

# **OFFICIAL RECORD OF PROCEEDINGS**

**Monday, 26 June 2000**

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

## **MEMBERS PRESENT:**

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

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

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

### **PUBLIC OFFICERS ATTENDING:**

MR CHAU TAK-HAY, J.P.

SECRETARY FOR TRADE AND INDUSTRY

MR GORDON SIU KWING-CHUE, J.P.

SECRETARY FOR PLANNING AND LANDS

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR TRANSPORT

MR DOMINIC WONG SHING-WAH, J.P.

SECRETARY FOR HOUSING

MR JOSEPH WONG WING-PING, G.B.S., J.P.

SECRETARY FOR EDUCATION AND MANPOWER

MISS DENISE YUE CHUNG-YEE, J.P.

SECRETARY FOR THE TREASURY

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

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

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

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

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments *L.N. No.*

Legal Aid (Amendment) Ordinance 2000 (26 of 2000) (Commencement) Notice 2000 .....	230/2000
---------------------------------------------------------------------------------------	----------

Other Papers

- No. 114 — J.E. Joseph Trust Fund Report for the period 1 April 1999 to 31 March 2000
- No. 115 — Kadoorie Agricultural Aid Loan Fund Report for the period 1 April 1999 to 31 March 2000
- No. 116 — Audited Statement of Accounts of the Director of Social Welfare Incorporated together with the Director of Audit's Report for the year ended 31 March 1999
- No. 117 — Hong Kong Export Credit Insurance Corporation Annual Report 1999-2000
- No. 118 — Hong Kong Trade Development Council Annual Report 1999/2000
- No. 119 — Airport Authority Hong Kong Annual Report 1999/2000
- No. 120 — Statement of Accounts of the Customs and Excise Service Welfare Fund together with the Director of Audit's Report (1999-2000)

Report of the Committee on Members' Interests 1998-2000

Report of the Bills Committee on Road Traffic Legislation (Amendment) Bill 1999

Report of the Bills Committee on Road Traffic Legislation (Amendment) Bill 2000

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

Report of the Bills Committee on Employees' Compensation (Amendment) (No. 2) Bill 2000

Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 1999

Report of the Bills Committee on Securities and Futures Legislation (Provision of False Information) Bill 2000

Report of the Bills Committee on Adaptation of Laws (No. 16) Bill 1999

Report of the Bills Committee on Urban Renewal Authority Bill

Report of the Bills Committee on Intellectual Property (Miscellaneous Amendments) Bill 2000

Report of the Bills Committee on Witness Protection Bill

Report of the Bills Committee on Dangerous Drugs, Independent Commission Against Corruption and Police Force (Amendment) Bill 1999

## ORAL ANSWERS TO QUESTIONS

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

### Licensing of Third-generation Mobile Phone Services

1. **MR JASPER TSANG** (in Cantonese): *Madam President, the Administration is considering whether the licences for the third-generation (3G) mobile phone services should be granted by way of auctioning or through the established practice of selecting licensees by evaluating the merits of their applications. In this connection, will the Government inform this Council:*

- (a) *of the reasons for not issuing mobile phone service licences by way of auction in the past; whether these reasons are still applicable at present;*
- (b) *of the factors it will take into account when deciding on the licensing approach and the relative significance of these factors; and*
- (c) *whether it has set targets for penetration percentage and speed for 3G mobile phone services; if it has, of the details, and how these targets affect its decision on the licensing approach to be adopted?*

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

- (a) In the past, our policy objective in issuing mobile phone licences were to ensure bringing maximum benefits to the consumers and the community as a whole and promoting development of the telecommunications industry. To this end, we took into account the following selection criteria:
  - service range;
  - charges;
  - coverage;
  - technical quality;
  - network rollout plan;
  - financial capability of and investment guarantee made by the applicant; and
  - corporate structure as well as management and technical expertise of the applicant and so on.

Our practice was all along to set out these selection criteria in the guidance notes for invitation of licence applications so as to provide



guidance to the applicants, and select the applications according to these selection criteria. On the other hand, there was no power provided under the law in the past for the Government to levy a spectrum utilization fee which was above the licence administrative cost. Earlier this month, the Legislative Council passed the Telecommunication (Amendment) Ordinance 2000 which has included a provision on the levy of a spectrum utilization fee.

- (b) In deciding the licensing approach, our principal considerations are which selection methods would best promote the development of the telecommunications industry and protect consumers' interests. With these two principal considerations as the premise, we would also try to take into account other factors such as revenue to the Government. At present, we are critically considering the views received during the 3G consultation exercise and reviewing the pros and cons of various selection methods, having regard to the above principal factors.
- (c) 3G mobile phone services would, in the near future, offer broadband Internet service and form the main platform for mobile-commerce services. We hope to ensure that such services would be available in Hong Kong as soon as the equipment is ready. However, the Government does not intend to set specific targets for the penetration percentage and speed for 3G mobile services. We believe that the development of any telecommunications services should best be guided by market forces. The Government's role is mainly to provide a conducive environment for investment in the telecommunications sector and ensure that there is fair and effective competition in the market to enhance consumer interest by allowing them to enjoy quality service at reasonable prices.

**MR JASPER TSANG** (in Cantonese): *Madam President, in the main reply, the Secretary has mentioned that 3G mobile phone services would, in the near future, offer broadband Internet service and form the main platform for mobile-commerce services. Does the Government intend to require new operators to adopt the same standards or to open their respective platforms?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, there is not an internationally recognized standard at the present moment. However, there are some standards which, in the view of the International Telecommunication Union, can be compatible. In the paper issued during the first consultation exercise, we mentioned that the system in future should comply with the standard approved by the International Telecommunication Union. Besides, we also mentioned in the consultation paper that we hope that the platform of 3G mobile phone services can be opened in the future. In other words, the operation of the networks and the operation of the services should be separated. In doing so, not only can network operators provide such services, other service operators can also gain access to the platform after tendering operation fees to the network operators.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, selecting licensees by way of auctioning can generate handsome revenue for the Government. For instance, auctioning of that nature in the United Kingdom can gain a profit of £2 billion to £3 billion, which is about HK\$270 billion. Calculating on the market size, Hong Kong may gain through auctioning a profit of about \$30 billion to \$40 billion. In addition, we can leave the decision to the market. That is to make people believe that since a company has the capital to participate in the auction, that company will be judged as having the ability to do well. By adopting the method of auctioning, the interference of the Government can be kept to the minimum. Will the Government consider improving the existing selection system which has been criticized as being lacking in transparency? If there is a good selection method, the shortcoming of transferring the cost of \$30 billion to \$40 billion to consumers can be eliminated. Are there any measures to enhance the transparency of the selection method?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, under the existing system, the method that we have been using is to set out the selection criteria in the guidance notes for invitation of license applications, and select the applications according to these selection criteria. We will set up a working group, while representatives of the Independent Commission Against Corruption will attend the meetings of the working group in the capacity of observers.

Mr SIN asked whether the existing selection method can be improved. In fact, during the first round of consultation, we have gathered a lot of views, including the proposal of adopting a combination of different methods, for example, selection before auctioning. Some suggested adopting a para-auctioning approach. However, the target of such auctioning is not set on the revenue that the Government can get, but on the amount of fees that consumers have to pay, or on the amount of network investments. In other words, it is auctioning on something more substantive. We are at present studying these proposals carefully, and hope that we can finish analysing the pros and cons of these proposals before we conduct the second round of consultation in the third quarter.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, the main question seems to suggest making a choice between auction and selection. Can the Government inform this Council whether it can take the middle course, in other words, have the Government ever studied the approach of auctioning with a price threshold? That is comparable to auctioning of liquefied petroleum gas filling stations in which a final price is stipulated. Will the Government consider doing so?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, we did receive such kind of ideas, that is, adopting a combination approach. With that approach, there will be a consideration which then forms the constraint to the future applicants. This is also the auctioning approach mentioned by me just now, that is, not taking the revenue to the Treasury as the target of auction. Instead, the target of auction will be the lowest price that a bidder can offer to the consumers or the highest amount of investment that a bidder can make. We are examining these proposals.

**MISS EMILY LAU** (in Cantonese): *Madam President, in regard to the question of whether licences for the 3G mobile phone services should be auctioned, can the Secretary confirm whether the Government appointed a consultant to prepare a consultancy report during the term of office of the former Director-General of Telecommunications of the Office of the Telecommunications Authority, and the report strongly supported the auctioning approach? Moreover, since spectrum*

*and land are both valuable resources, can the Secretary explain why land can be auctioned whereas spectrum cannot be auctioned?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, if I can recall correctly, the Government did appoint a consultant to write a report in 1994. We were then reviewing the overall spectrum management and the manner of spectrum distribution. However, 3G mobile phone services were not included into the scope of that consultancy report. I just mentioned that we have recently amended the relevant Ordinance to the effect that we are allowed to levy a spectrum utilization fee above the cost level, and this is actually a recommendation from that consultancy report. This amendment was passed by the Legislative Council more than two weeks ago and now the Ordinance has provided us legal power to levy a spectrum utilization fee which is higher than the cost level.

Besides, why have we not been auctioning spectrum? This is because we believe the practice that we have been following can allow effective competition in the market. We clearly set out the criteria for application to which the applicants can refer before submitting their applications, and then we proceed with the selection. We think that this is a method both fair and transparent.

Of course, developments are different now. The licenses for the 2G mobile phone services were not granted by way of auctioning. It was only until 3G that auctioning was adopted. Since there is such a new development now, we think that we should gather different views, and that is why we conducted the first round of consultation. In the near future, it is very likely that we have to conduct a second round of consultation before we can decide which method is the best.

