessary to make the existing system the starting point. Questions and worries now voiced are often conjectural and hypothetical. Here are some examples. Can a government with no support from any political party maintain effective governance? Is it definite that an assembly returned by popular election will ignore the interests of the business sector? What merits and demerits are there to divorce principal officials from the Civil Service? We cannot and should not groundlessly argue over these issues. After all, ours is not a piece of white paper. We can not simply copy the experience of other places. We have a

political structure in operation. We have the Basic Law, a constitutional document by which we have to abide. In reviewing the development of our political system, we should carefully analyse problems in our existing system, thoroughly explore the room available in the Basic Law, and, in particular, try to gain practical experience on the basis of the principle of gradual and orderly progress laid down in the Basic Law so as to unearth problems, look for solutions and identify the directions. We are of the view that only such a review is constructive and instructive.

I want to speak on the issue of accountability of officials. On the enhancement of accountability of principal officials, the Panel on Constitutional Affairs put forward two more specific recommendations, namely, in the first place, to explore the feasibility of developing constitutional conventions requiring principal officials to resign voluntarily for committing serious mistakes in formulating or implementing government policies; and, in the second place, to consider adopting flexible contractual terms of appointment so as to render principal officials politically accountable for their decisions.

We consider these two recommendations more practical than the proposal to adopt the so-called "ministerial system". The reason is that different persons are likely to interpret ministerial system differently. To sum up, whether, and, if so, how, principal officials are to be held politically responsible for government policies is the core issue. Recommendations in the Panel report seek to find out if it is possible to solve this problem by resorting to the two methods mentioned above, namely, developing constitutional conventions and adopting flexible contracts.

A flexible contract carries no fixed term of appointment. In the event of major policy mistake on the part of an official, the Government may terminate his employment contract. Constitutional conventions are regulations developed in the course of development of the political system which are outside the law but yet binding. The DAB holds that with regard to the issue of accountability of officials, the constitutional conventions and flexible contracts just mentioned both merit further exploration so long as they do not involve amendment to the Basic Law.

With these remarks, I support the motion.

**DR YEUNG SUM** (in Cantonese): Mr Deputy, after a half year's efforts, the Panel on Constitutional Affairs of the Legislative Council at last managed to present this Council's view on the development of political system before the end of the current term. This report, in my opinion, is not an ideal one; nor is it a good one. The reason is that the report, because of the lack of consensus among us, contains not even a minimum request asking the Government to review the political system and arrange to have the Chief Executive and Legislative Council Members elected by popular elections as soon as possible. Unsatisfactory though it is, we, however, still manage to present a report.

During sessions of the Panel, the Democratic Party submitted a written representation, indicating our wish to have a popular and fair election for the post of the Chief Executive and the seats in the Legislative Council as soon as possible. So for the current motion debate, my discussion will focus on the Democratic Party's views on the recommendations put forward by the report.

The first recommendation of the report asks the Government to study the feasibility of implementing a contract system with effect from 2002 for the appointment of principal officials. Under Article 48(5) of the Basic Law, the powers and functions of the Chief Executive include nominating principal officials, such as Principal Secretaries and their deputies and Bureau Secretaries, and making recommendations to the Central People's Government for their removals. The implementation of a contract system is bound to impact on the Hong Kong political scene. To replace civil servants' permanent appointment with a contract system offering tenures of a fixed term is somewhat similar to the adoption of a ministerial system.

The Democratic Party's fundamental view is that the ministerial system must be based on a democratic system, the most rational arrangement being one in which the Chief Executive, elected by way of "one person one vote" and blessed with popular mandate, nominates suitable persons to be department heads so as to carry out various policies and, thus, put his administrative blueprint into effect. This can also bring about a government accountable to the people as well as to the council. However, we may take the adoption of the contract system as an interim arrangement. The existing system is really infested with defects: officials, endowed with powers but not burdened with responsibility, are able to adopt a "could not care less" attitude even after committing serious mistakes as they need not assume political responsibility and step down. This leads to an incessant fall of the Government's prestige. For example, we have

those piling scandals recently. It seems that the officials concerned are not affected at all. The implementation of the contract system can at least be a little breakthrough in the existing political imbroglio. This will not only have the Civil Service separated from the bureaucratic system and gradually led to the path of political neutrality, but also make policy-makers wake up to the possibility of being sacked for committing mistakes by endowing them with powers and responsibilities. In this way, holders of such posts will be rendered more accountable to the general public.

Mr Deputy, it is a fact known to all but brazenly denied only by the Government that the Chief Executive enjoys very low public esteem. The Chief Executive's guardian despotic style alone does not fully account for his unpopularity, which in part also stems from the fact that his various measures have not been well received among the people. The Government should not play ostrich again; nor should it act like a "turtle with its head in the shell". It at least should take the first step to study the feasibility of a contract system. Surely, the Democratic Party must reiterate that this is only the first step. The reason is that if a ministerial system is implemented not under a democratic system, any form of political system can only be a pain-killer offering temporary relief to ease the people's discontent, all of which comes from the political system. If it remains impossible for the people to elect the Chief Executive by popular election, the people's grievances against the Government are bound to grow continuously.

Turning now to the second recommendation, that is, to start looking into the development of assembly practices and constitutional conventions. The Democratic Party fully agrees with this. Reference has been made to the materials provided by the Research and Library Services Division of the Legislative Council. It has been noted that, with the exception of that in the United States, the government of every democratic nation is required to resign in accordance with assembly practices or constitutional conventions once the assembly has passed a motion of no confidence against the government, or disapproved the government's policy framework, or voted down a major government bill.

We are of the view that in order to set up a political structure in which there are mutual checks and balances between the executive and the legislature, it is necessary for the legislature of Hong Kong to strive for more room so as to make the executive face up to the Legislative Council's aspirations in respect of

certain issues. The Honourable Fred LI will move a motion of no confidence against the Chairman of the Housing Authority and the Director of Housing before the close of the current term of the Legislative Council. Surely, even if the motion does pass, and the pressure coming from public opinions is very strong, the Government will still turn a blind eye to it and keep on defending the leadership of the Housing Authority and the Housing Department whilst the persons concerned will continue to perform duties that are beyond their ability as Hong Kong lacks a democratic foundation and assembly practices. However, the Democratic Party still hopes that through the slow accumulative development of assembly practices or constitutional conventions consequent upon decisions made in the assembly in respect of certain issues, the executive can be rendered accountable to the legislature.

The Democratic Party also wants to lay down a concrete regulation for the Chief Executive to appear before the Legislative Council on a regular basis or on encountering major issues to answer questions raised by Legislative Council Members. Rule 8 of the Rules of Proceedings of the Legislative Council provides that the Chief Executive shall appear before the Legislative Council to answer questions raised by legislators. However, here he may "exercise his discretion". He comes when he feels so inclined. He does not come when he does not feel like it. For the current Session, the Chief Executive has, at his discretion, arranged just two question and answer sessions. The Democratic Party holds that the executive should enhance its accountability to the legislature. The Chief Executive should not appear before the Legislative Council only at his discretion just for the reason that he is afraid of the Council. He must regularly explain to the Legislative Council the implementation of different policies, and step up efforts in so doing.

With regard to the third recommendation of the report, namely, asking the Government to study different systems of government and make recommendations on a system that would be most suitable to the circumstances of the SAR and acceptable to the community as a whole, the Democratic Party is supportive. We call upon the Government to conduct a study of political systems and put forward a political system proposal in the form of a consultation paper as soon as possible. I believe the earlier the people of Hong Kong can participate in the discussions, the better the development of the political system will be. We also call upon the Government to put forward as soon as possible a mechanism for amendment to the Basic Law so that we can expeditiously amend

the Basic Law to allow universal suffrage in the Chief Executive Election of 2002 and the Legislative Council Elections of 2004.

With these remarks, Mr Deputy, I support the motion.

**MISS EMILY LAU** (in Cantonese): Mr Deputy, I am going to speak in support of your motion. I share your view. You were forced to hijack Mr Andrew WONG's motion. I also consider that to be very regrettable. The reason is that the motion was proposed following discussions among us in our capacity as members of the Panel on Constitutional Affairs. It was agreed among us, members of the Panel, as well as among all parties in the Panel that the Panel Chairman be requested to move the motion today. However, the motion unexpectedly ran into problem on reaching the House Committee. Finally it was decided that you, Mr Deputy, should move the motion. This is tough for you as you have to move another motion today. However, I still think that today's incident is unfair to Mr Andrew WONG. It is hoped that in future all of us can have a clear understanding among us. If a motion comes from a panel, then the House Committee should also respect it. Do not place the responsibility on the Chairman of the House Committee on every occasion, Otherwise it is going to be very tough for the person chairing the House Committee.

Mr Deputy, for this occasion, the consultation conducted by the Legislative Council was just a limited one. It is because our resources and time were limited. However, we still proceeded with it, the main reason being the unwillingness on the part of the executive to undertake the task. I believe that you are probably aware of this, Mr Deputy. In fact I proposed a relevant motion debate several months ago, and was able to gain support from most legislators. However, the executive indicated not the slightest willingness to proceed. That being the case, the legislature, therefore, put in full efforts to do that. So we did manage to collect some opinions. It is hoped that the executive can provide some concrete information after listening to all the opinions this evening. Of course I have just heard that some Honourable colleagues do not favour launching the consultation so soon. However, I believe that the consultation to be conducted by us is based on the views of most legislators. Most legislators do think that it is advisable to proceed with the consultation as soon as possible.

Mr Deputy, there is one point on which I disagree with what you said. However, what you said is perhaps correct. According to you, this report of ours is very moderate and most of the legislators are not asking for drastic changes. It is perhaps correct for you to say so. However, you did not make the statement that if we adopt such a moderate attitude, then we are not representing Hong Kong. You can notice that over the last few months every opinion poll has shown that it is the wish of the general public to have the next Chief Executive and the next Legislative Council elected by one-person-one-vote elections. I call on you to acknowledge this fact in your reply later. Although not every Legislative Council Member is asking for drastic changes, it is otherwise in the world outside. I think the Secretary for Constitutional Affairs is well aware of this. Mr Michael SUEN once told this Council that Taiwan could have sweeping changes, but Hong Kong could not have sweeping changes. In fact the people in Hong Kong want to have sweeping changes. This, I think, is a very important point.

Mr Deputy, as you know, our Panel has made reference to foreign experiences. Reference has been made to the cases of seven countries, namely, the United States, France, Germany, England, Japan, Singapore and New Zealand. The reference so made is useless as their systems are totally different from ours. It is impossible to copy them. If we are to develop from what we now have, it is just futile, no matter whether the system adopted is one of president, prime minister or cabinet. Left over from the efforts put in to make the reference is merely a "craving". However, the governments of the seven nations are all returned by direct elections. This point is very clear, and I am going to bear it in mind firmly. Today I have a clear message for the executive, namely, the fact that most legislators want to launch as soon as possible the consultation on political reforms. I fully agree with what Honourable colleagues said, that is, that the consultation to be conducted must be comprehensive, not confined to the part on elections or the part on the relationship between the executive and the legislature. I am in favour of comprehensive consultation, and it should be carried out as soon as possible too. While doing that, we should try our best to listen to people's views and wishes. It is my hope that it can be accomplished in the next Legislative Council. Given such circumstances, it probably indicates that there might be a need to amend the Basic Law. We hope that it be done. Some people might consider this to be an excessive wish. However, the Frontier earnestly hopes for that. We also

agree with your point that, ultimately it might have to be decided by referendum, that is, to ask the people to vote on it. The Frontier absolutely supports this. On the other hand, we call upon the executive to provide the resources and show sincerity so as to comprehensively consult the general public by calling a constitutional convention or using other methods as soon as possible.

Mr Deputy, there is another point on which I disagree with you. According to you, you are qualified to make comments as you have long been a legislator returned by functional constituency. Sorry, I have never been a legislator representing a functional constituency. I also have no intention to be one. However, I think I am absolutely qualified to make comments. That is not all. I am also qualified to comment on another coterie election, namely, that of the Election Committee. I think most people in Hong Kong oppose this form of election. Mr Deputy, you have been a representative of the medical profession for many years. I do respect you. However, I am glad to hear that you, after a meritorious service, are retiring. So, what you ought to do first is to set yourself as an example by standing in direct elections. You should also call upon your voters to abandon such coterie elections. What the Frontier advocates is very simple. We oppose coterie elections. We oppose elections by functional constituencies. We oppose election by the Election Committee. We will not take part in such elections. A coterie election has been scheduled for the 9th of next month. We will go there to "make scenes" by staging protests. Though Legislative Council Members are *ex officio* members of the Election Committee, members of the Frontier Party will not vote on 10 September. I hope this piece of information can reach the ears of the executive. To be honest, how many people are qualified to vote in the coterie election of 9 July? Yet they may run for six seats in the Legislative Council. Some of them are even aspiring to be the Chief Executive. Now all major developers are saying that they want to stand in the election. In fact the people in Hong Kong are furious on seeing this. Therefore, I want to use this debate to reiterate the Frontier's views: We oppose coterie election; so do, I believe, most people in Hong Kong.

Finally, Mr Deputy, though there are different opinions among us, there is, I believe, one thing for which we are prepared to speak in one voice. That is: principal officials of the Government should resign on committing serious mistakes. For this, we have put forward the idea of developing some so-called

constitutional conventions. It is, of course, possible to proceed with this as soon as possible. However, there is no need to wait for the implementation of the so-called flexible contract system. That can be a step to be taken later. As a matter of fact, at present some officials are serving on contractual terms, for example, Dr E K YEOH. With regard to those constitutional conventions, I think the officials should reflect upon this. If they indeed have erred, then should they hold themselves accountable to the Government, take the blame and resign? I believe most Honourable colleagues who are going to speak will send out such a message. I so submit in support of the motion moved by the Deputy President.

**DR RAYMOND HO** (in Cantonese): Mr Deputy, first of all, I would like to take this opportunity to thank members of the Panel on Constitutional Affairs. After conducting public consultation, studying the political systems of several foreign countries, and holding discussions on different issues again and again, the Panel finally completed this report on the development of our political system. There are provisions in the Basic Law stipulating on our political system and its development. However, with regard to some future arrangements, especially the methods to be used after 2007 to return the Chief Executive and the Legislative Council, we perhaps should start the discussion. At the same time, in order to dovetail with the future development of Hong Kong, the Government should also conduct a study and then suggest an appropriate political system consistent with the situation in Hong Kong.

In the meantime, with regard to certain shortcomings of the existing political system, the Government should also look into them and make improvement as soon as possible. First, it is hoped that the Government can enhance the accountability of the executive. At present, the Executive Council is the body helping the Chief Executive to make policies. Members of the Executive Council mainly serve as the Chief Executive's advisers, and are not required to implement policies endorsed by the Executive Council. If the policies concerned run into problems in the course of implementation, they need not shoulder any responsibility. Traditionally, principal officials responsible for the implementation of policies are also not required to shoulder political responsibility.

Over the last few years, quite a few of our policies have run into grave problems, for which, however, none of our senior government officials have been held responsible. This totally exposes a weak point in our current political system, namely, the lack of accountability. Hong Kong's current situation actually runs counter to the trend of progressive nations towards enhanced accountability of the executive. The SAR Government really ought to study various systems to determine their feasibility of adoption by the SAR Government. For instance, accountability can be enhanced by bringing in the ministerial system or by adopting a contract system for principal officials. In the event of major political mistakes, the officials responsible must take the blame and resign. If the SAR Government can make improvement here, people's confidence in its administrative competence can surely be strengthened.

Furthermore, the SAR Government should also strengthen its co-operative relationship with the Legislative Council. At present, the SAR Government often tries to assert its executive-led position, placing some unnecessary restrictions on the powers of the Legislative Council. A more obvious example can be seen in the fact that the SAR Government restricts the tabling of bills by legislators on the strength of Article 74 of the Basic Law. The prior written consent of the Chief Executive is required for the introduction of bills relating to government policies. The SAR Government sometimes even extends the restriction of that provision to check amendments to government bills by legislators. Although recently approval has been granted by the Chief Executive for Dr the Honourable LEONG Che-hung to introduce at this meeting a bill on strengthening the restrictions on smoking, this does not necessarily mean that in future the Government will relax its grip on this Council. With regard to the working relationship between the Government and this Council, it is hoped that it can be built on the co-operation between both sides, rather than on the executive-led premise.

With these remarks, Mr Deputy, I support the motion. Thank you.

**MR DAVID CHU** (in Cantonese): Mr Deputy, with regard to conducting a review on the development of the political system of the SAR, I think there are two issues that merit our due attention. First, is a review of the development of the political system a pressing task at the moment? Second, should the review proceed along the tracks laid by the Basic Law?

What is the current pressing need of the Hong Kong community? Every practical and realistic person will not ignore the fact that following the onslaught of the Asian financial turmoil, our economy once sank into the worst post-war predicament, with people earning less, and structural unemployment becoming a serious problem. With enterprises operating under great difficulty, many companies had to lay off a lot of workers and cut employees' wages and benefits in order to survive. Many medium and small sized enterprises closed down or collapsed altogether. With property prices dropping incessantly, many people are being burdened with liability assets. Although our economy is now picking up and showing signs of recovery, the unemployment rate is still high, and the phenomenon of liability assets remains serious. Workers have been getting no pay rises for several years, or even have had their pay levels lowered. Given all these, the current pressing need of Hong Kong is to give top priority to the task of solving all the economic and livelihood problems with full efforts.

With regard to public opinion, the great majority of people in Hong Kong place emphasis on issues such as labour, economy, housing and education, rather than seeking to have an immediate review of the development of the political system. According to public opinion surveys conducted by the Home Affairs Bureau last November, last January, last February and last month, those interviewed are most concerned about issues concerning labour, economy, housing, education and environmental protection. Take the labour issue as an example. According to the four aforesaid surveys, the labour issue troubles those interviewed most. According to some 90% of the interviewees, scarcity of jobs, layoffs and underemployment are their main worries. Turning to the economic issue, some 50% of the interviewees worry about economic recession, weak economy, employment situation and unemployment. Judging from the findings of these opinion surveys, people's concern is on our economic and livelihood issues.

Mr Deputy, turning now to the second question, that is, whether or not the review of the development of the political system should proceed along the tracks laid by the Basic Law. My answer is in the affirmative. It should proceed this way for the Basic Law has retained the merits of the political system previously in force in Hong Kong, such as the proven executive-led system and the Civil Service. It should be noted that according to Article 103 of the Basic Law, "The appointment and promotion of public servants shall be on the basis of their qualifications, experience and ability. Hong Kong's previous system of recruitment, employment, assessment, discipline, training and management for the public service, including special bodies for their appointment, pay and conditions of service, shall be maintained, except for any provision for privileged treatment of foreign nationals." Under this provision, principal officials committing serious mistakes in formulating or implementing government policies should, of course, be dealt with in accordance with the disciplinary and management systems all along applied to public servants in Hong Kong. Not only must senior officials be dealt with in accordance with usual practices; incompetent mediocrities should also be dealt with in accordance with the usual systems of employment, discipline and management. There are officials who have committed serious mistakes. Regrettably, however, they have not been dealt with in accordance with Hong Kong's established public service system. On the contrary, they have not been punished for their mistakes and need not resign. I have to stress that the fact that officials need not shoulder responsibility does not mean that the political system prescribed by the Basic Law has run into problem. So a review of the development of the political system should proceed along the tracks of the Basic Law. Do not hastily review the Basic Law or even propose to amend it just for the reason that the operation of the existing political system has run into some problems.

Mr Deputy, the political system of Hong Kong has been in operation under the Basic Law for about three years only. As the period of time is so short, there is no need to review the development of the political system of the SAR immediately. I am of the view that for changes to the operations of the SAR's political system, a proposal to review the development of our political system should be raised at the right moment in accordance with the demand of mainstream public opinion.

Mr Deputy, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, today's debate topic is the development of the political system of the SAR. I am of the view that if we discuss the development of the political system without talking about the election of the Chief Executive, then we are not looking at the core of the issue. Even if we discuss the accountability of principal officials, I still think that "if the upper beam is not straight, the lower ones will go aslant". The main beam is still the Chief Executive. So the election of the Chief Executive is, in my opinion, an important part in the development of the political system.

At present, the Hong Kong community is engulfed by a system of political low pressure, with members of the general public feeling unsettled and edgy. If you are in contact with members of the general public, you may come across a remark. It often goes into my ears these days, making my heart ache. It says that their livelihood has never been good since the reunification. Let us really open our ears. Many people say so. Why has their livelihood never been good since the reunification? Everybody will put the blame on the financial turmoil. We also tell the people that the financial turmoil is one of the causes. However, do not neglect the fact that administration blunders are also a cause. The SAR Government headed by TUNG Chee-hwa "made the wrong diagnosis and prescribed the wrong medicine" for Hong Kong, which is one of the reasons why people feel that their livelihood is getting worse and worse. People have been suffering from side effects after taking just one dose, feeling weak in vital energy and frail in physical conditions. However, the Government, believing itself to be a good doctor, still forces the people to take the medicine for another seven days, seemingly giving the impression that "you are very lucky if it does not kill you".

When we are seeking medical treatment and a doctor is unable to cure us, we can turn to another doctor. However, if there is maladministration on the part of the Chief Executive or senior officials, is there a chance for the people to look for another one? The answer is in the negative, and this is the biggest problem. If a review of the political system is conducted, then there must be discussion on the question as to whether or not the people may replace the Chief Executive when they consider him to be incompetent. At present, whenever there are medical mishaps, most people will find it necessary to have the doctors involved "disqualified". Doctors are indeed subject to disqualification. If the Chief Executive errs or if senior officials err, then is there any mechanism to

have them "disqualified"? The answer is in the negative. I am of the view that the focus of today's debate should be on how to render the development of the political system more responsive to people's demands.

Now the biggest problem is that Chief Executive TUNG Chee-hwa obviously came to his office as a result of nomination by a 400-person small group consisting of representatives from consortia in accordance with the wishes of the leaders in Beijing. Later this small group will just be converted into a bigger group of 800 persons. Under this system, TUNG Chee-hwa has to be accountable to the Beijing leaders and the consortia, but need not heed the people's wishes, let alone becoming accountable to the people. "It is not very fair for you, LEE Cheuk-yan, to say so. The Chief Executive will surely be accountable to all members of the public," said some people. Please take a look at the findings of a survey conducted by the Hong Kong Transition Project, from which we can clearly note the people's impression of the Chief Executive. One of the questions asked is: To whom will the Chief Executive listen? According to the findings obtained, people think that he will first listen to the leaders in Beijing and then to the consortia. So this is the people's general impression, a clear one. In fact, it is the making of the system. Under the current political system, the Chief Executive can only serve as the spokesman of the consortia. The political platform under such a political system is inevitably one that reads "with businessmen running Hong Kong, grassroots are being neglected."

What is the ideology of the consortia? The answer is something that they now often say, that is, given the high costs in Hong Kong, it is necessary to lower the costs to enhance competitiveness. How to lower the costs? They will not consider taking other methods, but just try to find ways to suppress the wages of "wage earners". It does not matter whether they are working for public or private bodies. They will be "hacked" so long as they are "wage earners". Because of such an ideology, the entire administration of the Government often disregards the situation of grass-roots citizens or grass-roots "wage earners", and simply "hack" them.

We are of the view that over the last few years, the entire administration of the Hong Kong Government have committed two major mistakes. In the first place, too many fires have been started. In fact every person knows that the Government has started many fires. Fire has been set to "wage earners" with

the abolition of collective bargaining. As a result, "wage earners" lost bargaining power, causing the phenomenon of wage cut and downsizing to spread to all parts of society. Fire has been set to civil servants. These days it is often said that 10 000 posts will have to be cut in three years, and that there will be privatization and contracting out of services. Fire has been set to social workers with the adoption of the Lump Sum Grant arrangement. Fire has been set to residents of public housing estates and Home Ownership Scheme estates with the emergence of repeated piling scandals. Fire has been set to teachers with the requirement for them to take the benchmark assessment tests. Fire has been set to doctors with the adoption of a two-rank system, leading them to stage a sit-in protest. Fire has been set to Comprehensive Social Security Assistance (CSSA) recipients with cuts in CSSA. Fire has been set to the legal profession with the interpretation of the Basic Law by the National People's Congress and the incident of Sally AW. Fire has been set to some residents with land resumption at Hung Shui Kiu for the construction of the West Rail and with the resumption of Wah Kei Industrial Centre. Fire was set to the Urban Council, which is now gone. As so many fires have been started, so there are public grievances! The Chief Executive told those unemployed to eat moon cakes! According to what he said to workers earning low wages, the free market is something almighty, and it is not permissible to draw up legislation to prescribe minimum wage. Even though workers have to work long hours, only apologies are offered, but no control can be introduced, for fear that costs might go up. The Government just ignores the people's miserable conditions.

In our opinion, the second major mistake is inducing confrontations among the people. One party is brought in to attack another party. This, we think, is not good at all. In order to promote privatization of the management of public housing estates, efforts were made to pick out the Housing Department's problems in the area of management, thus bringing about confrontation between the people and civil servants. When it was time to "scrap" the Urban Council, bad things were said about Urban Councillors. In a bid to deal with CSSA recipients, a message to the effect that the CSSA system "nurtures lazy bones" was allowed to circulate. At present, there is confrontation between teachers and parents. All these in-fights might shatter social unity. What if it continues like that?

Let us take a look. The popularity index of the Chief Executive has dropped as a result of that. Take a close look at the findings of the survey and you will notice clearly that in January 1998 those not satisfied with the performance of the Chief Executive made up 29% whilst in April 2000 the figure was 54%, and that those feeling very unsatisfied rose from 3% to 17%. Now on the question as to whether or not the Chief Executive should run for re-election. Those strongly objecting to his re-election make up 20% whilst those objecting to his re-election make up 52%. That is to say, most people are against his re-election. If TUNG Chee-hwa now wants to appease the people, then he should state that he is not going to seek re-election. That might prove to be effective, the reason being that what the people now want to say most is: "TUNG Chee-hwa, we have had enough." As often pointed out to the people by us, what the people should do now is not to "topple" him, but to demand popular election for the post of Chief Executive as only by so doing can the people solve their problems and give the people real control over the Government.

Thank you, Mr Deputy.

**MR MARTIN LEE** (in Cantonese): Mr Deputy, I want to evoke some of your memories. I am going to talk about something that happened to the Basic Law Drafting Committee (BLDC) early in 1990. In fact it was in late 1989. Following the 4 June incident, Mr LEUNG Chun-ying, the Secretary-General of the Basic Law Consultative Committee (BLCC) of Hong Kong, called the work to a halt, the reason being that there was not much for consultation after the 4 June incident. The BLDC in fact also ceased working. However, in late 1989, the drafting of the Basic Law had to resume as state leader Mr DENG Xiaoping once said that the drafting of the Basic Law had to be completed within five years, and, with the count-down ticking since 1985, time was about to run out by then.

At that time, Hong Kong originally had 23 BLDC members. One of them passed away. The Honourable SZETO Wah and I were expelled. Bishop KWONG and Mr Louis CHA had resigned. So there were 18 Hong Kong BLDC members left. However, they did something most unusual while holding meetings in Beijing. In fact the 18 BLDC members were very conservative Hong Kong celebrities, most of whom were businessmen. They

were more conservative than some of our serving legislators. They, however, did one thing which I considered to be very good. Of the 18 persons (I and Mr SZETO Wah not included), 11 jointly wrote to the Central Government to put forward two requests, namely, to speed up the progress of democratization, and to abolish the repugnant separate voting system based on the ways members were elected. It is clear to all that the separate voting system is designed to let the Central Government control the Legislative Council through the SAR Government. All of us can take a look at the voting that just took place. The resolution on pneumoconiosis moved by Mr LEE Cheuk-yan was defeated. Twenty-nine Members were in favour, with only 16 Members opposing. On taking the tallying, it still went down. Under such a voting system, it is still possible to have a defeat even if there is a favourable vote of 45 to zero. It works in this way: On one side, 30 persons win the vote; on the other side, 15 persons vote in favour, yet, a motion can still be defeated if the remaining 15 persons do not even press the buttons but just sit there or drop asleep. The blame is entirely with such a disgusting voting system.

As a matter of fact, such a voting system was the brainchild of our "master brain-man" Mr T S LO after the 4 June incident. Of the 18 Hong Kong BLDC members, 11 also considered the system to be wrong, and found it necessary to abolish it. This Council, however, is still using such a voting system. The Basic Law allows no amendment and so it has to remain in use, say some Honourable colleagues. I really want to put questions to them: Must Hong Kong tolerate a voting system not found elsewhere and let it control the growth of our society? How can we still claim to be democratic? How can such a voting system be said to be democratic? How can we accept it? How can we stand it? We are very helpless. In fact many people are not quite happy with the serving Chief Executive. However, the public indignation and grievances ought to have nothing to do with him personally. We must not have it personalized. The person Mr TUNG Chee-hwa whom I know of is a good man with a kind heart. We, however, must understand that the trouble is with the system. Our objection is directed against the system. The reason is that such a Chief Executive comes with such a voting system. Such policies come with such a Chief Executive. Such public indignation and grievances come with such policies. In conclusion, it has to be said that a democratic system is a must; so is the amendment to the Basic Law. It is futile for us to do anything unless that system under the Basic Law is changed.

Mr Deputy, it is pointless for us to prepare so many reports. What could come of it even if we could come to a consensus? Undemocratic provisions in the Basic Law, including the unfathomable and repugnant voting method, have got to be amended. This is most important. Mr Deputy, to be honest, it is already marvellous to be able to present such a report under such circumstances. What other options are available to us? I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, ever since the reunification, Hong Kong people's discontent with the SAR Government, especially the administration of the Chief Executive, Mr TUNG Chee-hwa, has been rising steadily. However, the executive is still what it has been, and just turns a deaf ear to the people's discontent. So there come a few questions to the people's minds. Why are policies going against public opinions still in force? Why are erring officials still holding their posts? Why is it possible for our system to be like that? Why do we not reform the existing system?

The report by the Panel on Constitutional Affairs reveals one important issue, namely, the point that, with the legislature unable to check the executive, government measures often run counter to public opinions and there is not much that the Legislative Council can do about it. So according to the recommendations of the report, there must be a reform, and the reform should proceed in the direction of enhancing the accountability of the executive and setting up a ministerial system.

Many people would like to know the difference between a ministerial system and the existing system of bureaucrats, and how compliance with public opinions can be assured. In fact, ministerial systems adopted by many countries place stress on the need for officials to shoulder full political responsibility. The persons to whom they are accountable are members of the public. In this way, public opinion is given weight.

According to many people, in order to implement the ministerial system in Hong Kong, it is necessary to give the matter further thoughts and hold further discussions as different countries adopt different ministerial systems and we have to spend some time to study them. The ministerial systems used in many countries are indeed not the same. For instance, in England, ministerial posts are filled by Members of Parliament whilst in the United States, they are appointed by the President. However, they do have something in common, one

of which is the need for cabinet members to shoulder political responsibility. In their cases, the persons to whom they are accountable are members of the public. Mr Deputy, in order to achieve the two points mentioned above, we need a democratic system. I am of the view that any discussion about ministerial system is meaningless unless there is a foundation of a democratic system.

The Sally AW incident of last year and this year's problem with public housing quality highlight the fact that under the current system officials just need not face the people. They can still keep their posts even in the event of serious mistakes on their part. The main reason for this is that they are all appointed by the Chief Executive. So long as the Chief Executive lets them stay on, then members of the public just cannot monitor them; nor can they discard them. They can keep their posts so long as the Chief Executive abets evils by tolerating them. I think that the question really is why the Chief Executive can abet evils by tolerating them. That is mainly due to the way in which the Chief Executive is returned. The Chief Executive is returned by coterie election, as a result of which the Chief Executive needs not held himself accountable to the people. He is only accountable to one small group, or even one person, one consortium or the vested interests of one group. So, if we today discuss the ministerial system not with a view to establishing a democratic system, or, in particular, facilitating the post of the Chief Executive and the seats of the Legislative Council to be returned by popular elections, then what is the point? Even if a ministerial system is adopted later, erring officials will still be able to keep their posts.