**DR YEUNG SUM** (in Cantonese): *Madam President, no matter from the perspective of transparency or from the perspective of revenue to the Treasury, auctioning of the licenses for the 3G mobile phone services by the Government is in any way a better method. The Government can also be free of the suspicions that it may have very close relations with certain consortia. Does the Government think that these are more positive factors?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese):

Madam President, we consider fairness and transparency the basic principles of any selection method. Of course, we believe that the method that we have long been using can achieve these targets. In granting the licenses for the 3G mobile phone services, the major premise of the selection approach is the development of the telecommunications industry and the interests of consumers. If these two targets can be achieved, we will be very much willing to consider the factor of revenue to the Treasury. Therefore, all these are the main factors of our consideration. We notice that other countries have adopted the auctioning approach. But we have to study the pros and cons of this approach carefully. It is because even though this can generate huge profits to the Treasury, if it is not conducive to the development of the telecommunications industry, we still have to weigh different factors with care before making any decisions.

**Impact of Using Diesel-fuelled Washing and Drying Machines on Air Quality**

2. **DR RAYMOND HO** (in Cantonese): *Madam President, will the Government inform this Council whether:*

- (a) *it has assessed the impact of using diesel-fuelled washing machines and drying machines on air quality; and*
- (b) *it knows the respective numbers of such machines in the laundries of various government departments and public hospitals at present, and whether they have plans to change over to less-polluting machines?*

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

- (a) There are no diesel-fuelled washing machines or drying machines in Hong Kong. However, some laundries use diesel-fuelled boilers to generate hot water for their washing machines and steam for their drying machines.

The installation and operation of these boilers are regulated by the Air Pollution Control Ordinance to ensure that they do not emit excessive black smoke and pollutants. According to the assessment of the Environmental Protection Department (EPD), less than 0.1% of the respirable suspended particulates and nitrogen oxides emitted by local pollution sources comes from these boilers. The impact of their emissions on Hong Kong's air quality is therefore negligible.

- (b) The Correctional Services Department (CSD) is the only department within the Government that operates laundries. It has 10 diesel-fuelled boilers. In the laundries run by public hospitals, there are 16 such boilers.

The CSD and the Hospital Authority (HA) will consider as far as possible selecting boilers that use cleaner fuels when they replace existing diesel-fuelled boilers or buy new ones in future.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary just mentioned that there were 16 diesel-fuelled boilers in public hospitals. Since I cannot revise my main question, I would like to raise a follow-up question so as to put my question more clearly.*

*Hospitals have been using diesel to generate steam for three purposes: First, for sterilization; second, for supplying hot water; and third, using some of the hot water for laundry purposes. In constructing the Tuen Mun Hospital, the HA switched to the use of more environmentally friendly fuels, for example, gas. However, it then reverted to diesel. And even the new hospitals built later, for example, the North District Hospital and the Tai Po Nethersole Hospital, also use diesel-fuelled boilers. Can the Secretary inform us insofar as policy is concerned, whether they have not considered using some boilers using more environmentally friendly fuel?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, it seems that Dr HO has got more information than I in regard to what kind of fuels had been used by the HA and the public hospitals previously for those three purposes. Since I do not have such information of the past on

hand, I cannot confirm what Dr HO has said is correct or not. However, according to my information, there are 13 diesel-fuelled boilers in the laundries run by the HA, and three are actually dual-fuelled boilers. For example, in the Tuen Mun Hospital, there are two such boilers which were installed 20 years ago. The other such boiler is in the Nethersole Hospital and was installed three years ago. This information about the dual-fuelled boilers in the laundries run by the HA seems to bear testimony to what Dr HO has just said, that is, some changes were made in the policy during that period of time.

I believe that one of the major reasons for reverting to diesel-fuelled boilers in the interim is related to operating cost. According to the information on hand, in government pricing, for 1 000 g of steam generated by diesel, it costs about \$0.13. However, it will be much more expensive if we use gas or electricity, about \$0.6 for gas and about \$0.7 for electricity. I believe the main reason for the change made by the HA is related to cost. Nevertheless, as I mentioned in part (b) of the main reply, the Government and the HA will consider as far as possible selecting boilers that use more environmentally friendly fuels when they replace existing diesel-fuelled boilers or buy new ones in future. As a matter of fact, the newly formed inter-departmental task group will study very soon the seriousness of air pollutants emitted by sources other than vehicles, and the measures that we must take where necessary.

**MR LAW CHI-KWONG** (in Cantonese): *Madam President, although it is said in the main reply that less than 0.1% of the pollutants comes from these boilers, I believe that it will cause no less pollution than the emissions from buses in Queen's Road Central at present. I believe that these pollutants will definitely affect the households and residents in the vicinity. Will the Government consider encouraging the departments concerned to use ultra-low sulphur diesel?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, 0.1% is in fact a very negligible number. As I pointed out earlier on, if these steam boilers are operating beyond the restrictions imposed by law, that is, if the amount of fuel consumed is over 25 litres per hour, the installation and operation of these boilers are subject to the regulation of the Air Pollution Control Ordinance, for example, the installation of chimneys for boilers. Thus, this should not affect the households in the vicinity too much.

In regard to ultra-low sulphur diesel, since it was only successfully processed and introduced in recent years, no statistics are available either in Hong Kong or in other places to prove how much it can contribute to environmental protection when put into industrial use. We hope to introduce ultra-low sulphur diesel to Hong Kong as soon as possible, but that will be mainly used in vehicles. As explained by the experts of the departments concerned, the burning process of diesel in vehicles is different from that in industrial use. When ultra-low sulphur diesel is put into industrial use, including boilers, to what extent could the emission of pollutants be reduced? At the present moment, there is not sufficient information for reference. Nevertheless, the task group will definitely study the questions concerned.

**DR RAYMOND HO** (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary has mentioned that the CSD is the only department within the Government that operates laundries. The steam boilers of these laundries use diesel to generate steam for operating the washing machines and the drying machines, and the emissions from these boilers are not environmentally friendly at all. According to the information on hand, not only does the CSD have laundries, but there are also central laundries in Butterfly Bay and in Chai Wan, as well as laundries in Pik Uk Prison and in Stanley Prison. Can the Secretary confirm whether my information is correct?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, according to my information presently on hand, there is a laundry in Pik Uk Prison with three boilers, while the others are located in Stanley Prison, Tai Lam Correctional Institution, Ma Po Ping Prison and Hei Ling Chau Addiction Treatment Centre. As indicated by the information of the HA, there are some laundries in Tuen Mun and Butterfly Bay. This information shows the distribution of laundry boilers of the CSD and the HA. For the time being, I am unable to confirm whether the information just given by Dr HO was correct or not. But I will provide the information on hand, in the form of a written reply, concerning the locations of all laundries run by the Government, namely the CSD, and the HA, namely public hospitals, for the reference of Dr HO and other Members. (Annex I)



**DR LUI MING-WAH** (in Cantonese): *Madam President, it is mentioned in the last paragraph of the main reply that the CSD and the HA will consider as far as possible selecting boilers that use cleaner fuels when they replace existing diesel-fuelled boilers in future. These boilers are stationary and are not mobile like vehicles. Therefore, if the cost of switching to cleaner fuels is exorbitant, will the Government consider introducing new equipment to filter the respirable suspended particulates emitted by these boilers, instead of switching to expensive fuels?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, when considering the problem of air pollutants coming from sources other than vehicles, it is natural that we have to take into account the cost effectiveness and the impact on environmental protection. If there are ways and means to achieve the greatest cost effectiveness and, at the same time, to bring the highest level of environmental protection, we will only be too delighted to consider and study them. Not only will we introduce such new facilities in the Government and the public hospitals, but we will also provide such information for all boiler users for their reference.

**MR HO SAI-CHU** (in Cantonese): *Madam President, on the last paragraph of the main reply, has a timetable been worked out for replacing the boilers? How long will it take to replace all the existing boilers? Will it take a very long period of time, say, 10 years or 20 years?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): As far as I understand it, the service life of boilers in these laundries, or the lifespan of boilers, is about 20 years. In regard to the boilers of the CSD, with the exception of three boilers which have been in use for 11 years, the others have been used for over 16 years. As to the HA, 16 boilers have been in use for less than 10 years, while the rest have been in service for a rather considerable period of time.

As regards the question raised by Mr HO, I am unable to provide an exact timetable to Members. It is because this very much depends on whether there are other measures to filter the pollutants emitted by these boilers apart from using cleaner fuels, as suggested by Dr LUI just now. And we will pursue our study in this respect.

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

**DR RAYMOND HO** (in Cantonese): *The Secretary has just mentioned that the HA will only consider selecting boilers that use more environmentally friendly fuels when the hospitals replace the existing boilers with new facilities. However, our hospitals are located in densely populated areas while the scale of the hospitals is also massive. When the prevailing wind is rather weak, the emissions from these diesel-fuelled boilers will be highly detrimental to human health. Will the Government conduct an environmental impact assessment in regard to this negative factor in the vicinity of a few major hospitals with a view to identifying the exact level of damage that may cause to human health?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Cantonese): Madam President, I have already made it very clearly that even putting all the diesel-fuelled boilers of the CSD and the HA into calculation, the impact is merely 0.1%. On the whole, the impact is in fact negligible.

As I also mentioned earlier on, the installation of these diesel-fuelled boilers and their emissions are subject to legislative control. For instance, in the past three years, 78 cases relating to diesel-fuelled control were successfully prosecuted and among them, 67 cases were related to emission of black smoke, while there were three cases of non-compliance with the requirements of the notification. Among these cases, 20 cases were related to the laundry trade. If the residents find that the pollutants emitted from the boilers installed in some laundries nearby or the boilers in any other place are affecting them, they can lodge a complaint with the EPD, and we will definitely take corresponding actions.