Mr Deputy, a democratic recovery of sovereignty is the goal that we have been striving for ever since the 1980s. It is, however, a pity that the development of democracy has seen no improvement ever since the reunification. On the contrary, it is showing signs of retrogression. The Hong Kong Government has degenerated from an oligarchy manipulated by several consortia to the present dictatorship of one consortium. The Cyberport incident is a good example. My worry is that if we discuss ministerial system but do not consider having a comprehensive political reform, there will still be all sorts of problems in the days to come, and no thorough improvement can be made to the situation.

Mr Deputy, only a government returned by popular elections can compliance with public opinions be assured. Unfortunately, the Basic Law is restricting us. The Basic Law imposes restrictions on legislators' right to introduce bills and on this Council's voting mechanism. What is more, it

imposes a heavy frame on our political system. Any discussion about political reform without amendment to the Basic Law is, in my opinion, futile. As a matter of fact, we can see that the entire political scene is one in which "those who have the will are powerless whilst those who have power are incompetent". In my opinion, the first thing to be done to avert such a situation is to have an overhaul so as to revise and rewrite the Basic Law in order to let us have a democratic system for eventual adoption of "one person one vote" election. On this most important mechanism our democratic system is to be built. Otherwise everything is just empty talk.

Mr Deputy, it is sheer empty talk for us to discuss political reform today, the reason being that the Chief Executive has stated repeatedly that it is necessary to proceed in accordance with the Basic Law. How to proceed with the reform without amendments to the Basic Law? It is still unknown whether or not it is indeed going to be possible to review the political system in 2007. Worst still is the fact that the Government at present does not even have a mechanism for amending the Basic Law. Mr Deputy, you are probably aware of this. I hope that such a mechanism can be set up as soon as possible.

Mr Deputy, I so submit.

THE PRESIDENT resumed the Chair.

**MR BERNARD CHAN:** Madam President, our society has had a good chance to discuss the future of the Hong Kong Special Administrative Region (SAR)'s political system in the past few months, thanks to our colleague, the Honourable Miss Emily LAU, who sponsored a motion on the topic. People may have different opinions, but they are all given a chance to speak up their views.

It is absolutely clear that a reform is necessary for Hong Kong's political system. I agree that a review on the development of the SAR's political system should be undertaken by the Government. An extensive public consultation exercise should be conducted and a realistic timetable for the review should also be fixed.

Recommendations by the Panel on Constitutional Affairs should be studied seriously. These include a more flexible contract system requiring officials to

be politically accountable for their decisions and to quit for making serious mistakes.

Certainly, a reform takes time. But this should not be an excuse for doing nothing. More exchanges between the executive and the legislature are required.

I say this not only from the political point of view, but also from the economic aspect. As a businessman in Hong Kong, I understand clearly how much Hong Kong is suffering economically because of the increasing tension in the community.

No policy will be implemented smoothly and successfully without the support of the public. What is needed for Hong Kong's continuing success and even survival is not confrontation but co-operation. Endless confrontation will only harm the success of Hong Kong.

Hong Kong is facing keener competition from around the world. We no longer enjoy the competitive advantage that we had in the past decades. The economic turmoil which swept through Asia has exposed our weaknesses. Much has to be done before we can catch up.

While we are wasting our time in arguing and confronting with each other in the community, other Asian countries such as Singapore and Korea are bouncing back. Even cities on the Mainland such as Shanghai and Guangzhou are catching up. With concerted efforts from the governments, the business sectors and the grass-roots communities, these cities are exploring their hi-tech industry on the one hand and protecting their environment on the other hand.

Hong Kong also emphasizes environmental conservation. But it seems that there have been more talks than actions. While we are arguing how we should reduce pollution and protect our environment, many businessmen are moving their offices to other places with cleaner air.

Governments around the world become more transparent and accountable to the public. The SAR Government should not be an exception. But in the eyes of many people, our Government is still far from efficient.

The system that we have today has been designed to ensure a balanced representation of all interests in the community. But of course, there is always room for improvement.

At present, we do not have a mechanism requiring an official having committed serious mistakes to resign. And this has been attacked by some pressure groups. There have been voices demanding officials to resign from time to time. Incidents such as not to prosecute Ms Sally AW, the mass slaughtering of chickens and the recent building scandals in public housing have triggered grievances against some senior officials.

I am not saying that we need to rush to have such a system immediately, as such a system will be complicated and imply radical changes in the entire Civil Service. But a wise government will not pretend that it does not hear any such voices. Turning a deaf ear to those voices will only provoke more complaints in the community.

Madam President, a political system which can help reduce tension between the executive and the legislature should assist Hong Kong to survive and succeed. A concerted effort from the whole community to help Hong Kong reach a consensus is required. Thank you.

**PROF NG CHING-FAI** (in Cantonese): Madam President, the Basic Law prescribes "one country, two systems", "high degree of autonomy" and "no change for 50 years". The so-called "no change for 50 years" denotes no change in the social system as well as no change in the way of living. With regard to the political system, it is for Hong Kong people to determine its changes. That being the case, there have been different views in society ever since the formulation of the Basic Law. All these views will have to be collected and consolidated in the course of the implementation of the Basic Law following the reunification in the light of the actual situation and in pursuance of actual practices. I have the following opinions.

Firstly, on the relationship between the executive and the legislature. According to the Basic Law, the system of government in Hong Kong differs from that of presidential system or parliamentary system. Like the presidential

system, it provides for a mechanism ensuring checks and balances between the executive and the legislature, covering the circumstances under which the Chief Executive may dissolve the Legislative Council and the Legislative Council's power of impeachment against the Chief Executive. Like the parliamentary system, it mandates the executive's accountability to the legislature. For the long term, the question is how to ensure the endorsement of government bills and policies by the Legislative Council, let alone maintaining the executive-led mode of government.

In reality, to ensure sufficient seats or votes in the Council to convoy government policies, the Government must secure organized political support in the Legislative Council. So sooner or later there will appear in the Legislative Council something like a ruling party or ruling coalition. We ought to do some assessment and draw up a "law on political parties".

Secondly, on ministerial system. The details of ministerial system vary under different political systems. It is, therefore, difficult for us to say a simple yes or no to the ministerial system.

To entrust civil servants with the task of formulating and promoting policies can only be an interim measure in the transitional period. Civil servants' permanent appointment and "political neutrality" both became the core of the contradiction. Opportunities for talent hunts are also being limited.

I am of the view that as the interpretation of the term "ministerial system" differs from person to person, we had better cease to be mindful of the definition of the word "minister" and proceed from reality by encouraging the use of contract system and by making more political appointments to the posts of bureau chiefs. In this way, talents outside the Government can be recruited (also included are talents in the Government who are prepared to accept political appointments). What is more, this can enhance the accountability of bureau chiefs. Their deputies should still be civil servants, whose neutrality is also to be maintained. If the experiment works out well, then the appointment of all Principal Secretaries and Bureau Secretaries should adopt this system whilst Members of the current Executive Council can really step back into an advisory role as policy advisers.

Thirdly, on the popular election of the Chief Executive and full-scale district-level direct elections of Legislative Council seats. This is the ultimate goal of the development of the political system prescribed by the Basic Law. I think the hardware must dovetail with the software. To this end, we must use different channels to foster political talents at different levels and put in real efforts to enhance people's democratic quality. Only by so doing can success come when conditions are ripe. This goal can only be achieved under a premise of catering for "balanced participation" with widespread support from all classes of people.

Madam President, I really believe that only "balanced participation" and "gradual and orderly progress" can ensure harmony and unity in society in promoting the growth of Hong Kong.

I so submit.

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

**MR ANDREW WONG** (in Cantonese): Madam President, I do not mind having a motion originally intended to be moved by me snatched from me. As a matter of fact, as I am not the mover of this motion, I can feel free to speak to my heart's content. However, being the Chairman of the Panel, I must mention some matters. That is to say, I have to offer my thanks to many people. First of all, I have to thank the citizens and representatives from more than 30 bodies who took part in the public consultation. My gratitude is also due to the 12 Panel members, who frequently attended meetings and offered a lot of suggestions. May I also thank staff members of the Secretariat for their hard efforts. They prepared minutes of meetings and made arrangements for us to meet members of the public and academics. In particular, I have to thank the Research and Library Services Division. Their researches on seven countries are very useful and meaningful.

I have been with the Legislative Council for 15 years. I was once the Convenor of the Constitutional Development Panel and now chair the Panel on Constitutional Affairs. Over the years, we have completed four reports. The first one, issued in 1987, is a report on the further development of representative government. Therein is a medley of arguments, some supporting and some

opposing direct elections. Surely, it also includes many things, but debates over the issue of election constitute the bulk. Then came two representations, one was presented by our Panel in response to the 1988 Draft Basic Law for Solicitation of Opinions, and one was our response to the 1989 Draft Basic Law. The present report is the fourth one.

This report has not got a firm conclusion. Not even a consensus has been reached. However, in my opinion, it has the direction identified. Furthermore, we have compared the different political systems of seven countries to the issue under discussion, and looked into matters like the relationship between the executive and the legislature, ministerial system, the ways to appoint the Chief Executive, the definition of the executive, the question as to whether it is the president or the prime minister or the premier who has the say under each different political system, and the ways to elect a legislature by direct elections. There are many models. It seems that the mixed model used in Germany is gaining popularity, with Japan also following its example. In the past, only the system of South Korea was similar. Now even New Zealand is following suit. Are these worthy examples for our reference? A study lasting only five months cannot fully cover all these questions, much to our regret. Therefore, I call upon all Member to carefully read this report. If materials are found to be inadequate, please approach the Research and Library Services Division for documents on the seven countries. I think it is more meaningful to conduct the study in this way. The reason is that all these materials will still be available for Members' perusal in the next term, no matter whether or not I remain a Member. Whenever Members of this Council want to conduct a review and have to consult the public, there are at least some basic materials for their reference.

The present report mainly touches two areas, one being the relationship between the executive and the legislature, and one being the issue of direct elections. Turning to direct elections. Once the executive is also returned by election, then there might be ties between the executive and the legislature. Those are going to be close ties, too. I remember that as early as 1980 I advocated (this is, my personal view) that even though not a single legislator was returned by election, some legislators could still be appointed to certain ministerial posts, such as the Secretary for Transport. There would not have been a general strike by taxis if Miss Maria TAM, not Allan SCOTT, were the Secretary for Transport in 1983 and 1984. Surely, even Miss TAM might have made the same decision. However, such a political appointment carries no

tenure. So the office-holder will have to step down once it is believed that that person has erred. So there comes a system of accountability. I first advocated such a system in the 1980s, at a time well before the conclusion of the Sino-British Joint Declaration.

At the time of the direct election of 1991, I used as my election slogan the words "Government officials to be held responsible. Councillors and the people to monitor jointly". This has always been what I advocate. In 1993, I moved a motion in the Legislative Council (that is, the predecessor of this Council), using at that time the phrase "the political appointments of principal officials". I was not going to talk about ministerial system; nor was I to mention the different definitions of ministerial system. I just wanted to stress the main features of such appointments, namely, the absence of fixed tenure, which would make the persons appointed accountable or render them accountable politically. Unfortunately, my motion was supported by just one third of the then Members. However, by now, with the exception of one party, all major parties seemingly are inclined to support a system of accountability not rigidly bound by any particular name or form. I am very much encouraged by such a development. Why do I attach so much weight to such a development? It is because the overall development of democratic political systems at the time of ancient Greece and the time of Western assemblies as well probably tended to stress pure Republicanism in the belief that things could proceed so long as a consensus had been reached. However, that might lead to the minority being bullied by the majority. So from the 12th century onwards and starting with England, there developed in Western Europe a set of system, under which even if the grand council was composed of noblemen, there still slowly developed a system forbidding despotism provided that the grand council of noblemen was able to curb regal powers. There existed a definite relationship of checks and balances. This point is very important. In my opinion, the development of a system with such a relationship should take precedence over the development of elections. Of course, it is good for the two to develop at the same time. However, if it is believed that in the course of development, there should be discussion about the ministerial system only after there is popular election for the Chief Executive, then it would not be that meaningful. I also do not want to discuss this issue here. Many Members probably still think that the two have got to co-ordinate with each other. I call upon Members not to set any precedence for them. By the way, I would like to say that a system of accountability and a system of checks should take precedence over a democratic system.

Furthermore, in 1994 I introduced an amendment bill in a bid to revise a bill by Mr Christopher PATTEN, the former Governor of Hong Kong. I sought to make the amendment to provide popular elections for Members to be returned by functional constituencies. However, it seems that no one is making mention of this issue now. Being the Chairman of the Panel, I am unable to present too many views in this discussion. It is, however, still hoped that Members will take note of this point. For records of my opinions at that time, please refer to the Hansard of 1994.

Here, may I again thank the President and all Honourable Members for participation in today's debate. I certainly fully support the motion. Thank you, Madam President.

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

**MISS CHRISTINE LOH:** Madam President, I do support this motion, and I just want to make a few points since this is the last time, at least for this coming term, that I shall be saying a few words on political reform.

Hong Kong has a very awkward political system and I do not think anybody really disputes this. The problem is how do we really move forward? I can first start by addressing the problem of the executive. We have a Chief Executive who is really learning on the job, and for anything that he does not know and he does not know how to deal with, in a way, the whole of Hong Kong has to suffer. Then again, we also have a Chief Secretary for Administration who comes from a colonial tradition. And I believe that she is doing everything that she can to protect the colonial model of bureaucratic administration. My question is: How long will that last, and whether that really improves the quality of governance for Hong Kong?

If we look at the Civil Service, we have the Administrative Officers system, but what does that really do? The problem with the Administrative Officers system is that it does not retain institutional memory. We know what happens. An Administrative Officer goes into a department; after two, three or maybe four years, he or she may move on somewhere else that is completely unrelated to what he or she had done in the last job. By the time they have moved around to four or five different Policy Bureaux, it is time for them to retire. So, if you are looking at those who are supposed to be charged with the mission to chart policy, they have no institutional memory.

The people who work with them in the departments are supposedly the experts. The whole system helps them to become better experts in their narrow field. The system does not teach them how to make policy. Indeed, no one knows how to make policy. So, what we end up with, very often, are policies that are very ad hoc and are essentially remedial in nature, and there really is not the kind of comprehensive depth and breadth that is needed to make long-term sound policies.

The other thing about a colonial system of administration is that the Government never has to run elections. And thus, the Government actually never has a chance to come out, test and try ideas on the people. So again, nothing is comprehensive. We have an annual policy address given formerly by the Governor and currently by the Chief Executive. The Chief Executive just picks subjects that he likes or he picks subjects that are put to him by the bureaucrats, and that becomes the vision for the coming year. And I know in the last two years, the Chief Executive has tried to bring people together to talk about strategic development for the next 30 years. But frankly again, looking at the quality of the product, maybe university students could have written it. It really does not have that kind of power and vision behind it to carry people along.

But the mass problem with the executive is that there is no public accountability or no public political accountability. When somebody does something wrong, he or she is going to be accountable to the immediate superior, and maybe he or she will have to suffer in terms of promotional prospects. But nobody ever has to carry the can. I am very sympathetic to a motion debate raised by the Honourable Fred LI during last week's Legislative Council Meeting, demanding that somebody has to take responsibility in the piling problems of our public housing. It is exactly that sort of things. We always see problems, sometimes fairly big problems, but no one in the Administration ever has to take responsibility.

I think we are coming to the stage, Madam President, where people in Hong Kong are really fed up with it. But of course, you cannot reform the system just by doing a little bit of it. We are talking about civil service reform, but it is mostly from the technical perspective, like terms of employment, enhanced productivity by a few percentage points here and there. This kind of reforms is not going to improve political accountability and the quality of governance as well as to allow the system to retain institutional memory. I

think that it is impossible to do these things without fairly fundamental reform. And the fundamental reform has to be political reform, because you cannot just reform one part of the Civil Service without looking at the political system as a whole.

When we look at the legislature, we have the people's mandate but we do not have a lot of power. The executive likes to tell us that we have a lot of power because we can vote things down in the Finance Committee, for example, and we can choose not to pass legislation. Madam President, I do not have to tell you, yes, these are real powers, but in the context of a very strong executive-led Government, it is not very much that we can do to influence policies. Also, the executive does not have a sense that they really need to build participatory governance with this Council. A lot of the unhappiness that you have witnessed over the last two years between the executive and the legislature really arose from that.