### **Compensation for Factory Operators in Wah Kai Industrial Centre**

3. **MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, with regard to compensating the factory operators who have not yet moved out of Wah Kai Industrial Centre in Tsuen Wan, will the Government inform this Council:*

- (a) *given that in the past it usually compensated people affected by clearance arising from urban renewal with an amount higher than the market value of the property concerned, of the reasons for not offering to these factory operators a higher amount of compensation than the market value of their properties;*
- (b) *as some of these operators are facing liquidity problems arising from the land resumption by the Government, of the reasons for not offering bridging loans to those factory operators concerned through the Trade and Industry Bureau or the Kowloon-Canton Railway Corporation (KCRC); and*
- (c) *in respect of those cases in which the property interests of the relevant owners have yet to be fully established, whether it will bear the risks by granting provisional payments immediately to the factory owners concerned to facilitate their speedy removal?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I would like to provide some background information before answering the three questions raised by the Honourable CHEUNG Man-kwong.

The Government has to resume some land, including the Wah Kai Industrial Centre lot in Tsuen Wan, for the KCRC to construct the first phase of the West Rail. The Wah Kai Industrial Centre was built in 1981 with a total of 705 units.

The West Rail project was gazetted in October 1997. The Chief Executive in Council approved the West Rail project under the Railways Ordinance in September 1998. In exercise of the power under section 19 of the Railways Ordinance, the Director of Lands issued written notices in July last year to all property owners and factory operators of the Centre informing them that the building would be resumed.

The compensation for owners affected by the resumption of the Wah Kai Industrial Centre and those for land resumed under the urban renewal projects are based on the provisions in the Railways Ordinance and the Lands Resumption Ordinance respectively.

In the case of the resumption of domestic premises under the urban renewal projects, the owners affected are entitled to compensation for the value of the property resumed as provided under the Lands Resumption Ordinance and an *ex gratia* Home Purchase Allowance approved by the Finance Committee of this Council to enable the affected owners to buy a 10-year old replacement flat in the same district.

As regards the resumption of the Wah Kai Industrial Centre, owners are entitled to compensation for the open market value of their properties in the same district, as provided for in the Railways Ordinance. On top of the compensation for the property resumed, occupiers can also claim disturbance or business loss as provided for in the Railways Ordinance. If they do not wish to claim disturbance or business loss, occupiers can elect to receive an *ex gratia* allowance approved by the Finance Committee. This *ex gratia* allowance covers mainly costs of removal, decoration, and rental for the decoration period. If owners/occupiers refuse to accept the terms of compensation and plan to negotiate with the Government, they can elect to receive provisional payment for these compensations up to 90% for property compensation, and 100% for the disturbance payment.

If owners/occupiers fail to reach an agreement with the Government with respect to compensation, they can submit their cases to the Lands Tribunal for a ruling under section 34 of the Railways Ordinance.

Against this background, I now wish to reply to the three questions raised by Mr CHEUNG as follows:

- (a) The main difference between the compensation between urban renewal projects and the resumption of industrial land such as Wah Kai Industrial Centre is that the objective of urban renewal is to improve the living conditions of residents in old residential areas. The affected owners under an urban renewal project are therefore offered compensation to enable them to buy a newer replacement housing unit in the same district so that their living conditions could be improved. In the case of industrial properties, owners affected by land resumption are compensated for the open market value of his property in the same district. This will enable them to find a replacement unit of similar age in the same district to continue with their business operation.

- (b) Regarding the proposed provision of bridging loans by the Trade and Industry Bureau or the KCRC to the Wah Kai factory operators in need, the authorities concerned have given detailed consideration to the proposal including the feasibility of assisting the factory operators with financial difficulties in applying for bank loan under the Special Finance Scheme for Small and Medium Enterprises (SFSSME). The conclusion is that the loan arrangement is not feasible.

Firstly, in March this year, the SFSSME reached the \$5 billion loan guarantee ceiling as approved by the Finance Committee. Taking into account the overall improvement in the economic conditions since the Asian financial crisis, the Government has stopped receiving new applications under this Scheme since April this year. There are currently over 170 outstanding applications.

Secondly, the Government has requested the KCRC to consider the possibility of offering loans to the affected owners and factory operators. According to the KCRC, they are not allowed, under the Kowloon-Canton Railway Corporation Ordinance, to provide loans to people affected by the land resumption programme.

Thirdly, although the Government has no arrangement for granting loans to people affected by land resumption, if an owner or factory operator affected by land resumption has obtained a bank loan for removal purposes, he can apply to the Lands Department for compensation for the interests he has paid for the loan.

- (c) The Government can only make provisional compensation payments to the affected clearerees after property ownership is established. During its check on property ownership, the Lands Department will ask the owner to provide evidence. This is to ensure that the Lands Department is paying compensation to the proper person in respect of the property resumed. While the Administration is not in a position to make provisional payment to any owner before the ownership of a property is ascertained, nevertheless, the Lands Department does exercise flexibility during its check on ownership. For instance, they will accept declaration or oath as evidence, where possible, and will continue to handle cases with flexibility.

As a move to further expedite the processing of outstanding cases, the Lands Department has formed a new Special Case Group to deal with the difficult cases. A 24-hours hotline is also provided for the owners and factory operators concerned to make an appointment for an interview with the Group. From 13 to 22 June, the Group handled 100 cases. Of these cases, 17 were settled satisfactorily. The Group will continue to meet the owners and operators concerned and to help them, under the statutory compensation mechanism of the Railways Ordinance, to obtain a higher compensation.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the Government's progress of land resumption for the West Rail is now far behind its original timetable. It is reported that the West Rail is now paying an interest of \$8 million daily. If part of the interest can be turned into compensation, the Government will be able to solve many problems in connection with land resumption at an earlier date without the need to incur losses resulting from the payment of additional interest. Why has the Government not put this measure into implementation at an earlier date, and will the Government do so?*

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

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, perhaps I should give Members some background statistics in relation to this supplementary question. In relation to the 705 units, 934 compensation claims were filed. Of these cases, 882 have been resolved satisfactorily, with the interested parties having accepted compensation already. Mr CHEUNG was actually referring to the 115 outstanding cases, that is, cases which are being addressed by us and dealt with by the Special Case Group at the moment. Up to the day on which the Group was set up, the factory operators related to these 115 cases had not given us any documents or data to let us know their actual situation. Some operators did tell us their difficulties. However, it was only recently that we realized their difficulties from the statistical information supplied to us. Therefore, there is no bearing on the reasons why we have not considered making interest arrangement or adopting other options. At the moment, our

paramount task is to thoroughly deal with the problems related to the background of these 115 cases within the shortest possible time. We need to obtain information related to the operators concerned. The Government is now trying to encourage all operators whose problems remain unresolved to submit data or evidence which should be produced in verbal form only to the Special Case Group for consideration.

**MR LEE WING-TAT** (in Cantonese): *Madam President, regarding the resumption of land used by factory operators of the Wah Kai Industrial Centre for the West Rail project, the biggest problem relates to the amount of compensation for the property value. It was evident from the documents submitted by the Department to the case group of this Council last Saturday that 70% of those owners who had received compensation had bought units in nearby old factories with a price of higher than \$460/sq ft. May I ask the Secretary if he would agree that his colleagues working in the Department have been offering compensation based on the lowest market value rather than a more reasonable, medium or high price in dealing with market value compensation? If the latter was considered, I believe many owners would have moved out already. Will the Secretary consider doing so?*

**PRESIDENT** (in Cantonese): Which Secretary will answer the question? Secretary for Planning and Lands.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, Mr LEE was right. We are now re-examining the relevant data. From the perspective of surveyors of the Lands Department, they definitely have justifications to use a certain figure or formula to calculate compensations. Nevertheless, factory operators are now saying that the values of factories situated in Tsuen Wan or its neighbouring districts are higher than the amount of compensation. I fully accept that this is the case. Actually, what the Director of Lands and I are trying to do at the moment is to help operators receive reasonable compensation. The Director might take the initiative to, after obtaining all information, forward the relevant data to the Lands Tribunal to enable the operators to receive reasonable compensation.

**MR ALBERT HO** (in Cantonese): *Madam President, I do not know how long the owners will have to wait before receiving compensation if the data is to be forwarded to the Lands Tribunal. How can they move out without being compensated? I do not know how the Secretary can answer the question I am going to raise. My question is: The Secretary admitted in part (a) of the main reply that, in resuming land in future, the Urban Renewal Authority will offer compensation higher than the market price for this can help the residents concerned to improve their living. Given the fact that land resumption for the West Rail project is similarly for a public objective or public interest, why did the Government treat the operators concerned so strictly? Actually, what they hope for is just to get enough money to buy a comparable unit to continue their business. Why did the Government treat them with such a stringent standard instead of a standard similar to that for urban renewal? I hope the Secretary can give us an explanation. Furthermore, can the Secretary promise us that he will consider making the two standards consistent as both of them are used for resuming land for public purposes?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, regarding the arrangements made before all parties concerned are able to reach an absolutely unanimous view on prices and have data fully acceptable to all, the owners/occupiers concerned can actually receive 90% for property compensation and 100% for the disturbance payment before dealing with the rest of the problems, as pointed out by me in the main reply earlier.

As regards the disparity between compensation for urban renewal and industrial premises, this is a policy issue. I have no intention to comment on whether the policy on industrial compensation is reasonable at this stage. Nevertheless, the policy was approved by the Finance Committee. According to the policy, if a 50-year unit affected by renewal projects needs to have its environment improved, its owner will be able to receive compensation sufficient for him to buy a 10-year replacement unit. This is the objective of our policy. Factory compensation is different. It has been stated clearly and approved by the Finance Committee as follows: the factory operators should be able to find similar units in the same district to continue their business while other removal compensation will be given as well. Subject to this policy, Madam President, I am sorry that I cannot undertake to make any changes for this will affect numerous compensation issues. In this respect, I cannot make any undertaking today.



**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the Secretary mentioned just now that the Lands Department might consider asking the Lands Tribunal to deal with price bargaining or evaluation. I would like to tell the Secretary that owners can actually petition the Lands Tribunal to do so. Nevertheless, many conflicts might have already arisen when the Lands Tribunal makes its ruling. So it might be useless for the owners to do so. For this reason, I hope the Secretary can offer better negotiation terms when surveyors from both parties meet to negotiate the valuated prices on 29 this month. On the other hand, I want to raise a question concerning loans as the matter might eventually need to be resolved through the provision of loans. However, the Secretary is now .....*

**PRESIDENT** (in Cantonese): Mr LEE, please raise your question. Do not say what you believe or think. Please come to your supplementary question direct.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, according to the reply given by the Secretary, the KCRC is not allowed, under the Kowloon-Canton Railway Corporation, to provide loans to persons affected by land resumption projects. However, under section 4(1)(l) of the Ordinance, the Corporation shall have power to do all things which in the opinion of the Corporation are necessary to facilitate the proper carrying out of the business of the Corporation. In this case, should "all things" include the provision of loans? Why has the KCRC failed to do so? Why was the Government reluctant to do so?*

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

**SECRETARY FOR TRANSPORT** (in Cantonese): *Madam President, according to our usual policy, if there is a need to resume land for railway development, the Government, as an agent of the relevant railway corporation, will help it to resume land. All resumption clauses will be drafted with reference to the Government's established compensation policy while the railway corporation will be responsible for the payment of compensation. Therefore, from the angle of the corporation, if the Government proposes any compensation*

options or payment in line with its land resumption policy, the company must (I use "must" instead of "will be pleased to") disburse to the Government the relevant payments. As for other arrangements outside this policy, the corporation will be unable to deal with them separately.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, after going through the documents submitted by the Government in responding to our colleagues, I think the Government has failed to resolve the problems. I hope Secretary Gordon SIU can answer my question. At present, compensation is made under the Lands Resumption Ordinance. The factory operators are facing difficulties because their units were bought after 1981. Members should be aware that the property prices at that time were different from the current prices. Just now, the Secretary stated that no loans could be provided to them. However, even if they want to buy a 10-year replacement unit, they cannot afford it. In order to help operators to tide over their difficulties, the Government suggested them to move out first before receiving compensation. Can you imagine how the operators will respond to such an arrangement? Has the Government assessed the situation of these 100-odd factory owners and what will the Government do to handle this crisis with this group of owners who are at a loss as to what to do?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): *Madam President, we will try every means possible to help them in dealing with these cases. But what difficulties are these factory operators facing? Some of them submitted partial information to us only recently; some have not even submitted information and met with the Special Case Group. In the absence of information, a situation might arise in which A and B might hold different views. It is basically impossible for us to identify the crux of the problem. As I mentioned earlier, under the current system, factory operators can in fact receive 100% for the disturbance payment or 90% for property compensation before dealing with other issues. We will not withhold financial assistance. However, we cannot initiate any procedure if the persons affected do not give the Lands Department any information. Therefore, it is most important for the operators concerned to give us the information for consideration.*

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, which part of your question has not been answered by the Secretary?

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, perhaps there is a difference in our points of view. I think the method adopted by the Secretary is unable to handle this crisis.*

**PRESIDENT** (in Cantonese): Miss CHAN, this is your personal point of view. We have spent more than 18 minutes on this question. Last supplementary question.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in the fifth paragraph of the main reply, the Secretary stated that affected owners could receive compensation based on the market value of properties in the same district and, on top of that, occupiers could receive a disturbance payment or an ex gratia allowance. Will the Government inform this Council of the reasons why the affected owners are not allowed to receive ex gratia allowance at the same time? This is because it is a commercial practice if an owner buys a property and let it out.*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, if a factory owner is also an occupier, he will definitely be able to receive an *ex gratia* allowance. If he is only an owner and his factory has been rented to someone else, he will be allowed to buy another factory and continue to let it out in accordance with the Government's existing policy, that is, the policy approved by the Finance Committee. Nevertheless, if he can prove that the amount of compensation offered to him is not reasonable so that he will not be able to buy another unit in the same district, he can petition the Lands Tribunal for redress. Even if that owner considers the amount of compensation reasonable but has incurred rental losses for other reasons, he can claim compensation on grounds of business losses.

**PRESIDENT** (in Cantonese): As the Member who should ask the fourth question has not arrived, we will first deal with the fifth question.

**Measures to Stabilize the Property Market**

5. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, various measures have recently been proposed for adoption by the Government to stabilize the property market, which include (1) bringing a halt to the production of flats under the Home Ownership Scheme; (2) putting the sites originally scheduled for sale in this financial year onto the Reserve List of land sites; (3) relaxing the 70% ceiling for residential mortgages; and (4) relaxing the eligibility criteria and increasing the quota in respect of the Home Starter Loan Scheme. In this connection, will the Government inform this Council whether:*

- (a) it has assessed the effectiveness and feasibility of the above proposals; and*
- (b) it will adopt measures to revive and boost the confidence of the public in purchasing property; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, as this question involves three different policy areas, I have consulted other Policy Bureaux and our consolidated reply is given below.

The Home Ownership Scheme (HOS) was introduced 22 years ago to assist low-income families to purchase their own homes, and has been well received. Over 290 000 eligible families have fulfilled their home ownership aspirations through the Scheme. The Government has no intention at present of completely stopping the production of HOS flats as demand for such flats still exists, but will respond to people's preferences for the mode of providing housing assistance.

The present programme to dispose of land for housing development through scheduled sales by auction, tender or application has been functioning effectively. Recent sales of land confirm that there is market demand and positive response to existing arrangements. The Administration has no intention at present of altering the programme but will continue to closely monitor market developments.

As regards the 70% loan-to-value ratio guideline, the Hong Kong Monetary Authority has no intention of making a relaxation since the guideline is an integral part of prudential supervision of the banking sector. Particularly in times of fluctuations in property prices, the guideline has proved to be very effective in reducing the credit risk faced by banks, assuring the quality of banks' mortgage loan assets and enhancing the stability of the banking system as a whole. To provide assistance to flat buyers in their initial downpayments, buyers are now able to secure mortgage loans up to 85% loan-to-value ratio under the Mortgage Insurance Scheme operated by the Hong Kong Mortgage Corporation.

As regards the Home Starter Loan Scheme, it has already been extended to singletons since December 1999. In view of the large number of applications received from them, we are now reviewing the size of the annual quota for singletons.

As regards Part (b) of the question, apart from providing sufficient land to meet housing demand, the Government's policy is to allow the private residential property market to operate freely. As the market is now generally stable, there is no need for any further measures to be taken by the Government.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary said that the decision to maintain the 70% loan-to-value ratio guideline is to reduce the credit risk faced by banks particularly in times of fluctuations in property prices, so there is no intention of relaxing the guideline. May I ask if the Government is concerned that property prices will further drop?*

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

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, generally speaking, the property market operates freely and we have no means to control property prices. We can only adjust the supply of land. The maintaining of the 70% loan-to-value guideline is for the stability of the banking system as a whole.

I hope this reply can serve to answer the question raised by the Honourable Member. If the Honourable Member is still not satisfied, then I shall defer to my colleague, the Secretary for Financial Services.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I would like to add a few words. Certainly, no one will be able to know whether property prices will go up or down. But I would like to stress again, the 70% ceiling for residential mortgages cannot be relaxed, for it is an important tool in risk management. As a matter of fact, there has been a marked growth in the rate of bad debts and delinquency in mortgage payments over the past two years. The rate for June 1998 was about 0.29% and the rate for last month was 1.19%. It can be seen that the rate for bad debts has increased. As this 70% mortgage ceiling can provide assurance to the quality of the mortgage loans, so we are not too worried about the stability of the banking system. This also shows that when property prices fluctuated in the past, this tool of 70% ceiling for mortgages helped us in maintaining the stability of the banking system.

Having said that, it does not follow that flat buyers can only secure mortgage loans up to the 70% loan-to-value ratio. I think Honourable Members know very well that apart from mortgage loans provided by the banks, many developers are also providing loans over and above the 70% loan-to-value ratio. In many cases, such loans can be as much as 90%. Besides, the Hong Kong Mortgage Corporation can provide mortgage loans up to 85% loan-to-value ratio under its Mortgage Insurance Scheme, on top of the standard 70% loan-to-value ratio mortgage loans. As a matter of fact, the Corporation is presently actively studying whether it is feasible to raise the 85% mortgage ceiling to 90%.

**MRS SELINA CHOW** (in Cantonese): *Madam President, as we all know, the Liberal Party has made a strong demand to the Government to suspend the sale of HOS flats and to review the policy on the sale of public housing flats. In the second paragraph of his main reply, the Secretary pointed out that "The Government has no intention at present of completely stopping the production of HOS flats." Over the past 10 days, we heard announcements on the suspension of the sale of HOS flats and Sandwich Class Housing Scheme flats. May I ask if this policy is going to continue and what is the position of the Government with regard to the sale of flats in the public sector?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in respect of the Sandwich Class Housing Scheme, the Government made an announcement to suspend the Scheme a long time ago. As for the HOS, after talking with the HA at the beginning of this year, we decided to reduce the production of HOS flats three years from now, that is, from 2003 onwards. For the year 2003-04, the production of HOS flats will reduce by 4 000, 5 000 in the following year, 6 000 in the year afterwards, and a further 6 000 in the next year. Although we will reduce the annual production of these flats within the four-year period, we will make an annual review of the situation so as to determine the volume of flats to be reduced. We would, of course, take account of the demand for HOS flats.

The reason for our present decision is because we have noticed that some members of the public wish to purchase flats in the private property market. They can do so if we can provide them with some kind of assistance, that is, in the form of loans. Therefore, we have decided to accede to this public demand. However, as I have said in the main reply, we have no intention to call a complete halt to the Scheme.

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, which part of your supplementary question has not been answered?

**MRS SELINA CHOW** (in Cantonese): *Sorry, I did not hear very clearly the reply made by the Secretary in relation to the Sandwich Class Housing Scheme. May I ask the Secretary of his views on bringing a halt to the sale of HOS flats and the plans for the future?*

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, is what you have asked part of your supplementary question?