As regards the structure of how we come about, we do not need to tell people. We have a split voting system. I have just been looking at the election rules from the Electoral Affairs Commission, and I think that it is amazing. Hong Kong tries out all types of elections every time we have an election. We have proportional representation for geographical constituencies. We have "first past the post" for the functional constituencies. And for four of the functional constituencies that are so small, under 200 people, we have a completely different system of voting altogether. The Hong Kong political system must be a field day for any student around the world studying politics. At least, whenever I go abroad, I try to interest people in the Hong Kong system by telling them that if they study the Hong Kong system, they would be able to study the original manufacturer's design on how to make sure that a legislature does not work.

But in the end, Madam President, Hong Kong's current problem is the quality of governance. Whether we are talking about members of the public or international bodies who are assessing Hong Kong's future, people seem to be centring on one thing: How good is the quality of governance and how good is the quality of decision-making in Hong Kong? We are being attacked on that day and night. The next big thing that people are going to say about Hong Kong is that we are uncompetitive because the quality of governance and the quality of decision-making is not good. I hope very much that this Council, as well as the executive, will take these problems on board and again, for the final time maybe,

Madam President, have a constitutional convention so that we can have a big talkfest to discuss all of these issues in time and in detail.

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

**MISS MARGARET NG:** Madam President, I support the motion moved by Dr the Honourable LEONG Che-hung. In fact, by now, at the very end of the debate, I believe that all the important points have been made, but still, I would like to add my own voice of support to the motion, because I think that this is a historical event and I would not like to be left out in this important debate.

Hong Kong's political system is far from perfect. Indeed in many ways, it is an embarrassment, as the Honourable Miss Christine LOH has just been expounding on. We really should not lose any more time to start a community-wide discussion to establish the right way forward. This is in fact all I need to say at this point. But I would like to remind Members, if they have not reminded themselves already, of what the representative of the Bar said on page 24 of the report, and Madam President, it is said here:

"Article 68 of the Basic Law requires a progress in the formation of the Legislative Council towards election of all Legislative Council Members by universal suffrage. To freeze the composition of the Legislative Council as that in its third term after 2008 will be contrary to the Basic Law."

Thus, it is not only a matter of doing things better, of getting more democracy if we can, but there is a constitutional duty and there is a deadline. So do not let us lose any more time.

Thank you, Madam President.

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

(No Member responded)

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the political development of the Hong Kong Special Administrative Region (SAR) is an issue that affects the overall interests of our society. We are very grateful to the Panel on Constitutional Affairs for its studies and recommendations on this issue. From the public consultation conducted by the Panel, we can see that the various sectors of the community actually hold many different views about our political development. However, we also believe that basically, there is still a consensus in society — the political development of Hong Kong must take account of our unique circumstances and comply with the provisions of the Basic Law.

The progress of our political development in the 10 years after 1997 is already set down in the Basic Law. It is only about three years into the establishment of the SAR, and our political system is still at the formative stage. As Members may know, the Basic Law has set down a mechanism determining the direction and steps for the political development of the SAR after 2007. We should therefore make the best use of the time given by the Basic Law to Hong Kong. Specifically, we should handle the issue of political development very properly and allow the present political system to mature through a process of exploration. We should also let the people accumulate practical political experience through their participation in the various elections to be held in the next few years. That way, the people will be able to enhance their political awareness and broaden their vision, thus making themselves ready for any future review on our political development.

The future political system of Hong Kong must develop on the incremental basis laid down in the Basic Law, and it must be acceptable to all sectors in Hong Kong. In the long run, Hong Kong must develop for itself a political structure most suited to its unique circumstances. We must take account of the historical background and unique political culture of Hong Kong. According to the timetable laid down in the Basic Law, we will have enough time for doing this. We are confident that we can do this job very well.

Our most important task now is to make the Legislative Council Elections in September this year a success. To do so, we need to encourage people to vote, so that they can accumulate the experience required for the future political development of the SAR. Following this, we will start to look at our political development after 2007; we will give thoughts to a specific schedule on reviewing our political system and consider how best to make the whole

community reach a consensus on the issue of political development. As a start, we will study the systems of government adopted in other places of the world and compare their strengths and weaknesses, so as to examine whether Hong Kong should learn anything from them.

The Panel has completed its review on the political development of the SAR, and it has published a report following a public consultation exercise. We must therefore thank members of the Panel who have worked so hard to complete the task within just a few months. When we review our political development, we will certainly consider all the recommendations made in the Panel report.

Public consultation should be the most important element in the whole process of our review on political development. For this reason, after we have made all the preparations, and when the time is right, we will consult all sectors of the community widely, with a view to fostering a community-wide consensus.

Besides political development, the report also deals with the accountability of principal government officials and the system of appointment for them. The Panel has made a number of specific recommendations for the consideration of the Government. We appreciate the concern of the Panel about this issue. However, we also note that even the Panel itself is of the view that this is indeed a very complex issue which requires further studies. At present, principal government posts are within the civil service establishment, and they are mostly held by civil servants on permanent and pensionable terms. The proposal on employing all principal officials on agreement terms will produce fundamental changes in the appointment, promotion and terms and conditions of existing pensionable civil servants. Therefore, when we review our political development, we must consider this problem in great detail, and we must also consider it on a macro basis alongside other relevant issues. The Government has no intention at this stage of changing the existing administrative framework built around the Civil Service.

Besides, the report also suggests the Government to consider the possibility of enhancing the accountability of the executive to the legislature through the establishment of some extra-constitutional conventions. In this connection, it should be noted that specific provisions are already found in Article 64 of the Basic Law, requiring the SAR Government to hold itself accountable to the Legislative Council. We will certainly do our utmost to discharge our responsibility in this respect. And, we are also prepared to consider other possible ways of enhancing the co-operation between the executive and the legislature.

We are grateful to the Panel for its recommendations, and I have also listened very carefully to the remarks delivered by Members just now. When we study the relevant issues, we will carefully consider the recommendations in the report and the views of Members.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Dr LEONG Che-hung, you may now give your reply. You still have up to three minutes and 53 seconds.

**DR LEONG CHE-HUNG** (in Cantonese): Madam President, according to some Honourable colleagues who just spoke, this is not a much-discussed topic. However, as noted by the Honourable Miss Margaret NG, this is, in some ways, a historical debate as it points out the needs of the development of our political system.

I absolutely do not want to use this period of time to comment on views expressed by Members who just spoke, for example, the Honourable Miss Emily LAU's comments on my speech. It is because today I am moving the motion on behalf of the House Committee and the motion, covering a wide range, mainly discusses the report presented by the Panel on Constitutional Affairs.

It is indisputable that Honourable colleagues more or less share views on two points. Firstly, our current political structure is defective, requiring changes in different areas. Secondly, most colleagues consider the system of accountability to be quite important. Though a few colleagues have a little reservation about this, there is, on the whole, no opposing view. Some colleagues wonder if it is advisable to adopt the ministerial system. But that is perhaps just a name. Ultimately, it has to be basically a system of accountability.

I am more disappointed with the Government's reply, which the Government could have prepared without reading the report or listening to Members' speeches. Checked against past replies and the reply made in response to a motion moved by Miss Emily LAU two or three months ago, today's reply can be said to be more or less the same. I wonder if the Secretary for Constitutional Affairs got it done simply by adding a few lines after "making

a duplicate". Today, the only difference is a point specifically stated, namely, the Government's disapproval of the contract system. As we can see, they are not receptive when we propose to adopt the contract system because the Government, especially in the case of the official who has just spoken, is not on agreement terms at present. This is most disappointing.

I believe Honourable colleagues would have very much liked the Government to make the reply only after going through the report carefully. Some Members, such as Dr the Honourable YEUNG Sum, said that the report could have been done even better still. I agree that there is still room for improvement. However, it is beyond doubt that the report was prepared only after the collection of many opinions and with a lot of brain-racking efforts. The Government has not responded clearly to the views contained in the report; nor has it responded clearly to questions raised by colleagues. Is the Government just "beating around the bush"? This is very disappointing.

According to the Government's explanation, we must act in accordance with the Basic Law. Are the opinions just expressed by so many Members really against the Basic Law? I think that it is indeed against the Basic Law not to have many opinions. Some Members propose to amend the Basic Law so as to make it possible for the Legislative Council to function better and improve the relationship between the Legislative Council and the Executive Council. Amendment to the Basic Law is possible within the ambit of the Basic Law.

According to the Government, its current task is to properly run the Legislative Council Elections. This is, of course, very important. However, it is hoped that the Government will really put forward ideas after the election, as just stated by the Secretary for Constitutional Affairs. It is also hoped that the forthcoming ideas can really respond to the suggestions just presented by Members and those contained in the report.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr LEONG Che-hung 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)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): The second motion: Health care reform consultation paper.

## **HEALTH CARE REFORM CONSULTATION PAPER**

**DR LEONG CHE-HUNG:** Madam President, I rise to move this motion in my name as set out on the Agenda. I apologize for boring this Council with my voice the third time today. Let me express with no reservation my downright disappointment, and that of the medical and dental professions that I represent, at the Administration's procrastination in coming up with concrete health care reform proposals for public consultation in spite of repeated assurances.

Madam President, when the Chief Executive delivered his first policy address, there was certainly some guarded jubilation when he promised to carry out "a comprehensive review of our existing health care system during 1998". It was thought that, well, after about a quarter of a century since the last policy paper on health care was published in Hong Kong, there was a ray of hope that the whole health care policies and system could be reviewed to march into the 21st century. Yet, this ray of hope is not to be materialized, at least not yet.

Instead, a team from Harvard was commissioned, resulting in a report for Hong Kong to deliberate. Some over 2 000 public responses were received. Madam President, this overwhelming response means that Hong Kong people are concerned with our health care. They are eager for a change, eager for the very needed reform.

In 1999, the then Secretary for Health and Welfare assured this Council and the public that a government paper on the way forward, or a green paper, would be published in the last quarter of that year. That Secretary has since retired, and we witnessed no consultation document. The new Secretary, rightly so, requested an extension, promising something firstly for the first quarter of 2000, and then early the second quarter. Madam President, let me inform the Administration that the second quarter of this year is about to expire, and a green paper is still nowhere in sight. Whatever the reason is, Madam President, the Government's credibility is at stake.

Rumours are that the green paper is being put on hold until after the September Legislative Council Election. After all, any reform that leans on or suggests of fee increases or user charges could well be a sure "poison for the ballot box" for candidates who support such a move. It thus appears politically correct for the Administration to withhold a green paper, giving no bandwagon for budding politicians and election hopefuls alike to jump onto, to tear the document into bits and claim credit.

Yet, whilst Hong Kong is moving at an unprecedented pace of democratization, does "people's power" invariably mean objecting to any increase and imposition of charges? Does democracy imply that elected representatives be subservient to anything from their electorate, dishing out free lunches as baits for future votes? Or should our elected leaders take on the role as a true leader, arguing, advising and leading the public into, and along, the path that is good for Hong Kong's future, even though each member of the public might have to fork out more from his wallet?

An election where candidates are returned because of their vision and helmsmanship for the betterment of Hong Kong, rather than on tickets of free lunches, is a much more successful election that any democratic society would love to embrace. The public, too, should also realize that democracy could be a farce unless the electorate is fully mature. Maturity in every aspect means that whilst "rights" are essential; "responsibility" is just as necessary.

Madam President, in the earlier part of this Council Session, we debated on a proper constitutional reform for the betterment of Hong Kong. We touched on the need for maturity of politicians and the public alike in democracy to be taught before true democratic governance can take effect. By withholding a green paper for political expediency, does it mean that the Government has grave doubts on the political maturity of the public?

Worse, does it imply that whilst our Government is loudly chanting that it is an executive-led government, yet under the veil, it lacks the political clout, the determination and the commitment to bring forward and push for what it believes to be the best for Hong Kong now and in the future?

One may ask, "What is the hurry?" After all, senior health officials have remarked that public health care is still all right. Even the Harvard Report forecast that it would be some 18 years before the doomsday scenario would surface. It must be realized, however, that no one is demanding an overnight reform. The public and this Council are seeking for an earlier release of a directional document from the Government to give them time to digest, to be prepared and to avoid any disaster before it is too late.

To the health care profession, health care reform involves much more than just financial issues. The profession's development, the future ways by which health care will be delivered, the integration of non-mainstream health care and so on, very much depend on the proper policy and direction. Disappointingly, such are still in a nebulous state.

Madam President, it takes years to work out details of any funding formulae, and it takes longer for most to mature. The Mandatory Provident Fund is a typical example. It has been some five years since the law was passed that it could be implemented. Even then, many loose strings still need to be tightened. Furthermore, few would dare to predict when the fund could effectively function.

The Hong Kong public realize that there is no magic wand. Yet, they rightly expect the Government to start making hay whilst the sun shines, and to be able to take part in that process.

Madam President, irrespective of all that has been said, is the doomsday scenario really 18 years away, or is disaster just around the corner? Facts and figures seem to point out that we have to act quickly.

To wit, there has been some 78% increase in attendance at the accident and emergency departments of the Hospital Authority since its inception at the end of 1991. The corresponding figures in hospital admission and specialist out-patient services are 58% and 97% respectively. These are the increases in numbers. In a regional hospital in the New Territories, the average number of "excess beds" in the past few months was 80 to 90 beds per day, representing a near 20% increase over the same period last year. Now, we do not call them "camp beds" any more, we call them extra beds. This is by no means an isolated incident. The overcrowding and unbearable state of our public hospitals in the early '80s is on the way back, and fast.

Reports are that the front-line doctors are working up to 80 or 90 hours a week, often times continuously for some 40 hours. Whilst I am no advocate of defining maximum weekly working hours by law, overexertion on the part of the health care providers will invite poor judgment or unnecessary error, all to the detriment of our patients.

Doctors are reported to be arranging a silent sit-in next week in protest of the Hospital Authority's two-tier accountability reform. This is perhaps the sparking point to vent their long-term frustration from years of overwork and years of neglect by the Administration and the Hospital Authority Board.

The effect on the other health care grades is perhaps even worse, and it would not be too long until the bomb will burst. What then is the solution? What do I expect of the green paper?

Madam President, time will not allow me to elaborate all the reforms that the Government should partake, suffice it to say that the sorrowful state of our health care today is the result of the refusal of the Administration to define the role of heavily subsidized public health care. What is it for and for whom? With the Government's motto that "nobody should be devoid of care due to lack of means", everybody irrespective of wealth can receive the heavily-subsidized quality care in the public sector. As a result, our public system is on the verge of collapse with overburden, whilst the private sector is starving. Such is no good for the time-honoured dual health care system that Hong Kong has enjoyed for decades.

I would suggest that the Government must adopt and properly spell out some basic principles and ensure that methods are available to make them work. Firstly, the Government has to stand firm on the principle to impose "a shared responsibility for health care between the users and the public coffer". This "affordable pay" principle has the full support of the medical and dental professions, for the current next to free-for-all services for all, irrespective of wealth, must be the main, if not the sole, reason leading the public health care system to a disaster.

Along with this "affordable pay" concept, the Government must assure the public in no uncertain terms that it will not reduce its current level of health care budget, nor will it shirk its responsibility to the poor and the indigent in providing the best of available health care.

With the introduction of "affordable pay", the Government must come up with suggestions of proper machinery to "assist" the public to pay, be it a medical savings scheme, a compulsory contributory insurance scheme, a stimulation to expand the market of voluntary private medical schemes, or a combination of some or all. Each of these has its merits and demerits, and it is up to the Government to analyse all these properly, deliver to the public and suggest the best way forward.

Madam President, a proper health care reform extends much more than just financial reassessment. There are many areas in our otherwise glittering health care system that are substandard, left for long in the wayside and need properly brushing up without delay. Among these are:

- Our total health care providers' manpower needs;
- A long-awaited dental policy and the provision of dental services for the population;
- The role of traditional Chinese medicine and other alternative medicine in the sector of health care, and their provision in the public sector;

- The integration of the private and public health care sectors; and
- The role of primary health care and how it could truly act as a health care and hospital gatekeeper.

Obviously, there are more.

Finally, Madam President, these and others cannot be properly developed without the policy direction of the Government, for which the long-awaited green paper should address. I beg to move.