**MRS SELINA CHOW** (in Cantonese): *Yes.*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I have said briefly earlier that the Government has already decided to stop the production of Sandwich Class Housing Scheme flats. However, as land has been granted to the Housing Society (HS) for the production of these flats, so the HS will continue to build and sell these flats. Recently, the HS has also decided to defer the sale of some of these flats which will complete soon.

**MR FUNG CHI-KIN** (in Cantonese): *Madam President, on the question of the 70% ceiling for residential mortgages, it seems that the Secretary is suggesting that property prices at present are still fluctuating greatly, and the Secretary for Financial Services has mentioned just now that the Hong Kong Mortgage Corporation will increase the loan-to-value ratio by 15%. But is it true to say that the public has not shown a keen interest in that due to reasons such as insufficient publicity, insurance premium being too expensive, or there is simply no demand for this or the public's fear of falling into the negative assets hardship as a result of excessive borrowing?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I think the public does not have any worries on the insurance premium being too expensive, for that is a matter of the working of market forces. I think Honourable Members also believe in market forces. If the same property has secured a mortgage loan of more than 70% of the loan-to-value ratio, or even 85% or 90%, then the risk will be greater and so will be the premium payable. As a matter of fact, in just more than a year after the establishment of the Hong Kong Mortgage Corporation, it has since handled about 4 000 cases with loans totalling \$7 billion to \$8 billion.

**MR JAMES TO** (in Cantonese): *Madam President, I would like to ask a question on the loan-to-value ratio. The Government has stated in the main reply that it has no intention of relaxing this ratio because of the need to maintain the stability of the banking system. May I ask if the Government has made any assessment on whether the relaxation of this ratio will really encourage more people to buy property and whether this ratio will prevent some people from buying property? My question is not on whether the ratio should be relaxed or not.*



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

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I think I can answer the question from my past experience. My answer is that the relaxation of the loan-to-value ratio would affect the incentive of the public in buying property. Factors such as the recent economic conditions and the employment situation, and so on may work to undermine this incentive. If other arrangements are made, as those pointed out by my colleague, the Secretary for Financial Services, will many people be attracted to buying property? It is hard for us to say.

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

**MR JAMES TO** (in Cantonese): *My question is: Will the prevailing loan-to-value ratio adversely affect the people's intention to buy property? The Secretary for Housing seems to have given an affirmative answer in the beginning, but later on his answer seems to be in the negative, then which is the answer he wants to give?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, if such a direct answer is required, I would say that is something beyond our knowledge.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, the purpose of setting a 70% ceiling to the mortgage loans is to reduce the credit risk of banks, especially at times of volatile property prices. Would the Government think that property prices at present are still fluctuating or that they are stagnant? If the latter is the case, will the Government ask the Monetary Authority to study into whether there is any need to revise the 70% loan-to-value guideline, especially on the question of whether the guideline is applicable to both mortgages for "first hand" and "second hand" flats? At present, both the ceiling of mortgage loans and interest rates for "first hand" property are far more favourable when compared to "second hand" property. Will there be similar arrangements for both types of property?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I can offer no comment on the question of whether property prices will go up or down; this has to be determined by market forces. The banks comply with the 70% loan-to-value ratio of their own accord because they think that there is really a need for it. I wish to stress that the loans are made out by the banks and they do very much want to do business. We can see that many banks are going onto the streets to grab a share in the mortgage business. They want very much to do business when they can make profits. However, I wish to point out that the Hong Kong Association of Banks has all along been saying that the 70% loan-to-value ratio should be maintained for that is very important to the stability of the banks and the quality of the loans.

Sorry, I think there is another question which Mrs LAU has asked.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, I have just asked about the terms of the mortgages for "first hand" and "second hand" flats, including the mortgage ceiling and interest rates, and whether terms for mortgages for these two types of flats can be aligned?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Thank you, Mrs LAU. I must stress that owners of both "first hand" and "second hand" flats can secure mortgage loans. Perhaps I can give Honourable Members some figures on that. Over the past three months, that is, from March to May, there are 15 518 cases of mortgages made out at an interest rate below the prime rate. Out of these more than 15 000 cases, 76% are made out to owners of "second hand" flats. It can be seen that the banks have not been acting unfavourably to "second hand" flats. Likewise, the Hong Kong Mortgage Corporation also makes out mortgage loans under its insurance scheme to owners of "second hand" flats.

**MR EDWARD HO** (in Cantonese): *Madam President, the Government has stated that it is only suspending the sale of HOS flats for the time being, but the Chairman of the HA was still saying that in the public housing sector, 40% of the units were HOS flats and 60% were rental public housing units. As the property prices have dropped significantly, will the Government adopt the suggestions made by the Liberal Party to set up an ad hoc group to review the policy on the sale of subsidized public housing and on the role played by the Government in the HOS?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I have said earlier on the government policy on HOS. We have made a decision to reduce the production of HOS flats by phases in order to meet the market demand. As for the proportion of public rental housing units to HOS flats, the HA will keep a close watch of the preferences of the public for different kinds of housing. That is to say, the HA will make an estimate of the number of people who prefer to live in public rental housing units and the number of people who prefer to buy HOS flats, before allocation is made on housing units. In other words, the proportion will change from time to time. In order to suit various needs, the HA will make adjustments accordingly.

**MR EDWARD HO** (in Cantonese): *Sorry, the Secretary has not answered my question. My question is: Will the Government adopt the suggestion made by the Liberal Party to set up an ad hoc group to study into the policy on the sale of public housing units?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, the Government has been making reviews of the issue on an ongoing basis and we will not make a review only when some special circumstances call for it. Therefore, we are not inclined to accepting the suggestion made by the Liberal Party to set up an ad hoc group to consider or to deal with this issue.

**PRESIDENT** (in Cantonese): The Council has spent more than 18 minutes on this question. Last supplementary question.

**MR LEE WING-TAT** (in Cantonese): *Madam President, the fifth paragraph of the main reply talks about the issue of singletons applying for HOS flats and loans for that purpose. The proposal was put into practice only this year. There are close to 20 000 applications of this kind in the first batch of applications received. Now the sale of HOS flats is suspended and people cannot make applications. The quota for loans each year is a mere 300. Will the Secretary give priority to the applications from singletons for HOS flats or loans, for if not, it will be very difficult for them to buy a flat?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, I do not quite understand the question raised by Mr LEE. The Government has not stopped the scheme where singletons can apply for loans to purchase flats. The scheme is still in operation. It is only because there are so many applicants that the quota therefore seems to be small. This scheme for singletons is a new one. We have held discussions with the HA, which then agreed to extend the Home Starter Loan Scheme to singletons. In addition, they are also allowed to apply for HOS flats. In this way, the singletons are able to apply for a number of schemes at the same time. For the Home Starter Loan Scheme which has received a lot of applications from singletons, we have indicated in the Legislative Council last month that a review will be made of the Scheme. The review is expected to complete within the next three months. When we have gauged the needs of the singletons in housing, we will adjust their quota under the relevant schemes. If we have plans on that, we will certainly need to make funding applications with the Finance Committee of the Legislative Council.

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

**MR LEE WING-TAT** (in Cantonese): *Madam President, maybe because I did not have any breakfast this morning that the question I asked was not very clear.*

*What I mean is, just when the Government has extended the applications for HOS flats to singletons, the sale of HOS flats is now suspended. There is no way which these singletons can apply for HOS flats this year. Will the Secretary relax the requirements somewhat so that the singletons can buy their flats earlier? According to what you have proposed, the singletons can only wait until next year before they can buy a flat. That is the main point of my question. The gate is shut on these people soon after it is open. That is why I have raised this question.*

**SECRETARY FOR HOUSING** (in Cantonese): I can tell Mr LEE this, the loan scheme for singletons to help them purchase HOS flats is now open for application. In the last application exercise, many singletons have submitted applications. Now the HA has recommended to defer the sale of HOS flats and by deferring the sale, it does not mean that the sale will stop altogether. It is

just aimed at deferring the time for the sale of uncompleted flats. As a matter of fact, these units are not completed. The timing for the sale of uncompleted flats can be advanced or deferred. In view of the overall developments of the property market, the HA will consider the recommendation made by its Chairman shortly to defer the sale of HOS flats, that is, to defer the sale of uncompleted flats.

### **Public Dissatisfaction with Government's Performance**

6. **MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, telephone opinion surveys are conducted by the Home Affairs Bureau once every two months to gauge public opinions in respect of prevailing problems in Hong Kong, the overall performance of the Government, as well as their confidence in the future. According to the findings of the survey conducted last month, a total of 49% of the respondents rated the overall performance of the Government as "unsatisfactory" or "very unsatisfactory", while 33% of them had no confidence in the continued prosperity and stability of Hong Kong; such figures represent an increase of eight and nine percentage points respectively compared to the previous survey. In this connection, will the Government inform this Council:*

- (a) whether it has analysed the reasons for the increase in the percentage of people who were dissatisfied with the Government's performance; if it has, of the results of the analysis;*
- (b) whether it has examined what responsibility principal officials should take for the public's rising dissatisfaction with the Government's work; and*
- (c) of the new measures which will be announced to boost the public's confidence in the future of Hong Kong?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, my replies to the Honourable LEUNG Yiu-chung's questions are as follows:

- (a) According to the bimonthly telephone opinion surveys conducted by the Home Affairs Bureau, the percentage of respondents who were

dissatisfied with the Government's overall performance has remained within the range between 40% and 50% since September 1998. The percentage recorded in the May survey is the same as that in the surveys conducted in September 1999 and January 2000 (which is 49%), and is lower than the 51% recorded in July 1999. In fact, the percentage of respondents (41%) who were dissatisfied with the Government's overall performance recorded in the March 2000 survey can be said to be relatively low during the period in question. As regards the areas in which respondents were dissatisfied with the Government, the results of the May survey are, in general, more or less the same as those of the March survey. The main areas include labour and employment problems, unsatisfactory pace of economic recovery, public housing problems, education reforms, air pollution and food and environmental hygiene problems. Among them, the percentage of respondents who were dissatisfied with environmental protection, food and environmental hygiene has shown a relatively significant increase, from 4% in March to 7% in May. We believe that the reaction of the respondents in the May survey might be related to the Government's announcement of the package of environmental measures during that month which had aroused public concerns. It takes time for these measures to take effect, and we hope public dissatisfaction with environmental protection will dwindle when these measures take effect.

- (b) Public satisfaction with the Government's work is affected by a number of factors, such as the employment situation and economic outlook. To enhance public satisfaction with the Government's work, we should start with tackling the issues of public concern. In this regard, the Government of the Special Administrative Region (SAR) has responded with the introduction of a series of measures over the past two years. As the Chief Executive said in his Question and Answer Session in the Legislative Council last Friday (23 June), the SAR Government will continue to work very hard in this direction. We consider that the most important responsibility of the principal officials is to improve people's livelihood and to strive for the enhancement of the well-being and interests of the community.

- (c) The bimonthly telephone surveys conducted by the Home Affairs Bureau indicate that in the past two years, the percentage of respondents who were confident about Hong Kong's continued prosperity and stability has remained quite stable at around 60% to 70%. The percentage recorded in May 2000 (61%) falls within this range. Respondents considered that public confidence could be boosted through enhancing communication between the Government and the public, resolving labour problems, developing the economy and preserving the stability and prosperity of Hong Kong. All these suggestions are in line with the direction of the SAR Government. We will continue to work wholeheartedly towards enhancing the well-being and interests of the people of Hong Kong. We will on the one hand maintain economic development to provide business opportunities and gainful employment for Hong Kong people and, on the other, keep rolling forward our social policies to upgrade the quality of life in Hong Kong. We hope that after the implementation of the various initiatives and yielding of results, the quality of life of all sectors of the community will be enhanced and the public's confidence in the future will also be enhanced. Also, the Administration will regularly review and fine-tune existing policy objectives to ensure that the policies and initiatives are geared towards the overall and long-term interests of Hong Kong. This process is subsumed in the Chief Executive's annual policy address and the policy objectives of the individual Policy Bureaux. Major policies and initiatives to improve the well-being of the people will be published in the Chief Executive's annual policy address or promulgated by the Policy Bureaux concerned in due course.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, according to the Secretary's reply to part (c) of my main question, a review process is subsumed in the Chief Executive's annual policy address and the policy objectives of the individual Policy Bureaux. With regard to the review mentioned, may I ask the Secretary whether the Government has considered adopting a ministerial system to enhance the accountability of the Government, thereby helping to save the reputation of the Government among the people?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, my reply just now meant that in formulating his policy address, the Chief Executive would discuss with principal officials the ways in which the SAR Government could improve the conditions of Hong Kong. For instance, they may consider whether the policies proposed could address the relevant existing needs. As to the question of whether a particular aspect would be reviewed, I am afraid I do not have the relevant information to provide an answer in this respect. With regard to the adoption of a ministerial system asked by the Honourable Member just now, I am sorry that I could not provide a reply in this connection either. Likewise, if Members should ask me any questions on environmental protection, I would not be able to provide them with any answers today.

**MR ALBERT HO** (in Cantonese): *Madam President, as pointed out by many scholars and echoed in the public opinion recently, the major reason why the reputation of the Chief Executive and that of the SAR Government have dropped continuously is that the public at large hold that on the one hand the Chief Executive is not seeking to resolve with sincerity the common concerns of the people like unemployment, yet on the other hand he has been too aggressive in pushing forward his numerous reform proposals, so much so that he has caused the various professional sectors, the middle class, as well as the Civil Service to take to the streets in protest against him. In this connection, could the Secretary inform this Council whether the Government would admit that it has centred its future planning on the wrong focus; and whether it would admit that while the series of reform measures put forward have been introduced with the wrong approach and by the wrong people, the pace has been too hectic for the community as a whole to accept? Would the Government admit that my analysis is correct?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, in my personal opinion, I think that before the reunification, we generally focused our attention on such important issues unprecedented in history as the reunification, the principle of "one country, two systems", and so on. These were the issues on which the people focused their attention a couple of years earlier. However, actually there were also a number of other issues that were equally important, including education, people's livelihood and the environment.



Employment was not a problem because the regional financial crisis had yet to take place then. So, there were in fact many problems facing us, only that the community did not have the time to think them over seriously then. With regard to the livelihood of the people, the Chief Executive has in fact included the issue in the policy addresses he has published so far. Since the implementation of the principle of "one country, two systems" on 1 July 1997, in addition to winning the support of the people, the Government has also been operating smoothly with the efforts put in by Honourable Members and under the leadership of the Chief Executive. In his policy addresses, the Chief Executive has also referred to a number of issues including employment, housing and environmental protection; they are the areas where improvement will definitely be made. But due to the regional financial crisis, some of the problems have become more acute compared to others. As such, we do not think that numerous reform proposals have been put forward by the SAR Government. In any case, we attach great importance to public opinion. In answering questions raised by Members, both the Chief Executive and I have made it clear that we would always attach great importance to public opinion. As regards the opinion surveys conducted respectively by the Government and non-government organizations, we would certainly take on board the data and information concerned and take them into consideration when formulating relevant policies.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I am afraid I do not quite understand the reply given by Secretary David LAN just now. The Secretary mentioned in part (c) of his main reply that public confidence could be boosted through "enhancing communication between the Government and the public, resolving labour problems, developing the economy and preserving the stability and prosperity of Hong Kong." I do share his view in this respect. When I watched the news on the television this morning, I saw Mr Stephen LAM said in response to the demonstration by many people yesterday that Hong Kong was a pluralistic society. I am afraid Mr LAM has missed the crux of the many problems confronting us these days. Given the many grievances expressed by the people, and that the Government has also talked about enhancing communication and resolving labour problems just now, could the Secretary tell us whether the Government really thinks this way, or those words were said purely for public relations purposes rather than solving the problems sincerely?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I can assure the Honourable Miss CHAN Yuen-han that the Government is sincerely seeking to better understand the concerns of the people through the various channels, including enhancing communication with Members of this Council. As regards the question of whether or not our performance is satisfactory in the eyes of the public under the present circumstances, I believe there is still room for improvement. Under the leadership of the Chief Executive, our colleagues in the SAR Government will put in their best efforts to make use of every possible opportunity to communicate with the various sectors of the community. All in all, it is with sincerity and determination that we seek to enhance communication with members of the public.

**MISS EMILY LAU** (in Cantonese): *Madam President, the Secretary mentioned in his main reply that in the opinion survey conducted in July last year, 51% or more than half of the respondents were dissatisfied with the overall performance of the Government. One of the causes for dissatisfaction, I believe, should be the fact that the Government is not a representative government and that it lacks accountability. Madam President, could the Secretary inform this Council whether the people of Hong Kong would be asked in the opinion surveys to come if they should like to elect their own government through "one person, one vote", or they have already been asked this question before?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, the questions raised in our opinion surveys are very consistent, since we would ask respondents the same set of questions every two months. So far as I can remember, the question mentioned by the Honourable Miss Emily LAU just now, which asks whether the public are dissatisfied because the Government is not elected through "one person, one vote", is not among the scores of questions raised. As regards whether or not we would raise the question to respondents in the future, since Miss LAU has brought up the issue today, we would certainly take it into consideration.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, given that the people are very much dissatisfied with the Government and are boiling with discontent, could the Secretary inform this Council whether the Government admits that the community has gone out of control? On the last occasion, the*

*Secretary claimed that everything was under the control of the Government, but the present situation is just another story. Since it is better for the doer to undo what he has done, may I ask the Secretary whether the Chief Executive should accept the principal responsibility for the discontent and dissatisfaction?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I do not wish to discuss in detail here any issues that arose after the regional financial crisis, since I am no expert in this respect. However, as mentioned by our other experts like the Financial Secretary and the Secretary for Economic Services, surely the regional financial crisis has impacted on our economy and left us in the midst of an economic restructuring and a persistently high rate of unemployment. But then again, the Government has also introduced a series of measures to deal with the issues. Moreover, the condition of our economy has been very stable lately. Actually, things are developing towards a brighter future; not only have very positive statistics been recorded in the last quarter, the rate of unemployment has also dropped from more than 6% to 5.1%. As regards the performance of the SAR Government, naturally we could only report the findings as they are; nevertheless, improvement can still be seen in a number of areas.

In my opinion, Hong Kong is a highly liberal and transparent society where every individual is entitled to the right to express his or her own views. Indeed, it is because of this freedom of speech that many people are so fond of Hong Kong. As I said earlier, the SAR Government will certainly listen very carefully to the different voices of the people of Hong Kong. I consider the SAR Government to be highly responsible in this respect. As regards the question referred to by the Honourable LEE Cheuk-yan, I do not think the community has gone out of control. In answering Members' questions earlier on, I pointed out with reference to reports on other countries that we knew there were problems, but we also knew certainly that the situation was still under control. Hence, I totally disagree with what Mr LEE said just now.

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

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, should the Chief Executive accept the principal responsibility for what has happened?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, so far as I can remember, last week when the Chief Executive was in the Legislative Council answering Members' questions, he made it clear that as principal officials we surely should accept responsibility for problems relating to our respective policy areas, but in the end he would also be held responsible as well.