**Dr LEONG Che-hung moved the following motion: (Translation)**

"That this Council expresses disappointment at the Administration's procrastination in coming up with concrete health care reform proposals for public consultation in spite of its repeated assurances, and urges the Administration to ensure that the proposed reform will provide the public with quality health care which is affordable, accessible and equitable, will be sustainable into the 21st century, and will facilitate professional development to meet the challenges of medical advances and societal needs."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr LEONG Che-hung as printed on the Agenda be passed.

**PRESIDENT** (in Cantonese): Mr Michael HO will move an amendment to the motion as printed on the Agenda. According to the Rules of Procedure, this Council will debate the motion and the amendment together in a joint debate.

I now call upon Mr Michael HO to speak and move the amendment.

**MR MICHAEL HO** (in Cantonese): Madam President, with respect to the motion proposed by Dr LEONG Che-hung that seeks assurance that the provision of future health care is affordable, accessible and equitable, the Democratic Party thinks that these are principles that we can support.

We believe that any health care reform programme conducted around the world would touch on these principles, but supporters of these principles may not have made it clear what exactly we are supporting. Both "affordable" and "equitable" can have myriads of interpretations. These interpretations may all, in the end, support these principles on the one hand but advocate a different system on the other. There might be the possible scenario that the public would have to shoulder different medical costs.

It is for this reason that I have proposed that an amendment be added to the end of Dr LEONG's motion to specifically propose what should be done to achieve the above principles.

The principal contents of my amendment include: firstly, a recommendation on not to implement any health care financing proposal that requires mandatory contribution of any kind at this stage. Members should all know that at the end of this year, the Administration will begin the implementation of the Mandatory Provident Fund (MPF) Scheme that requires a 5% contribution. In an environment where wages are falling and the economy is slow, a 5% income deduction as MPF contribution has already led to grumblings in society of not making the contribution at all. It certainly would be an ill-advised move if the public were to be required to contribute to a medical insurance system. Even if consultation were to be conducted at this time, the public's response, I believe, would be very different. We hope that the health care consultation paper to be released later this year would not hard-sell any health care financing proposal that requires contribution so that the public may have enough time to adapt to a 5% contribution after the MPF Scheme is put into force.

On the other hand, the Democratic Party also hopes that the Administration can conduct a comprehensive feasibility study on a central medical insurance scheme. As we do not have any comprehensive financial figure on health care service, the prime research we have to do now is to determine how the amount of contribution is set and how sufficient money could be collected to support the costs of health care. We hope that the Administration can conduct this research, and release the relevant data, as soon as possible. The public can then truly engage in discussions relating to how contribution, and what amount, is to be made, and if the contribution can meet the future health care costs.

The second main item in my amendment is on the setting up of a "seed fund" to implement health care reforms so that primary health care services can be strengthened and the cost-effectiveness of the whole health care system improved.

The Democratic Party believes that a strengthened primary health care service may lead to improvement in the health of the public, thus reducing or slowing down the growth of the need for treatment services.

However, when today's medical service is facing enormous pressure and a 5% productivity enhancement in resources, it is apparent that no provision can be made from the resources already allocated for treatment services to put into primary health care services. The resources required for developing primary health care services will necessarily come from new resources of the Administration (new allocation). Our proposed "seed fund" plays exactly this role. Using this new resource to develop primary health care services would, because of the effect from improvement in primary health care, allow us to reduce or slow down the amount of resources dedicated to treatment services after a number of years.

Madam President, we are very disappointed that the Administration has to date failed to publish a green paper on health care that has been under discussion for years. Today, without the consultation paper, we can only talk about what we have learned from the media and a possible proposal. One of the ideas as learned from the media is for the public to make a monthly 2% contribution from their income. Instead of being a kind of insurance, this proposal is but a kind of medical saving, with no mutual sharing of risks. Everyone will use the money from his savings, that is each one is using his own savings to pay for his own or his family's medical expenses. Madam President, if that is truly the proposal, it would be difficult for us to support.

We all know that health care is an expensive service. Except for the few very rich ones, ordinary people cannot finance it themselves. Putting aside a sum for medical expenses actually does not help much. For example, for a person with an income of \$10,000, a monthly 2% contribution would mean \$200 monthly which, after a year, would add up to a saving of \$2,400 for the first year and \$12,000 in five years. Any investment and interest income on that sum would not add much to the principal. However, that sum may only be enough to cover the operation for removing an appendix, without such complication as a

burst intestine and inflammation and hospitalization and a famous doctor. If a whole family has to depend on that amount of savings, then the help would be even more meagre. Another saying is that that \$10,000-odd savings may only be enough for treatment at a public hospital. Madam President, I certainly welcome any new resource allocated for a public service. Though I would not stand in the next Legislative Council Elections, I would still like to point out that if the people have made a contribution for the use of a public health care service, then would the situation that less and less people are using the private health care service become even worse? I feel that a savings scheme that does not have a medical risk-pooling component cannot help the people of Hong Kong.

The Democratic Party therefore hopes that a central medical insurance system can be set up in Hong Kong, so that in addition to the contribution from the public, everyone can enjoy the protection from risk-pooling.

I would also like to say a few words on the principle that one has to be responsible for one's health. Apparently it is reasonable to ask a smoker or alcoholic to be responsible for his health; however, who can have control over one's health? Non-smokers could contract lung cancer, just as non-drinkers might also develop liver disease. Can we really ask the public to be fully responsible for their health?

Madam President, we shall see that only if we could have a mechanism for risk-pooling, and that everyone making one's contribution and assuming risk-pooling, could we have a truly effective system that can ensure the public's demand for medical service is met. We hope that the Administration can look into the feasibility of implementing a central medical insurance system as soon as possible.

With these remarks, I propose the motion.

**PRESIDENT** (in Cantonese): Mr Michael HO, please move your amendment.

**MR MICHAEL HO** (in Cantonese): Madam President, I move that Dr LEONG Che-hung's motion be amended.

**Mr Michael HO moved the following amendment: (Translation)**

"To add "; in order to achieve these objectives, this Council urges the Administration to include the following proposals in the health care reform consultation paper: (a) to collect information for examining the feasibility of implementing a central medical insurance system, but not recommending the implementation of any health care financing proposal that requires mandatory contribution of any kind at this stage; and (b) to set up a seed fund for implementing the health care reform, such as strengthening primary health care system" after "to meet the challenges of medical advances and societal needs".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Michael HO be made to Dr LEONG Che-hung's motion. We will now proceed to the debate.

**MR BERNARD CHAN:** Madam President, reform of the way that we pay for health care is inevitable. Already, our public health care system is finding it difficult to provide the quantity and quality of services that people want. The inevitable result will be longer waiting time, and/or lower quality of health care. That trend will get worse, the longer we delay reform.

I do have some sympathy for the Government. They have to say things that people do not want to hear, and convince them to accept changes that may not be popular. But in the long run, everyone would suffer unless we find new ways of paying for health care. So let us begin discussing the options now.

I am sure that the Administration can persuasively present the options open to our community. It can stress that this is about improving health care, in response to the rising demands and expectations of our community. It can stress that it is about giving people greater choice. And, it can stress that, at all times, the interests of the poor and the vulnerable will be protected. We are a civilized and prosperous community. This is not about denying health care to anyone.

The experience of the Mandatory Provident Fund shows us that the people of Hong Kong can understand complex issues and the need for change, and it

confirms that they remain capable of taking responsibility for their lives, as they always have been.

Madam President, I note that Dr LEONG is also urging the Administration to proceed in another area, namely in drawing up a timetable for the review of democratic development. These two issues may be more closely linked than people realize. Opponents of greater democracy fear more demand for "free lunches" from the electorate. This view would carry less weight if the public were less dependent on the Government for services, such as health, that the private sector can provide.

I, therefore, hope that the supporters for greater democracy would join Dr LEONG and me in encouraging the Administration to let the debate on health care commence, without delay. With these remarks, Madam President, I am pleased to support the motion.

**DR RAYMOND HO** (in Cantonese): Madam President, the cost of medical service in Hong Kong is increasing and in respect of the related issues, the report released by the Harvard experts on medical financing has also made a number of recommendations. In fact, in the past discussion of this Council on the medical service in Hong Kong, we agreed that Hong Kong's health care service was in need of a comprehensive reform. However, the Administration does not seem to recognize the urgency for reform.

Medical service is of equal importance to everyone of us. The Administration has the responsibility to provide affordable and accessible medical services to the public. If, for reducing the medical expenses, the Administration does not make a differentiation on the application of the "user pays" principle to medical services, people on low-income may not be able to pay for the basic medical services, making some of us not able to obtain basic care and to share the fruit of social advancement.

To reduce our future medical bill, the Administration may consider the proposals made in the consultancy report on health care financing by the Harvard Team for a health security plan and long-term care savings accounts. However, any insurance system may also be open to abuse; in fact, some of the premium may be spent on the enormous administrative cost and commission. As the saying goes, "the wool still comes from the sheep's back", all these fees and

charges will be transferred to the public. If the Administration were to implement such a medical insurance system, the public must also be educated about the operation of the insurance system, so that the public would understand that any abuse of the medical service would lead to an increase in the premium and an eventual increase in their own premium contribution burden.

Of course, we also understand that the Administration cannot allow the medical expenditure continue to escalate to a point where the allocations for other public programmes are affected. The Administration should increase the efficiency of the medical service providers to reduce the increase in medical expenditure. The Administration should also allocate more resources to educate the public about the importance of disease prevention. If such education is successful, not only would the incidence rate be reduced, but also the expenditure on medical service.

With these remarks, Madam President, I support Dr LEONG's motion.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, the Harvard Report published in April last year drew once again the public's attention to Hong Kong's overall health care system. The community focussed their discussion on the problem of financing, which has been the concern of the relevant panel of the Legislative Council. I feel that financing is an important issue, but if we only look at the problem in our health care system from the point of view of financing, I feel that it will only present a superficial picture of the problem. From the innumerable medical incidents we can see that the problem in our current health care system actually lies in the structure. I therefore would like to express the views of the Federation of Trade Unions (FTU) or the Democratic Alliance for the Betterment of Hong Kong (DAB) on this.

Before talking on the issue, I would like to say something about the consultation paper, which the Administration previously said would be released in May. The Administration subsequently withheld the document for a number of rumoured reasons, of which one was that there was no data. I therefore hope that when this document on health care reform is published, it would provide sufficient data and genuine consultation would be conducted. I do not want to see a repeat of the situation when we examined the Human Reproductive Technology Bill last year. While examining that Bill, I had been urging the

Administration to carry out consultation, which the Administration had not done properly. Now I do not want to talk about the situation at that time; I only hope that when the community is engaging in a discussion on health care reform, the Administration would conduct a genuine and comprehensive consultation.

Today we talk about health care reform, but if the problem is only seen from the point of view of financing, we feel that it is unfair. The health care system as practised in Hong Kong now is actually a "dual system" in that it has both a public sector and a private sector. However, in the past eight or 10 years, much improvement has been seen in the public health care service, attracting a lot of people to the public health care system. We can see that major problems also crop up in the private health care system; I am referring to the hospitalization side, not the out-patient service. The Government's expenditure on the public health care system seems to be growing larger and larger, whereas the private sector tends to be shrinking. So, what exactly is the problem? I hope that through our discussion, we can come to an understanding of what exactly is the problem in the health care structure. In fact, I feel that the medical expenditure of the Government today is not astronomical. The problem is how to make good use of the current resources. For example, at the moment, hospitals under the Hospital Authority (HA) are charged with the provision of public health care services, and services are also provided by the Department of Health. Given such a situation, the Harvard Report recommended we must rationalize it. In fact, do we really have a situation where the hospitals are managed by the HA and all medical work is managed by the Department of Health? Could the two be merged? This could be an important problem that we must consider now. The FTU therefore supports today's motion. As to the amendment, we hope that we should not yet jump to the problem of financing. Why do we not look at the systemic problem first?

The Harvard Report and some colleagues in the medical professional all point out that there is a lack of communication and continuity between the primary health care service and the hospitalization service, between acute treatment and community treatment, and between private sector service and public sector service. Such a situation poses adverse effects to both the health of the patients and health care service, and leads to unnecessary expenditure. This has been the criticism of the public and people who are familiar with the current structure.

In face of such a "compartmentalized" system as pointed out in the Harvard Report, the Government should reform the system. The Association of Doctors at Hong Kong's Public Hospitals, Universities and Department of Health, a body under the FTU, points out that this is a problem of history and resource management. In the past, hospitals were given subsidy according to the number of beds they had; that is more beds meant more subsidies, thus directly contributing to the situation where hospitals are made the centre of everything. A way out of such a situation is to make resource allocation according to the need of the whole treatment process and health promotion. Specifically, the role of the HA should extend from the management of hospital service to overseeing the public health care service throughout Hong Kong. That is to say the HA's hospital service should be merged with the out-patient service of the Department of Health. The HA should be given powers to make resource arrangement of public medical services, for example, by effectively referring non-emergent cases at Accident and Emergency Departments to public out-patient service, thereby reducing abuse of the Accident and Emergency Department.

On the other hand, we also feel that the role of the Department of Health can be changed by focussing its work on primary health care education and promotion so that the community can be made more knowledgeable on health and disease prevention and enjoy improved health.

Madam President, with the passage of the Chinese Medicine Ordinance and the establishment of the Chinese Medicine Council, we feel that besides making a change to the current "compartmentalized" and largely wasteful situation, we also need to take into account the future development. Now that Chinese medicine has already become a part of Hong Kong's health care system, we hope that in the future implementation of any reform, Chinese medicine can be incorporated in the public health care system, that is, to give Chinese medicine a convenient position for it to be introduced into the public health care system, thus providing diversified medical services to the public.

The lack of communication between the public health care system and the private system has led to problems in the referral of patients. As I said just now, the problem as witnessed in Hong Kong's current system is the result of changes in the past. A patient may need to go through the same medical process, wasting a lot of medical resources. This point was also raised in the Harvard Report. It is therefore very important to establish a personal medical record

system so that a patient can have his records with him when he goes to consult a doctor, and when a patient is being referred between the public and private hospitals, he does not need to go through the same examination procedures again to establish the cause of his disease.

Madam President, these problems actually can be rectified by improving the current structure. We therefore feel that in drawing up the future health care service, the Government must ensure that medical services should be available to anyone, regardless of the amount of wealth a person has. Thank you, Madam President.

**MR LAW CHI-KWONG** (in Cantonese): Madam President, I hope that today's debate can focus on the public's expectations of a health care reform. The public's first expectation is obviously an improvement in service quality, and one of the key elements is a reduction of waiting time for public health care service. Last year, the Hong Kong Caritas Centre surveyed 3 000 elderly service users, 40% of whom expressed that the waiting time was too long, which was also the greatest problem they encountered in seeking medical service. Moreover, the Comprehensive Household Survey also shows that a patient may have to wait for about two hours at a government clinic before he can have a few minutes' service. At the moment, the waiting time for specialist treatment is 8.6 weeks. This not only poses an inconvenience to the patients, but also will affect the patients' condition and make them feel more worried.

The public's second expectation is about options available. Miss CHAN Yuen-han also referred to the service of Chinese medicine. The Harvard Report, though did not have any discussion on the service of Chinese medicine, had gathered some statistics on this: 7.3% of the people interviewed said that they would seek treatment in Chinese medicine when fallen sick, and they were mainly aged under 65 and with higher income. Most people think that the elderly are more traditional in their views and would turn to Chinese medicine for treatment. However, all studies find that the situation is not so. Elderly seeking treatment in Chinese medicine are proportionally lower than other age groups. One of the reasons, though may not be as what most people expect, is related to means. Every time a person seeking treatment in Chinese medicine would have to fork out tens to a hundred dollars just for consultation, not to

mention another sum for medication. To the elderly, this constitutes a very heavy financial burden. It would therefore be a very good care service for the elderly if there were a public service in Chinese medicine.

Another option is on whether to take public service or private service. At the moment, because of the fees charged by private service, especially the private hospitals, people on lower income or the elderly or those with chronic diseases actually do not have any other alternative but the public service. The Harvard Report found that though 80% of the people prefer to have treatment from private doctors, only 63% of them actually seek treatment from private doctors. In other words, there is a difference between the number of people who would like to have private treatment and that who actually seek such service. The concept of "money follows the patient" mentioned in the Harvard Report therefore can give the community more choice and is worthy of our consideration.

Recently, the community has engaged in much discussion on the financing of health care service and the public is a bit worried. Improving the quality of service of course is very important, but most people do not seem to think that reforming the health care service is an important matter. The whole health care framework is so complex that the ordinary people may not care much about it. A survey conducted by the Hong Kong Policy Research Institute found that 49% (almost a half) of the people interviewed thought that there should not be any change to the financing of the health care service. Those opposing the new financing proposal were mainly out of a fear that the public might have to bear additional financial burden. Given that the economy just begins to pick up, and that the Mandatory Provident Fund Scheme will be implemented at the end of the year, we should not be too pushy with the financing of the health care service, as the public will not be too receptive of the idea and it will only add to their worries.

In all, the public expects improvement in the service, especially a shortening of the waiting time. As to any additional commitment on their part, they are a bit worried. However, they would like to have more options open to them. The Government would say that one cannot make bricks without straw. With increasing demand from the public and a reluctance to pay more, what could be done? However, we should note that it is not unreasonable of the public to have such expectations. If we can raise the efficiency of the health

care service and improve the health of the public, including improving the primary health care service, the public's demand for health care service would come down. In the long term, if the Government can provide adequate primary health care service, and that the work with health education and disease prevention is done properly, we may have more resources for improving the overall health care service. We therefore hope that the proposals to be put forth by the Government in the upcoming health care reform consultation paper would take care of these expectations of the public. Thank you, Madam President.

**MR AMRBOSE LAU** (in Cantonese): Madam President, the medical bill is getting more and more expensive with the advancement of technology. By 2016, Hong Kong's expenditure on medical service will account for 20% of the Government's expenditure. This growth trend does not augur well for the sustainable development of the public health care service, and will also affect the allocation of resources by the Government in other policy areas. The Government therefore is prepared to conduct a comprehensive review of the whole health care system, which is a legacy from the previous Administration. After conducting extensive consultation among the various sectors of society and practitioners from the professions concerned, the Government will formulate comprehensive and long-term policies and to implement plans that will be conducive to the healthy and sustainable development of Hong Kong's health care service.

However, given that health care reform is an exercise of such enormity and that the issues involved are very complex, the Hong Kong Progressive Alliance (HKPA) thinks that there is no hurry to make a proposal that details all the specific reforms. In fact, what is at issue is not how fast or how slow the reform should be, rather the important thing is that any reform should be comprehensive and sound.

In reviewing the public health care service, the Government should not simplistically make financing and reducing health care expenditure as the prime consideration. Obviously financing is not to be neglected. The merits and demerits of a number of financing options, including the mandatory contribution scheme and the central medical insurance, are worthy of our exploration and comparison and objective discussion; however, not only should we not make any rash conclusion, we should also not see financing as the only issue that needs to be reviewed.

Besides financing, a more comprehensive and in-depth review should include how well the resources of the whole health care service is used, how transparency can be enhanced in the allocation and use of these resources, and how monitoring and accountability can be established in the system. The HKPA thinks that there are three issues that the Government should look into:

Firstly, the level of service as provided by the Hospital Authority (HA) can now match that of private hospitals. This not only makes the public too reliant on the services of the public hospitals, but also reduces the breathing space of the private hospitals, resulting in competition between the public and private hospitals in the medical market. The Government should re-define the role of the HA and make a clear distinction of the role played and service level offered and targets served by public hospitals and private hospitals, so that the public can have more options open to them while they would not become too reliant on the public health care service.

Secondly, the Government should take positive action to rectify the situation where hospitals under the HA are competing with each other for resources. Duplication of services and research efforts, for example, are seen in the two university medical schools. The Administration should have a comprehensive plan for division of labour so that different types of hospital can perform to the best of their abilities, without wasting any resource on internal competition.

Thirdly, the Department of Health and the HA hospitals are often found to be out of step with other in their work. The Government must try to improve the division of labour in the provision of primary health care service and raise the status of primary health care service so that the service can be made to complement that of the hospitals.

On the cost-effectiveness of health care service, an issue that should not be left untouched is that, in response to the huge public demand for services in Chinese medicine, study must be made as to how the development of Chinese medicine can be made to co-ordinate with health care reform. The HKPA always thinks that the Government should, as soon as possible, incorporate Chinese medicine in the public health care system. Both public and private hospitals should provide treatment in Chinese medicine. If the Government decided to implement the Health Security Plan, it should also consider extending the coverage to include services in Chinese medicine.

Madam President, in carrying out the long-term health care reform, the Government should not overlook issues relating to the morale of the front-line workers. Excessive concern for productivity enhancement may affect the quality of service provided to patients. The shortage of front-line workers has come to a stage where the patients' interest may suffer. The HKPA is worried that if we only talk about long-term reform without taking measures to improve the problems right in front of us now, any reform in the future will be even more difficult and hard to win the support of the medical professionals.

Madam President, I so submit.

**DR TANG SIU-TONG** (in Cantonese): Madam President, with the population in Hong Kong growing and ageing, and the public's demand for quality health care service increasing, Hong Kong's public health care system is facing immense challenges. Last year, the community engaged in an extensive discussion on the consultancy report on health care financing written by the Harvard Team. This year a number of medical incidents further drew the concern of the public, hoping that the Government can put forth an effective proposal to reform the public health care system as soon as possible. If long-term reforms of the health care system were to be carried out, the Government must proceed at two levels: the system and the policy.

First of all, in the whole public health care system, the financial arrangement is undoubtedly the greatest concern of society. We think that any financial arrangement must, as a principle, be within the means of the general public. In other words, we must ensure that the poor and indigent should not be barred from receiving proper health care service for not being able to pay for such service. However, this does not mean that the Government can continue with the existing way of financing the public health care expenditure, which has gone out of control and to exorbitant proportions. In fact, this year's public health care expenditure is more than \$30 billion; the growing huge medical bill will inevitably eat into the resources that may have been allocated to other welfare areas. Some people hold the view that the existing model of health care financing embodies the principle of fairness, whereby irrespective of one's wealth, anyone can obtain medical service at a very low fee and the need of the lower income class is protected. However, the existing financing system, which makes no differentiation between the rich and the poor and treats everyone equally, may affect the sustainable development of the health care system, as the

Government cannot keep on increasing the allocation for medical service to meet the needs of society.

As to how to reform the financing model, society is yet to come up with a solution. Any financing proposal would lead to a series of complex issues, for example, a mandatory medical insurance system would increase the burden of the employers and the employees alike, and a medical savings scheme may not be able to foot the expensive medical bill, thus leaving individuals with insufficient protection. The Government therefore has to give careful consideration to the related issues in this respect.

Besides financing, any health care reform must have a structure that will improve the effectiveness of resources allocation. While the Hospital Authority (HA) has improved the quality of health care service in Hong Kong, a lot of wastage and lack of cost-effectiveness are seen in many areas of its operations. The Government should therefore review the HA's organization and establishment and control its salary expenditure. As 80% of Hong Kong's public health care expenditure is on salary and remuneration, the Government should exercise further control on expenditure growth while ensuring that sufficient resources are used on the patients. The Government should also re-define the role of the HA, the Department of Health and even the private health care system, their service level and target clientele, so as to rationalize the division of labour among them.

To relieve the pressure on the public health care providers, the Government must resolve the compartmentalized situation existing between the public and private health care providers. In recent years, because the HA has been given huge support in public funds to improve the quality of service, the market share of private hospitals has shrunk from the original 15% to the current 7%. The private hospitals and doctors in private practice are therefore operating with much difficulty. While trying to maintain a reasonable level of public health care service, the Government should as far as possible assist and encourage the citizens to use private health care service, fitting the principle of "pay according to one's means and more service for more payment". If the Government can effect convergence between the public health care service and the private health care service, it can certainly help preserve the living space of the private hospitals, which in turn will help the continued development of the whole health care profession.

Finally, the Government should promote the development of the whole health care profession by, for example, raising the quality of the health care personnel and encouraging continued education among the various grades of health care personnel. The Government should also encourage more medical research that is closely related to Hong Kong. As "prevention is better than cure", the Government should strengthen the education and propaganda on health and primary health care, and promote the family physician system so that the citizens' health can have better protection. The Government should also encourage exchanges and co-operation between practitioners of Western medicine and of Chinese medicine so that the citizens can have more comprehensive health care service. In fact, in addition to institutionalizing control on the practice of Chinese medicine, the Government should also play an active role in helping the development of Chinese medicine. The Government may for example consider if Chinese medicine should be incorporated into the public health care system, or consult with insurance companies to see if services in Chinese medicine can also be covered. The Government may also encourage the universities and hospitals to promote research in Chinese medicine and personnel training in this respect.

Health care reform and the citizens' daily lives are closely related. The Government should encourage active discussion among the citizens and seek the support of society. As the health care reform has very long-lasting effect and is related to complicated institutions and policy issues, the Administration should be extremely careful in implementing the reform and take a step-by-step approach.

Today's motion has been dragged on and on, all because we have to wait for the Government to publish the health care reform consultation paper. Regrettably, we have only heard the noise of it but had no sight of it. Now, our tenure of office is coming to an end soon. Though this Council has debated on this issue, we may have to re-visit it again later. Hence the saying, "Man proposes, God disposes." Cannot the health care reform avoid this destiny?

As to the amendment, without the consultation paper that may give us a direction, any talk on financing is immature. I think it is better to allow more extensive discussion among the public before coming to anything firm.

Madam President, I so submit.

**MR NG LEUNG-SING** (in Cantonese): Madam President, after the release of the Harvard Report, there was a flurry of public discussion on issues related to health care reform in Hong Kong. The public also has all sorts of expectations of the consultation paper that is soon to be released by the Government. Against such a background, when the Government drags its feet on the release of the document, the public naturally feels let down. However, when looked from another angle, the Government's health care reform consultation paper is different from the Harvard Report in that the paper is not just an academic report; rather, it is a policy document of substance. At the same time, the public, including the citizens who are users of the health care service, the health care profession and the business sector, has quite different views on issues related to health care reform. As the Government needs to take a balanced attitude towards views from all sectors of society and come to a firm grasp on the direction, force and timing of the reform, the release date of the consultation paper is thus put back once and once again. To a certain extent, this is understandable.

Madam President, I think that the objective of the health care reform is to make reasonable allocation and use of the limited public resources. While ensuring that the public can have proper health care service, the introduction of the concept of "pay according to one's means" will set a long-term and healthy financing foundation for health care services.

Hong Kong is facing a problem of an ageing population and the public's demand for quality health care service is rising, bringing enormous growth pressure on health care expenditure. The Harvard Report forecast that with the existing financing model and level of expenditure growth, and even if Hong Kong maintains an average annual Gross Domestic Product growth of 5% in real terms, the health care expenditure will account for as much as 20% to 30% of the Government's total expenditure by 2016. This undoubtedly has sounded the alarm for Hong Kong's overall development, including the development of and expenditure on such public services as education, welfare and housing.

To maintain quality health care service and to ensure that it would match the development of society, it seems that there is no other better alternative than reforming the existing financing model. Under the concept of "pay according to one's means", every citizen is responsible for making reasonable investment to look after his own health. While those who are financially capable will make a greater investment, those lacking that ability will be properly looked after in

receiving basic public health care service through government assistance. Irrespective of one's financial ability, everyone will at least have the protection of "the sick having their doctor". On this basis, public health care providers may implement a scheme of fees to match different grades of service. A higher fee may even match that charged by private health care providers. This will lead to reasonable competition and be an incentive for those who are financially more capable to pay a reasonable fee for their own chosen and better quality service. This will also promote a win-win situation for both public and private health care services.

Of course, any reform requires proper social conditions and economic environment to make it a success. Now given that the Hong Kong economy is at the early stage of revival and that the Mandatory Provident Fund Scheme, after much preparation, is about to be launched, we have to be careful in formulating the timetable for introducing financial reform in our health care service. However, the public should come to a consensus as soon as possible in relation to the general direction of reform and study the details of the reform proposal. On the other hand, I agree with the amendment that the primary health care service should be strengthened so that through prevention, the public's demand for expensive health care service can be reduced. The best prevention is to have a heightened awareness of physical fitness. However, is there a need for a seed fund to strengthen the primary health care service? How would this fund operate? And what would be the effect? How do we explain to the public whether the fund can be used in social services other than health care? I still have reservations about the above issues.

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

**MR HOWARD YOUNG** (in Cantonese): Madam President, our medical bill is putting enormous pressure on Hong Kong's finance. Given that the public health care expenditure is mainly paid out of the taxes collected, the Liberal Party is worried that with the increasing medical expenditure, the public may either have to pay more tax or to accept poorer service. The Government has promised us a health care reform consultation paper in the middle of the year, which regrettably is yet to be released. The Liberal Party urges the Government to put forth specific reform proposal for public consultation so that the quality of service can be raised and the financing of such service improved.

In April last year, after the release of the Harvard Report, the Liberal Party had put forth some suggestions. The Liberal Party would like to state again that the authorities concerned should introduce a comprehensive reform so that greater variety, greater cost-effectiveness and greater co-ordination is seen in the delivery of health care services. First of all, we suggested introducing a "voluntary medical contribution scheme" under which a person may use the contribution to purchase a health care service plan that is packaged and provided by one or a number of health care providers, medical practitioners' organizations or insurance companies and approved by the Government. At the same time, the Government would give partial subsidy to purchasers of such plan. The public's contribution would be pooled together and centrally managed by an organization according to prudent financial principles. As the subsidies made by the Government would come from the existing public health care expenditure, it would not constitute any extra cost.

People participating in such a contribution scheme would have the right to choose which doctor to consult, or to decide whether or not to use the health care service of the public sector or the private sector. People will have a great say in deciding what health care service they want to have. Those not participating in the "voluntary medical contribution scheme" would continue to receive service through the existing public or private health care systems.

To prevent any abuse of the health care system, the authorities concerned may set up a mechanism similar to the "No Claim Bonus" in auto insurance, so that participants having made no use of the health care service scheme in the past one year may have their fees reduced. As to the contribution made by the public, after deducting the fees for purchasing a health care service plan, the balance would be centrally managed by an organization on the public's behalf. If a contributor passed away, any accumulated fund, not to be treated as an estate item, would be returned to a beneficiary designated by the contributor.

The public out-patient service is closely related to the public's health. The Liberal Party suggests that the authorities concerned should extend the general out-patient service to nighttime, holidays and public holidays and should improve the service quality. The specialist out-patient service has been in such great demand that the waiting time often takes three months or half a year. The Liberal Party suggests that the Government should make available some concessionary measures to encourage specialist doctors in private practice to open partnership clinics in public housing estates or large private housing estates

to provide, in the form of a medical team, comprehensive and reasonably priced out-patient service to the public.

The Administration should allow partnership clinics of quality to link up with the public hospitals so that the clinics can directly refer patients to these hospitals for further treatment. This arrangement will not only promote co-operation and exchange between the public and private health care systems, but also enable the patients to have proper health care service and follow-up action.

The Liberal Party does not agree to Mr Michael HO's amendment, in which he asks the Government to study the feasibility of a "central medical insurance" system. However, this mandatory proposal, which in effect is making the healthy people subsidizing the sick, could not gain the general support of the public when the Harvard Report was released. The Liberal Party thinks that the Government should study another new proposal, instead of going back to "central medical insurance". The Liberal Party has all along opposed setting up any mandatory medical financing plan; it is not only out of our care of Hong Kong's present economic situation, but also our concern that the health care service can easily be open to abuse. Taiwan's general medical contribution is in financial crisis three years into introduction because the health care service has been abused. I therefore think that "central medical insurance" is in fact infeasible.

Moreover, the amendment has proposed the setting up of a seed fund to implement health care reform. The Liberal Party thinks that extensive discussion and study may be made at this stage, but there is no urgency for it to be implemented now. The Liberal Party has been asking the Government to step up its work in primary health care service and to promote education in disease prevention and health care so that the public's health level can be raised and the burden on the health care system reduced.

With these remarks, Madam President, I oppose the amendment and support the original motion.