### **Management of Lo Wu Control Point**

4. **MR LAU KONG-WAH** (in Cantonese): *Madam President, regarding the management of the Lo Wu Control Point, will the Government inform this Council:*

- (a) *of the average daily passenger throughputs for each month over the past three years; how these figures compare to the average daily throughputs on public holidays and long holidays;*
- (b) *of the number of reports of indisposition of members of the public within the precincts of the Control Point in each month over the past three years; and*
- (c) *whether it has plans to install air-conditioning systems at Lo Wu Bridge; if it has, of the completion date; if not, of the reasons for that?*

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

- (a) The average daily passenger throughputs at the Lo Wu Control Point for the past three years, rounded up to the nearest hundred, are as follows:

- (i) For 1997, the daily average for each month ranged from the lowest of 137 000 in January to the highest of 172 100 in December. The annual daily average was 154 200, as compared with the daily averages of 164 700 for public holidays and 165 900 for long holidays;
- (ii) For 1998, the daily average for each month ranged from the lowest of 159 900 in February to the highest of 207 500 in December. The annual daily average was 181 100, as compared with the daily averages of 203 500 for public holidays and 198 800 for long holidays;
- (iii) For 1999, the daily average for each month ranged from the lowest of 193 700 in March to the highest of 228 600 in December. The annual daily average was 211 500, as compared with the daily averages of 241 200 for public holidays and 231 000 for long holidays.

The detailed monthly statistics are at Table A.

- (b) According to records kept by the Immigration Department, the monthly figures on requests by travellers for ambulance service over the past three years are as follows:
  - (i) For 1997, the monthly total ranged from the lowest of 83 in November to the highest of 127 in August. The annual daily average was 3.5;
  - (ii) For 1998, the monthly total ranged from the lowest of 102 in January to the highest of 179 in April. The annual daily average was 4.6;
  - (iii) For 1999, the monthly total ranged from the lowest of 140 in November to the highest of 247 in April. The annual daily average was 6.5.

The detailed monthly statistics are at Table B.

- (c) Operators at the Lo Wu Terminal complex, including government departments and the Kowloon-Canton Railway Corporation (KCRC), as well as the Shenzhen Port Administration Office across the boundary are constantly taking measures to improve the boundary crossing facilities, including conditions at the Lo Wu Footbridge. The feasibility of installing air-conditioning systems at the Footbridge is currently being studied.

The Lo Wu Footbridge, which measures 70 m long and 10 m wide, is a two-level covered walkway with natural ventilation. It serves as a passageway between the Shenzhen Joint-inspection Building and our Lo Wu Terminal complex. It takes less than two minutes for a passenger to walk across the bridge. There are however occasions during busy hours when temporary bunching on either side of the boundary may slow down people flow, but rarely will any passenger need to stay on the bridge for more than five minutes. At the Lo Wu Terminal, our top priority is to expedite passenger clearance, and we have recently installed contra-flow facilities, expanded passenger queuing areas and realigned immigration clearance counters, and so on.

That said, operators of the Lo Wu Terminal agree that air-conditioning the Footbridge would bring additional comfort to travellers, particularly during summer. Preliminary discussions have started among parties concerned on Hong Kong side. Informally, the Shenzhen side has also indicated their support through the boundary liaison channel. The project will involve a number of technical and administrative issues, including geo-technical and structural design, ownership and maintenance, and so on. Detailed consultation and co-ordination with the Shenzhen side will be necessary, bearing in mind that the Lo Wu Footbridge straddles the boundary line between Shenzhen and Hong Kong. While a definitive plan including a working timetable has yet to be thrashed out, all parties concerned are in general agreement that the project should be taken forward.

Table A: Daily average passenger throughput at the Lo Wu Control Point

	<i>Year</i>		
	<i>1997</i>	<i>1998</i>	<i>1999</i>
January	137 006	166 372	204 834
February	141 308	159 855	207 770
March	148 514	167 040	193 683
April	152 459	188 123	220 368
May	142 686	172 340	200 952
June	145 683	167 037	205 395
July	153 052	184 347	215 359
August	166 771	196 573	220 216
September	157 118	176 382	198 332
October	163 880	191 127	220 001
November	169 289	194 678	221 988
December	172 064	207 461	228 631

Table B: Monthly number of requests by travellers for ambulance service at Lo Wu

	<i>Year</i>		
	<i>1997</i>	<i>1998</i>	<i>1999</i>
January	87	102	140
February	126	163	224
March	116	107	147
April	112	179	247
May	107	138	190
June	119	124	171
July	117	150	207
August	127	173	238
September	89	105	144
October	114	144	198
November	83	173	238
December	98	144	211
Total	1 295	1 702	2 355

**MR LAU KONG-WAH** (in Cantonese): *Madam President, from the annexes provided by the Secretary, we can clearly see that the daily passenger throughout at the Lo Wu Bridge stood at 200 000, while the number of passengers requiring ambulance service has doubled in two years. The relevant figures are very high indeed. In my view, there is now a crisis at the Lo Wu Bridge. While installing air-conditioning systems is certainly one way to mitigate the problem, the supporting measures are also very important. Therefore, I would like to ask the Secretary whether she thinks this is an urgently needed facility and whether the project will be implemented within this year.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, just now, the Honourable Member pointed out that there had been an increase in the number of passengers using ambulance service in recent years. Actually, in our view, the increase in the number of people using ambulance service is directly proportional to the increase in passenger throughputs. It is usually during the peak times at the Lo Wu Control Point, such as February, August and December, when the passenger throughputs are the highest, that the number of people using ambulance service will rise. Those who need ambulance service are mostly those who feel unwell upon their return from long-distance travels in the Mainland. Some were involved in accidents or have been hospitalized in the Mainland. They will request the use of stretchers when they cross the border. There is not a single case in which people felt unwell after standing on the Lo Wu Footbridge for too long. In my view, our top priority at the Lo Wu crossing is to manage the crowds and expedite passenger clearance. While the installation of air-conditioning systems at the Lo Wu Footbridge is worth undertaking, it is not our first priority.

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

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the Secretary has not answered the part of my question about whether this project will be implemented within this year.*



**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the answer is no. As I pointed out in the main reply, the installation of air conditioning at the Lo Wu Footbridge involves legal issues, as well as questions of geotechnical and structural design, maintenance and costs. We need some time to discuss with the Shenzhen side. Thus, this project cannot be implemented within this year.

**MR CHAN WING-CHAN** (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary said that the top priority at the Lo Wu Control Point was to expedite passenger clearance. Also, the Administration had recently installed contra-flow facilities, expanded queuing areas and realigned immigration clearance counters, and so on. May I ask by what margin clearance time has been shortened after the implementation of the above measures and what measures will be introduced to further shorten passenger clearance time?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have information on hand as to by what margin the clearance time of individual passengers has been cut. However, I can provide this information in writing later. (Annex II) I am pretty sure that our colleagues at the Immigration Department are able to fulfil the performance pledges of their department at the Lo Wu Control Point. As for expediting passenger flow, the KCRC installed eight additional exit counters in December last year. In recent years, we have installed two additional escalators, linking the entry and exit halls, in order to facilitate contra-flow management. In fact, these facilities are very useful in dealing with massive crowds at immigration clearance. As Members know, the clearance time for individual passengers at the Lo Wu Control Point is already very short. It only takes a matter of seconds. In the medium and long terms, if we want to further shorten the clearance time, we can only consider whether to apply some high technology, such as biometrics identification, when issuing new identity cards to the public.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, I would like to ask whether the figures at Huanggang Border Control and at the control points of Man Kam To and Sha Tau Kok are included in the average passenger throughputs at the Lo Wu Control point.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, they are not included.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, may I ask the Secretary whether we can estimate the number of Hong Kong people living in the Mainland from the passenger throughputs at Lo Wu? Can an estimation be made?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the relevant government departments have done some studies on this question. We cannot make an estimation by looking at the figures at the Lo Wu Control Point alone. First, when people pass through the counters of the Immigration Department, we do not ask for their reasons of exit. Of course, we can conduct surveys on some passengers. However, we have to co-operate with the Census and Statistics Department to study this question. In this connection, some studies have been done by the Immigration Department and the Census and Statistics Department. The Census and Statistics Department can do home interviews or send staff to interview passengers at the crossings. With regard to this question, I can simply say that the Government has conducted studies, but not by relying on the questions that the Immigration Department asks departing passengers alone. I can only provide the details after discussing with the Census and Statistics Department. (Annex III)

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Lo Wu Footbridge is extremely crowded on festive days and holidays. It looks as if a great army is crossing a single-plank bridge. I wonder if the Government has considered widening the Lo Wu Footbridge or building an extra passageway for passengers to cross the boundary.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as far as I know, the Government has not considered widening the Lo Wu Footbridge. If the bridge has to be widened, we must do a lot of geotechnical and structural studies beforehand. Actually, we regularly check whether the geotechnical design of the bridge can take so many passengers. Regarding the question of managing the passenger flow at the Lo Wu Control Point, it cannot be solved by

simply building an extra bridge or widening the Lo Wu Footbridge. There must be other supporting measures, such as setting up more counters and expanding passenger queuing areas. Thus, we need to make a comprehensive study. The Government may need to create additional crossings to facilitate Hong Kong people visiting the Mainland. As Members know, in medium-term planning, a railway extension between Sheung Shui and Lok Ma Chau and a new Rail Passenger Crossing will be completed in 2004. This new control point will be situated at 1 km west of the Lok Ma Chau Control Point. In terms of roads, the Deep Bay route of the Shenzhen — Hong Kong Western Corridor linking Shenzhen will be completed in 2005. In other words, in the long run, we will create more control points to deal with the constant rise in the number of people going to the Mainland.