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, our health care system must be reformed. Since the release of the report of the team of Harvard professors on reforming Hong Kong's health care system, discussion about the health care system, especially the financing proposal, has become one

of the tasks that Hong Kong must tackle. However, it is disappointing that the Government has yet to put forth any specific reform proposal. It is indisputable that since the establishment of the Hospital Authority (HA), Hong Kong's expenditure on public health care service has been increasing, with a corresponding increase in its market share. However, to put a lid on the expenditure growth, the HA has reduced the number of medical personnel employed, which, together with an ever increasing number of people seeking treatment, puts the whole public health care system under enormous pressure and makes the quality of service suffer. A reform of Hong Kong's health care system seems inevitable. The question now is how.

"Fairness" is a feature of Hong Kong's public health care services. Irrespective of one's wealth, everyone enjoys the same kind of health care service. However, because the Government has to shoulder a lion's share of the costs of providing such service, it is feeling the pressure in making financial provision in other areas. The Harvard Report thinks that if Hong Kong continues with its present way of financing, the medical expenditure of the Hong Kong Government would jump from 14.3% of the overall public expenditure in 1996-97 to 21.5% in 2016. The Harvard Report puts forth the idea of "money follows the patient", with a central medical insurance as a new way of financing the medical bill and that the patient has the right to choose what treatment he wants. Undoubtedly, a central medical insurance can help thin out the risks of medical expenditure and help ease some of the Government's burden in this regard. However, such insurance cannot effectively control the growth in medical expenditure as the issue of abuse is still there. Taiwan's experience tells us that not only a central medical insurance cannot control the medical expenditure, in fact it makes the bill grow even more expensive. It is understood that in the few years that Taiwan has implemented a central medical insurance, the insurance fund was on the verge of bankruptcy, resulting in fund injection from the government or premium increase. Such measure is in fact "trying to quench a thirst with poison", because, without effectively controlling the expenditure, it only puts back the date that the system would go bankrupt and increases the burden of the public. Can such a financing proposal be a "long-lasting and sustainable" proposal?

Madam President, in discussing the direction of medical reform, we must make clear what clients the Government is to serve in the public health care system. No matter if an insurance system or a savings system was to be adopted, the clients whom the Government would serve could become only the

elderly and the poor instead of every member of the public now. The DAB thinks that the only remaining welfare that is enjoyed by everyone is the nine-year free education. To the middle class, medical service may be the only welfare they can enjoy. Under the present system, medical service is readily accessible to the public. The DAB therefore thinks that even if there was going to be change in the mode of financing, the Government's commitment in medical expenditure and to the clientele should not be reduced or changed.

Madam President, we have been continuously looking for a new mode of financing, without thinking of controlling the expenditure. With the present health care system of providing treatment as its aim, it is unavoidable that the medical expenditure will keep on growing. In fact, there is a need for Hong Kong to step up its investment in promoting primary health care and environmental health, so that with disease prevention as the goal, the overall health of the population can be improved and the number of people requiring hospitalization would drop, which naturally would help control the growth in medical expenditure.

It is to Hong Kong's credit that health care service is "equitable and accessible", but the downside of it is that the burden has been lopsidedly concentrated on the Government. In considering any proposal for health care reform, we must take note of two issues: first, try to preserve as far as possible the good points of the present system so that the Government would not reduce its expenditure in this regard and the service is affordable by everyone; second, effectively control the growth in medical expenditure, make good use of the resources of the private health care system and shift the medical policy to one that aims at prevention. So doing will help us establish a health care system that is sustainable.

With these remarks, I support the motion.

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

**MISS CYD HO** (in Cantonese): Madam President, that Dr LEONG has put forth this motion in mid-June was because of the thought that the Government would have published the document two or three months ago, with consultation work following thereafter, by now it would be the ripe moment for debate.

However, regrettably, the schedule for the release of the document is put back again and again. Not long ago, some of the directions of the proposal were reported in the media, but all news suddenly came to a stop. The Government stopped releasing any related information. We cannot help but ask: Why holding back again and again? It was originally intended that today's discussion is on the content of the consultation, now we have to ask the Government to table the document as soon as possible for consultation. Would the Secretary please explain later what exactly the Government is waiting? What is the Government afraid of? Why is the document not published for consultation?

Actually, from our private discussion with the officials and the media, we learned that the document is 80% or 90% complete. Of course, if it would only be published when it is totally complete, then there would always be minor points here and there that make it impossible to be published. If the Government were to continue dragging its feet like this, no matter how, it cannot wait till the election is held before it would table the document. Why does the Government not make use of the summer vacation, when the students have some free time and when, before an imminent election, the public is engaged in heated discussion, to table the document? My understanding is that the Government fears that we would turn this document into a sitting duck for electioneering attacks, such that there would not be any rational discussion, making many of the proposals in the document "not being able ever to see the lights of the day". However, I have confidence in the citizens, and I also have confidence in the politicians. Even if there would be people opposing any increase in fees and charges or other proposals just for the election, the citizens would make the right choice at the end. Therefore the earlier the document is released for discussion the better.

The Frontier states once again that we think that in the whole reform of the health care service, financing should not be placed in the highest position. Regrettably, when the Harvard Report was first released, we all put our focus on the financing aspect. We actually should have paid attention to whether the existing resources had been put to the best use, and whether the resources could be better managed to achieve better effect and results. In fact, this is the direction adopted by the Hospital Authority (HA) and the Secretary. Though many of the measures have not been put through consultation and endorsement, they have been introduced one after another. Instead of sneakily introducing one measure at a time, why not lay the whole plan out and let everyone discuss about it? Is it the hope of the Government, by introducing measures one at a time, to make the public feel that it has been set in concrete and that they cannot help but accept them?

In fact, on the management and better use of resources, a few points have been mentioned by other Members already. First, to strengthen the status of Chinese medicine, and on top of this, I would add also strengthening the status of naturopathy and alternative medicine. They do not have any patent, and the medicine they use contains natural ingredients, which cannot produce any excessive profit. In fact, it is something everyone can do. No one can be assured of 20 years' excessive profit for having inventing some sort of formula. Chinese medicine and naturopathy therefore are good options for reducing the medical costs. I hope that the authorities can promote a variety of medical service.

Moreover, we can consider stepping up community-based care services and allowing health care personnel to play a greater role, so that specialists or consultants would not have to be bothered by even minor problems. In fact, this suggestion has been put into practice by the HA now, so why does the Government not include all the relevant measures or suggestions for a general discussion? Promoting health education and healthy lifestyle can also help reduce the medical costs. When we discussed air pollution last month, it was mentioned that if the air quality could be improved, the whole society could save \$3.8 billion in social costs, including medical expenditure. Instead of focussing only on the financing issue, these are the directions along which we can follow and discuss. In fact, in our discussion of health care reform, the most important thing is on how to use the limited resources to raise the health standard of the public, instead of finding more resources to provide services that can never satisfy everyone. I hope that Honourable colleagues can follow this direction when discussing the financing problem of health care services.

Madam President, on behalf of the Frontier, I speak against the central medical insurance proposal in amendment proposed by Mr Michael HO. We oppose any form of central medical insurance. If the medical insurance was offered by the private sector, we do not see any big problem with it, as the market would provide various medical insurance options to meet the needs of different people, and through the market mechanism, any abuse can be prevented. However, the possibility of abuse would be very high with a central medical insurance scheme and would raise the medical costs eventually. Of the countries where central medical insurance is implemented and problems are seen, the United States being the most prominent one. The country is the most advanced in medical technology, so the relevant professions would try to suppress alternative medicine to maintain their business. Take our neighbour

Taiwan as an example. After implementing a central medical insurance system for three years, problems begin to appear. Additional contribution is required now. During our visit to Taiwan last year, other than government officials, people in the trade were all infuriated, saying that the central medical insurance scheme had made the whole society spend the money of their next generation, who would thus be indebted as a result.

Madam President, I would like to state again that the Frontier opposes any central medical insurance system. We hope that the Government can put forth the whole plan as soon as possible for public discussion, and put the fear about election behind. Would the Secretary please explain later why it takes the Government so long and yet not able to table the whole plan for discussion? Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, last year, the Harvard Report raised two very important issues about Hong Kong's health care service. First, it is about the occurrence of medical incidents, which we have also discussed recently, but the Government has not come up with any specific solution yet. Especially on the serious problem of mutual protection between doctors that we have been talking about, the Government does not have any appropriate solution. I therefore hope that the Government can give a response as soon as possible.

Second, it is about the financial problem of health care service. In the Harvard Report, to which many colleagues have referred just now, it was mentioned that if the current financial situation of our health care service is to continue, it would certainly lead to a crisis. If we were not to find some other financing methods, there would not be any solution to the problem. However, the Report's proposals regarding financing seemingly would only guide us down a path for making more money, without reviewing the appropriateness of our really to review the health care problem, the first thing is not to think of how to make money. We should start from the framework itself to determine if any expenditure can be cut.

In the past, there had been sudden increases in the medical expenditure. Why had there been such a situation? This could possibly be the result of imbalance or inappropriateness in the allocation of funds by the Government, leading to a situation where the Government had to rebuild from the ruins, which

naturally meant an expenditure larger than usual. Since in the past we had tried to gradually rebuild the medical facilities, so in the future development, there would not be a need to make such great expenditure or investment. I therefore think that we should not so hurriedly come to the conclusion that we have to find ways to make money because of insufficient funds. In fact, many colleagues, especially Miss Cyd HO, have also said that the Government has for a number of times promised to submit to us the reform proposal. Regrettably these promises have time and again not been honoured. I have thought of some questions which my colleagues have already talked about. Could it be that the consultation paper mainly focuses on the financing aspect? Financing means asking for money from the citizens, and at this sensitive moment, especially when the Legislative Council Elections are about to be held, the Government may think that it would better to put the tabling of the health care reform consultation paper on hold for a while. No matter how, if the proposal mainly focuses on the financing aspect, then as I said, it is not a good proposal. On the contrary, the two most important points are: How to make the public less prone to seeking treatment, and how to cut the cost of health care service.

Some colleagues have said "prevention is better than cure" and it is the most important thing. Are we aware that community health in fact is very important? The most important thing is about how we can develop community health service so that the citizens can grow in a healthy community, without any reliance on health care service. In discussing health care service reform, I hope that the focus can be put on the ways to help the citizens build healthy bodies.

On the management side, I still feel that the organization of the Hospital Authority (HA) has too many unnecessary structures, giving rise to a lot of wastage. The Government should conduct a review on the HA establishment, from manpower to resources, so that savings and reductions can be made. I think that so doing would achieve even better result.

Madam President, we certainly hope that we can have a proposal as soon as possible, but what the Government will implement in the end should be a comprehensive reform, instead of stop-gap measures only.

In the Budget released last March, I found that the Financial Secretary had apparently "jumped the start". He hoped, he said, that the future direction of health care budgeting could be that the calculation of allocation would be based on population. It worries me if the Government were to do as he said because

such a way of calculation would limit the resources available. Financing would then really become a problem. I therefore hope that the Government would look into this area and do not go down this path.

Madam President, what I really want to talk about is the problem of those chronically ill. At the moment, all medical facilities are mainly used by the chronically ill. If their medical bills were to be increased, they might shy away from seeking treatment. This is my greatest worry. In the past, many officials often stressed that no one in Hong Kong would be denied medical treatment due to lack of means. However, very often, citizens would give up treatment just to save up some more money. This would worsen their condition, and in unfortunate cases, may lead to deaths. Of course, if one feels terribly ill, one would seek treatment no matter how poor one is, and the Government may help him. If they think that their condition is not serious, they would prefer not to consult a doctor just to save money. Minor ailment may then become serious diseases. If the Government were not to help this group of citizens, their situation would become very bad.

Therefore I very much hope that the Secretary can consider if the focus can be put on making the citizens pay more attention to their health instead of the financing of the service, in our discussions on the health care reform. Madam President, these are my remarks.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Dr LEONG Che-hung, you may speak on Mr Michael HO's amendment. You have five minutes.

**DR LEONG CHE-HUNG**: Madam President, I rise to object to the amendment put forward by the Honourable Michael HO. I object to his amendment for the following reasons.

Firstly, I find it difficult to comprehend the first part of his amendment for, whilst he calls for examining the feasibility of implementing a central medical insurance system, which must to a certain extent be contributory, he objects to the implementation of any health care financing proposal that requires mandatory contribution of any kind. Thus, I find it difficult to understand.

Secondly, seriously, it is really for the Government to come up with different options of health care financing, be it a savings scheme, be it a compulsory contributory scheme, be it motivating more private insurance, or a combination of all, and deliver the merits and demerits of all of these solutions to the public for consultation. Why should we constrain the Government at this stage?

Now, quite a few of our Members have talked about the negative aspect of a central insurance scheme. I would like to take the opportunity to say a few words on motivating more private insurance. Currently, some 26% of our population have already taken up private medical schemes. We know that central insurance scheme has a lot of abuses because everybody contributes to it and, therefore, there is a tendency for people to use more. However, of the 26% of people who take up private medical insurance, up to now, there are very few abuses. It is obvious, because if there are a lot of abuses, the insurance company will never be able to make a profit. Thus, there has to be some forms of machinery that can control abuses. On that basis, I do not see why the Government cannot even look into that aspect and use that as a possible option on the future means of financing medical services.

I have mentioned in my earlier speech that there are many aspects of health care reform that will lead to a more efficient health care. Straddling primary health care, of course, is a major aspect, but do we really need a ceiling fund to bring this about? Why should we be so restrictive to improve primary health care by only using the ceiling fund? Furthermore, since there are many aspects of health care reform, what size of ceiling fund should we need to put up to bring all this about, and will this reduce the funding of the already hard-up hospital services?

Since we do not even have a positive direction paper, let us push the Government to give us that paper to debate and tell the general principles in the reform that they would like to see, instead of limiting the Government on what to tell us. With these remarks, I object to the amendment and I hope that Members would support my objection.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, I would like to thank Dr LEONG Che-hung for moving the motion today as well as those Members who have just expressed their views. Before I respond to Members' comments regarding the health care reform, I would like to take this opportunity to brief Members on the progress of our work on health care reform in the past year.

After a detailed study of our health care system, the Harvard consultants issued a report last year, making a host of reform recommendations for public consultation. The release of the Harvard Report has generated considerable discussion in Hong Kong. During the consultation period, we actively solicited comments and suggestions from the public, and received a total of 2 200 submissions from different sectors of the community.

Upon the conclusion of the consultation, we set up a working group to reappraise the recommendations made by the consultants and analyse the submissions received from the community. We have been developing options that can have regard to the values of the community and meet its expectations. We have also consulted various stakeholders on the broad directions for our reform.

On several occasions, I have introduced the scope of our reform proposals. The review we are performing now is comprehensive. It includes not only financing options, but also quality assurance and service delivery. We have also studied the health care systems of other countries. Our studies will widely cover reorganization of primary care, promotion of family medicine, collaboration between private and public sectors, strengthening of preventive measures, promotion of Chinese medicine, strengthening of complaint mechanism, utilization of information technology, continuation of cost-containment measures, and formulation of financing models. All these have contributed to our formulation process in a constructive manner.

Members can be assured that, faced with these tasks with significant bearing on the well-being of every citizen, the Government is determined to proceed towards the objective of promoting public health and will not forego the chance to forge ahead. Indeed, according to overseas experience, health care reforms that are as comprehensive as ours often take years from their initial formulation to their full implementation. We have made the first step down the road. I believe that it is worthwhile to take more time to conduct studies and consultation.

Like many countries with the experience of implementing health care reforms, Hong Kong needs to achieve several competing "health policy objectives" at the same time. We understand that any system in this world is bound to be faced with trade-offs in the pursuit of these objectives. We need to juggle financial sustainability of our system with quality, equity, accessibility and affordability of the services provided. These are precisely the policy objectives as highlighted in Dr LEONG's motion and values that are cherished to varying degrees by different members of the community. Let me now explain our position with regard to these policy objectives.

Let me first talk about affordability. We have all along adhered to the policy that no one will be denied of medical care due to lack of means. In order to maintain fees and charges at a level affordable to the public, we shall refer to the indicator as to how great the proportion of monthly income of an average household is put on health care services and then formulate our policy accordingly. One of the fundamental guiding principles in formulating our reform proposals is that we will ensure that those who cannot afford medical services will be well taken care of. It is our firm conviction that the long-standing virtue of our system with respect to affordability of the public will not be lost in this reform exercise.

We then turn to accessibility. In order to enhance service accessibility, we would need to remove the barriers faced by the public in obtaining services. Such barriers may originate from geographical or waiting time factors. We can firmly reiterate that during the past development of the public sector services, we have accorded great importance to the issue of accessibility. The establishment of new hospitals, the development of outreach service and the initiatives in reducing new case waiting time well serve to reflect our achievement in this area. Simply put, accessibility is a merit our community values and a virtue that we will strive to preserve.

The third policy objective is equity. This is indeed a term embracing a wide scope of concepts. Among these, the public's expressed views in these years have pointed to the more general adoption of two concepts. The first one is that those with equal health care needs should have equal access to care and treatment. Through its highly subsidized public sector services, the Government has made great achievements in this aspect. The second concept is that in future we will have to better target our limited resources at those who are most in need. We are convinced that this concept has increasingly gained

acceptance in society. Surveys conducted have shown that 70% of the respondents support the underlying rationale of this concept. We are now heading in this direction.

Whether our system can maintain its financial sustainability is a great challenge to our reform. Our society needs to understand that without a forward-looking reform in the system, particularly in respect of financing, the strengths of our existing system can hardly be sustained as time goes by. When formulating viable financing options in the long run, we have to foresee how the options would affect the public demand for health care services as well as the scope of services that the funds can cover. We are fully aware that whichever financing model we choose should serve to maintain the long-term sustainability of the system.

The last objective is to facilitate development of health care professionals who are nowadays faced with the challenge arising from rapid advancements of medical technologies, increasing public expectation and the drive for Evidence-based Medicine. Professional development through continuous learning is one of the important weapons against these challenges. The Government resolves to take a large step forward in this aspect in collaboration with various professional bodies.

Regarding Mr Michael HO's amendment, I would like to make the following comments. According to the public response to the Harvard Report, a central medical insurance financing model has not received general support in the community. Against this background, we have paid due regard to the views expressed by the public, trying to devise a financing scheme which can better reflect community values, meet public aspirations, and which is sustainable over time. We shall set out the proposed scheme in the consultation paper and widely consult the public and various stakeholders. It will take considerable time to develop, fine-tune and try out any new financing model before putting it into practice. We therefore will adopt an incremental approach in developing and implementing changes to our health care system. The actual implementation of any new financing scheme will take into account a host of factors, including the state of the economy. In implementing other reform proposals, we will ensure that sufficient resources are made available for individual measures through appropriate funding mechanisms.

Madam President, while I understand there are great public expectations of the health care reform, I hope that Members could appreciate the complexity and the extensive nature of the reform proposals, which require us to take into consideration the values in society, the concerns of different stakeholders and the community's expectations. When we have completed the final stage of preparation, we will release the consultation document on health care reform as soon as possible. I hope Members as well as the public will actively express their views on the proposals. Last but not the least, I would like to thank once again all Members who have shared with us their valuable views and comments today.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Michael HO to Dr LEONG Che-hung's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the amendment negatived.

**PRESIDENT** (in Cantonese): Dr LEONG Che-hung, you may now reply and you have four minutes 14 seconds.

**DR LEONG CHE-HUNG** (in Cantonese): Madam President, I am glad that so many Honourable colleagues have spoken on this motion. I am even delighted that in the absence of the relevant document, we can still raise so many issues for discussion. This clearly reflects two points: first, we all think that health care reform is important; second, one needs to have great creativity to be a Member here, otherwise we cannot dwell on this for so long.

Just now Dr the Honourable TANG Siu-tong said that I was serving a standing dish. To a certain extent, I am. If the Administration has promised us something new and fresh, but is dragging its feet in actually giving it to us, we can only eat what is left over as a protest.

Of course, many colleagues have put forth many very good ideas today, but some of them reflect that some colleagues have some confusion or are not very clear about the whole health care reform.

First of all, many colleagues said that even if the medical bill is very high, no one should be denied of the best medical service, and they also said that such service should not be charged. This exactly reflects what I said previously. Is that Hong Kong people are not mature enough politically that they only know sticking their hands out for a free lunch?

Many Members said that we have to increase primary health care service so that more people would not need to be hospitalized. Is this really achievable or just a theoretical opinion? I would like to tell Members a number of factors or principles. Can better primary health care service really reduce the number of people requiring hospitalization? There is no hard figure to support this.

To make a person physically fit and healthy actually takes a very long time; for example, if one is not a smoker at young age, then it would not be easy for one to develop lung cancer when one grows old; if one does not take too much greasy food at young age, it would not be easy for one to develop heart disease when one grows old. All these diseases take years to see their effects. If one says that providing better primary health care service can reduce the chances of citizens falling ill or contracting chronic diseases, the fact may actually be that the age of having such disease or condition is being pushed back from a young age to an old age. A person would still contract the disease or fall chronically ill. How great an effect it would be, we do not know. Of course, undoubtedly, we must provide good primary health care service so that the citizens may not need to use hospital services so frequently.

I am pleased to hear that many colleagues have mentioned that Chinese medicine and alternative medicine should be developed further and that they should be incorporated into the health care system. I hope that the Secretary can consider this point and provide as soon as possible alternative public health care service. There certainly may be difficulty in implementing this because we have to consider also the allocation of resources. Should we allocate some of the resources that are made to the Hospital Authority now to some other uses? This may have serious impact on the hospital services that are already extremely short of resources.

I am quite disappointed that the Secretary still fails to tell us why the health care reform consultation paper cannot be tabled at the Legislative Council. I believe that he must have reasons that are hard to make known. I hope that after some time, he would let us know what those reasons are. The Secretary actually may have to handle a lot of issues in relation to health care reform, but if he really wants the citizens to have confidence in him and also if he really wants to have the opinions of the Members, he should table that document.

The Secretary himself is also a doctor by profession. He should know that how miserable it is if one is engrossed in anxieties; it is certainly a very miserable experience if one does not know exactly what disease one has contracted. Once the disease is found, medication can be prescribed to treat it. I hope that this analogy can make the Secretary table the report as soon as possible.

Thank you, Madam President.

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

(Members raised their hand)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 9.30 am on Wednesday, 21 June 2000.

*Adjourned accordingly at twenty-five minutes to Eleven o'clock.*

**Annex I****WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Mr LAU Kong-wah's supplementary question to Question 2**

As regards the statistics on the percentage of total traffic volume in Central accounted for by various vehicles during the morning and evening peak periods, I now furnish the information concerned in the Appendix attached.

## Appendix

**Distribution of Traffic Volume in Central : Morning and Evening Peak Periods  
(Information for 1999)**

<i>Types of Vehicles</i>	<i>Statistics on the percentage of Total Traffic Volume in Central accounted for</i>
Private Cars/Motorcycles	40.9%
Taxis	33.0%
Franchised Buses	8.0%
Public Light Buses	2.6%
Non Franchised Buses	2.6%
Other Vehicles (such as Lorries)	12.9%

**Annex II****WRITTEN ANSWER****Written answer by the Secretary for Economic Services to Mr Kenneth TING's supplementary question to Question 5**

The Civil Aviation Department has since made inquiries with the International Civil Aviation Organization and a number of our aviation partners. The response shows that smoking on board aircraft is prohibited, in certain circumstances, by Canada<sup>1</sup>, New Zealand<sup>2</sup> and the United States<sup>3</sup> whether or not a "no-smoking" notice is exhibited inside the aircraft. In the case of United Kingdom, Malaysia and Singapore, it would constitute an offence only if a person smokes in a locally registered aircraft when a "no-smoking" notice is exhibited.

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<sup>1</sup> The ban applies to Canadian-registered aircraft engaged in air services.

<sup>2</sup> The ban applies to passenger aircraft engaged in international services operated by a New Zealand airline on designated no-smoking routes.

<sup>3</sup> The ban applies to all passenger flights into and out of the United States.

**Annex III****WRITTEN ANSWER****Written answer by the Secretary for Economic Services to Mr HO Sai-chu's supplementary question to Question 5**

As at 5 February 1998, nine states, namely Armenia, Australia, Canada, Chile, Jordan, Slovenia, Benin, Moldova and Zambia, had enacted the relevant legislation. The International Civil Aviation Organisation (ICAO) also stated that no comprehensive updating of the statistical information had been undertaken since then. But the ICAO has received information that the United States by 4 June 2000 has implemented legislation against smoking on all passenger flights to and from the United States.

## Annex IV

## WRITTEN ANSWER

**Written answer by the Secretary for the Environment and Food to Mr LEUNG Yiu-chung's supplementary question to Question 6**

Replacing diesel light vans with petrol vehicles will reduce emissions of respirable suspended particulates, nitrogen oxides and hydrocarbons. If all diesel light vans are replaced with petrol vans, the percentage reduction of these air pollutants from the motor vehicle fleet will be as follows:

<i>Air pollutant</i>	<i>Estimated reduction of emission</i>
Respirable suspended particulates	14%
Nitrogen oxides	3%
Hydrocarbons	3%

**WRITTEN ANSWER****Written answer by the Secretary for the Environment and Food to Mr LEUNG Yiu-chung's supplementary question to Question 6**

Benzene is one of the hydrocarbons emitted from vehicles. The vehicle emission standards adopted by the United States, European Union and Japan only set hydrocarbon emission limits without stipulating separate benzene emission factors. Thus we do not have readily available data on the benzene emission rates of different types of vehicles.

If all diesel light vans are replaced with petrol vehicles, the carbon monoxide emission from the motor vehicle fleet will be increased by about 3%.

**Annex VI****BUILDINGS (AMENDMENT) BILL 2000****COMMITTEE STAGE**Amendments to be moved by the Secretary for Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
1	In subclause (3), by adding "(c)" after "6".
5(a)(iii)	In the proposed section 38(1)(c)(xiv), by deleting "telecommunication" and substituting "telecommunications".
Schedule, section 2	<p>(a) In the proposed definition of "access facilities", by deleting "telecommunication" where it twice appears and substituting "telecommunications".</p> <p>(b) By deleting the proposed definition of "broadcasting" and substituting -</p> <p style="padding-left: 40px;">""broadcasting" (廣播) means transmission of sound or television programmes by satellite or terrestrial telecommunications intended for general reception;"</p> <p>(c) In the proposed definition of "industrial building", by deleting "Chambers and" and substituting "and Material Recovery Chambers and Refuse".</p> <p>(d) In the proposed definition of "telecommunication" -</p> <p style="padding-left: 40px;">(i) by deleting "telecommunication" and substituting "telecommunications";</p>

ClauseAmendment Proposed

- (ii) by deleting "Telecommunication" and substituting "Telecommunications".

Schedule,  
section 3      By deleting "telecommunication" and substituting  
"telecommunications".

Schedule,  
section 4      In the proposed regulation 23A -

- (a) by deleting paragraph (3)(b)(iv) and substituting -

"(iv) other supporting facilities as may be approved by the Building Authority.";

- (b) by deleting paragraph (8) and substituting -

"(8) Any person who contravenes paragraph (4) or (6) shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 2 years; but it shall be a defence in any prosecution for a contravention of any provision referred to in this paragraph for the person charged to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention referred to in the charge.

(9) Any person who, without reasonable excuse, fails to comply with an order served on him under paragraph (7) shall be guilty of an offence and shall be liable on conviction -

ClauseAmendment Proposed

- (a) to a fine at level 5 and to imprisonment for 1 year; and
  - (b) to a further fine at \$5,000 for each day during which it is proved to the satisfaction of the court that failure to comply with the order has continued."
  
- Schedule,  
section 5
  - (a) In the proposed Part IIIA, in the heading, by deleting "TELECOMMUNICATION" and substituting "TELECOMMUNICATIONS".
  - (b) In the proposed section 28A -
    - (i) in the heading, by deleting "**telecommunication**" and substituting "**telecommunications**";
    - (ii) by deleting "telecommunication" and substituting "telecommunications".

**Annex VII****FAMILY STATUS DISCRIMINATION (AMENDMENT) BILL 2000****COMMITTEE STAGE**Amendments to be moved by the Secretary for Home AffairsClauseAmendment Proposed

2

By deleting the clause and substituting -

**"2. Discrimination against applicants and employees**

Section 8 of the Family Status Discrimination Ordinance (Cap. 527) is amended by adding -

"(9) Subsection (1)(b) or (2)(b) shall not apply to any term of employment under which an employer affords, or omits to afford, any immediate family member of the person concerned direct or indirect access to benefits, facilities or services.

(10) Subsection (2)(a) or (c) shall not apply to any arrangement under which an employer affords, or omits to afford, any immediate family member of the person concerned direct or indirect access to benefits, facilities or services."."

New

By adding -

**"2A. Discrimination against contract workers**

Section 9 is amended by adding -

ClauseAmendment Proposed

"(4) Subsection (2)(a) shall not apply to any term under which a principal affords, or omits to afford, any immediate family member of a contract worker direct or indirect access to benefits, facilities or services.

(5) Subsection (2)(c) or (d) shall not apply to any arrangement under which a principal affords, or omits to afford, any immediate family member of a contract worker direct or indirect access to benefits, facilities or services."

**2B. Discrimination against  
commission agents**

Section 16 is amended by adding -

"(4) Subsection (2)(a) shall not apply to any term under which a principal affords, or omits to afford, any immediate family member of a commission agent direct or indirect access to benefits, facilities or services.

(5) Subsection (2)(c) or (d) shall not apply to any arrangement under which a principal affords, or omits to afford, any immediate family member of a commission agent direct or indirect access to benefits, facilities or services."."

3(2) In the definition of "former act", by deleting "Part III, IV or V" and substituting "sections 8(1)(b) or (2), 9(2)(a), (c) or (d) or 16(2)(a), (c) or (d)".

ClauseAmendment Proposed

New

By adding -

**"4. Terms under existing agreements not affected**

This Ordinance shall not affect the operation of any term in any agreement or contract entered into before the enactment of this Ordinance under which an employer or principal undertakes to afford any immediate family member of an employee, contract worker or commission agent (as the case may be) access to benefits, facilities or services.

**5. Rights, etc. under settlement agreements not affected**

This Ordinance shall not affect any right or benefit acquired or received, or any obligation or liability incurred, by any employer, principal, employee, contract worker or commission agent, under any agreement entered into before the enactment of this Ordinance in settlement of a claim of discrimination under section 8, 9 or 16 of the Family Status Discrimination Ordinance (Cap. 527) in connection with affording an immediate family member of the employee, contract worker or commission agent (as the case may be) access to benefits, facilities or services by the employer or principal (as the case may be).".

## Annex VIII

## ENTERTAINMENT SPECIAL EFFECTS BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Information  
Technology and Broadcasting

<u>Clause</u>	<u>Amendment Proposed</u>
8	In Paragraph (d), by deleting "適用".
13(1)(d)	By deleting "適用".
15	(a) In the heading, by adding ", <b>etc.</b> " after " <b>in transit</b> ".  (b) In subclause (1), by deleting "in transit." and substituting -  "-  (a) in transit;  (b) air transshipment cargoes within the meaning of section 2 of the Import and Export Ordinance (Cap. 60).".  (c) In subclause (2), by deleting "(1)" and substituting "(1)(a)".
19(1)(b)	By adding "and" at the end.

ClauseAmendment Proposed

20 By deleting subclauses (1) and (2) and substituting -

"(1) Subject to this Ordinance, no person shall supply, convey or store any pyrotechnic special effects materials in Hong Kong unless such materials have been labelled in the prescribed manner.

(2) Subject to this Ordinance, no person shall supply, convey or store any pyrotechnic special effects materials in Hong Kong unless such materials have been packed in the prescribed manner.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable -

(a) on a first conviction to a fine at level 5 and to imprisonment for 3 months; and

(b) on a second or subsequent conviction to a fine at level 6 and to imprisonment for 6 months.

(4) It shall be a defence to a charge under this section for the person charged to prove that he did not know and could not with reasonable diligence have known that the materials in question had not been labelled or packed in the prescribed manner, as the case may be."

24(1)(b) By adding "and" at the end.

47(3) By adding "with reasons therefor" after "in writing".

ClauseAmendment Proposed

- Schedule 1 In paragraph (c), by deleting "or television" and substituting ", television or stage".
- Schedule 2 In paragraph (b)(iii), by deleting "or television" and substituting ", television or stage".