**MR HO SAI-CHU** (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary quoted a lot of figures, showing that the number of people using ambulance service has increased by 50% in three years. Actually, the Secretary already gave some explanation just now. However, in my view, those periods were not the hottest in the year. Such incidents occurred probably because there were many people crossing the boundary. Apart from the reasons cited by the Secretary, has the Secretary considered whether such incidents occurred because passengers had eaten too much or stayed too late because of the low prices in Shenzhen. If so, while installing air-conditioning systems is certainly a good thing, the problem cannot be solved by installing air conditioning alone. The Administration should give serious consideration to streaming. Since the passenger throughputs keep rising, the Administration should consider increasing the number of boundary crossings.*

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

**MR HO SAI-CHU** (in Cantonese): *Madam President, I wonder if the Secretary can tell us whether she will consider this suggestion so that improvements can be made in all aspects.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I explained just now, the increase in the number of people using ambulance service

is directly proportional to the increase in passenger throughputs. Among the people requiring ambulance service, no one had fainted because of the heat. Most of them were tired out after long-distance travels in the Mainland or had been involved in accidents and hospitalized in the Mainland. Thus, when they returned to Hong Kong, they had to request ambulance service. Due to such needs, the Government usually has two ambulances on call at the Lo Wu Station during the opening hours of the Control Point. On receiving requests, they can arrive at the Lo Wu Control Point very quickly. I agree with Mr HO that the passenger throughputs are increasing all the time. Take the Lo Wu Control Point as an example. Over the past three years, that is, 1997, 1998 and 1999, there has been an average annual increase of over 17%. In the long run, we need to build more crossings. As I explained just now, a railway extension to Lok Ma Chau will be completed in 2004 and a new control point will be set up there. In road transport, when the Deep Bay route of the Shenzhen — Hong Kong Western Corridor linking Shenzhen is completed in 2005, one more control point will be set up.

**PRESIDENT** (in Cantonese): We have spent more than 15 minutes on this question. Last supplementary question.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, I wish to ask about the crowded conditions on the Lo Wu Footbridge. It is usually very crowded at the Lo Wu Control Point before one reaches the Shenzhen immigration counters. Can we consult with the Chinese side through the boundary liaison channel whether it is possible to install air-conditioning systems there?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I wonder if Dr the Honourable TANG Siu-tong meant the Shenzhen side, since there is air conditioning on the Hong Kong side. We do co-ordinate closely with the Shenzhen side, such as in terms of managing people flow. I will talk to them about the question of air conditioning.

**PRESIDENT** (in Cantonese): End of question time.

## WRITTEN ANSWERS TO QUESTIONS

### Designation of Pedestrian Precincts

7. **MR BERNARD CHAN:** *Madam President, regarding the designation of pedestrian precincts, will the Government inform this Council:*

- (a) *of its preliminary assessment of the proposal to convert a one-kilometre section along Des Voeux Road Central into a car-free pedestrian precinct, jointly submitted by the Institute of Planners and the Chartered Institute of Transport in Hong Kong recently;*
- (b) *whether it will consider designating more existing roads as pedestrian precincts; if so, of the roads being considered; and*
- (c) *of the difficulties that it may have to overcome in order to make such designations?*

**SECRETARY FOR TRANSPORT:** Madam President, the Administration welcomes any proposal which aims at improving the pedestrian environment. In this regard, the Transport Department is studying the feasibility of introducing more pedestrian schemes in the Central District, including Des Voeux Road Central. The Department will take into account the proposal from the Institute of Planners and the Chartered Institute of Transport in developing possible schemes for Central.

In addition to the study on Central District, the Transport Department is also conducting similar studies for Wan Chai, Jordan and Sham Shui Po. The studies are scheduled to be completed in early 2001. Furthermore, implementation of pedestrian schemes for Causeway Bay, Tsim Sha Tsui and Mong Kok has already commenced in phases since April this year.

Before designating a street into a pedestrianized street, the following major issues need to be addressed:

- (a) the impact of pedestrianization on traffic circulation in the area and the availability of traffic and public transport diversion routes;

- (b) the traffic impact on the alternative routes to which traffic would be diverted;
- (c) the impact of pedestrianization on the need to access and service the residential, commercial, and retail developments along the streets to be closed, and the availability of alternative arrangements; and
- (d) public acceptance of pedestrianization, including the residents, the transport trades and commercial operators affected by the scheme.

### **IT Professionals Coming to Work in Hong Kong**

8. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, with regard to foreign professionals in information technology (IT) coming to work in Hong Kong, will the Government inform this Council of:*

- (a) *the number of IT professionals who were given permission in the past three years to come to work in Hong Kong, and the number of such applications being processed;*
- (b) *the countries of origin of such professionals, the duties of their employment in Hong Kong and the length of the terms of employment as set out in their contracts in general; and*
- (c) *the main types of business conducted by the organizations employing such professionals, and the average number of such professionals currently employed by these organizations?*

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

- (a) Applications by all foreign professionals for entry into Hong Kong for employment are processed by the Immigration Department. The number of successful applications was 15 830 for 1997, 14 387 for 1998 and 13 762 for 1999 respectively. Whilst the Immigration Department does not maintain statistics on the number

of employment visa issued in respective fields, an ad hoc survey has been conducted covering the period from January to May 2000. The survey reveals that out of a total of 7 721 applications received during the period, 272 applications were related to employment of IT professionals. Of these applications, 216 were approved, two refused, four withdrawn and the remaining 50 were under processing.

Separately, since the inception of the Admission of Talents Scheme in December 1999 and up to end May 2000, we received a total of 214 applications. Among the 214 applications, 51 were related to the admission of IT talents. Out of the 51 cases, 10 (all involving mainland persons) were approved, 10 refused, 10 withdrawn, and the remaining 21 were under processing.

- (b) IT professionals who are allowed to take up employment in Hong Kong come from various countries and territories, including the United States, Europe, Australia, India, the Philippines, Singapore and Malaysia. Their employment contracts normally last for a few months to two years. In general, they are responsible for technical/network consultancy, systems design/analysis, software engineering and software development, and so on. On the other hand, IT talents admitted under the Admission of Talents Scheme are engaged in search and development, complex network and system design, and management of major IT/communications project. Their contracts usually last for two years.
- (c) The organizations employing such IT professionals and talents are mostly engaged in business related to information, communications, and/or multimedia technologies. Information available to the Immigration Department does not enable us to ascertain the average number of such IT professionals currently employed by these organizations.

According to statistics kept by the Census and Statistics Department, as at March 2000 the number of establishments of the Data

Processing and Tabulating Service Industry<sup>1</sup> broken down by employment size is set out below:

<i>Employment Size</i>	<i>No. of establishments</i>
1-4	2 095
5-9	353
10-19	204
20-49	113
50-99	35
100-199	9
200-499	3
Total	2 812

### **Homosexuals' Freedom to Participate in Religious Activities**

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

- (a) *whether they know if local churches have refused to let homosexuals participate in their gatherings or admit them as church members; if local churches have done so, whether the authorities have assessed if such refusals constitute discrimination on the grounds of sexual orientation; if they are discriminatory, of the measures the authorities will adopt to eliminate such discriminatory acts; if they are not discriminatory, the rationale for that; and*

---

<sup>1</sup> Data Processing and Tabulating Service Industry consists of establishments providing system analysis and programming services; data preparation services; data processing and tabulation services and data processing consultancy services. Its coverage includes:

- |                                   |                                       |
|-----------------------------------|---------------------------------------|
| - Calculation service             | - Data processing consultancy service |
| - Computer programming consultant | - Data processing service             |
| - Computer programming service    | - Inventory computing service         |
| - Computer software designing     | - System analysis service             |
| - Data preparation service        | - Tabulating and charting service     |

But excludes:

- Computer rental



- (b) *how they ensure that homosexuals enjoy the "freedom to participate in religious activities" guaranteed to Hong Kong residents under Article 32 of the Basic Law?*

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

- (a) We have not received any complaint in relation to refusal by local churches to let homosexuals participate in their gatherings or admit them as church members.
- (b) We are committed to the principle of equal opportunities. The Home Affairs Bureau has been undertaking publicity and public education activities to promote equal opportunities for all and in particular for minority groups such as homosexuals. For example, we have published a pamphlet to dispel misunderstandings about homosexuality, and a code of practice against discrimination in employment on the ground of sexual orientation to facilitate self-regulation by employers and employees. We have also operated an Equal Opportunities (Race and Sexual Orientation) Funding Scheme to encourage non-governmental organizations to organize activities to promote, *inter alia*, equal opportunities for people of different sexual orientation.

There has been no indication of any infringement of the homosexual's freedom to take part in religious activities. However, where necessary, the Bureau will discuss with the individual and religious body concerned with a view to resolving any matter in an amicable manner.

Furthermore, the freedom to participate in religious activities, apart from being guaranteed by Article 32 of the Basic Law, is also protected by the Hong Kong Bill of Rights Ordinance (BORO). Article 15 of the Bill of Rights (BOR), which reflects Article 18 of the International Covenant on Civil and Political Rights, provides that everyone shall have the freedom of religion, that no one shall be subject to coercion which would impair his freedom to have or to adopt a religion of his choice and that the freedom to manifest one's religion may be subject only to such limitations as are prescribed by

law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

The BORO binds the Government, all public authorities and any person acting on behalf of the Government or a public authority. A victim of violation or threatened violation of the BOR may seek remedies from the Court. If he can pass the merit test for taking action under the BORO, subject to a means test or the waiving of the financial eligibility limit, he can receive legal aid.

### **Operation of Mutual Aid Committees**

10. **MR JASPER TSANG** (in Chinese): *Madam President, regarding the number and operation of mutual aid committees (MACs), will the Government inform this Council of:*

- (a) *the number of MACs in Hong Kong at the end of each of the past five years;*
- (b) *the role of MACs and the government activities in which they participate at present;*
- (c) *the respective numbers of liaison officers and community organizers responsible for liaising with MACs and providing support to them in various District Offices in each of the past five years;*
- (d) *how the authorities assess the effectiveness of such liaison work; and*
- (e) *the measures in place to encourage those inactive MACs to play a more active role?*

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

- (a) The number of MACs in Hong Kong at the end of each of the past five years is provided below:

<i>Year</i>	<i>No. of MACs</i>
1995	3 962
1996	4 000
1997	3 927
1998	3 830
1999	3 750

- (b) An MAC is a voluntary body formed by the residents of a building. The main functions of an MAC are to promote a sense of neighbourliness, mutual help and responsibility among residents, and to promote better security, a better environment and more effective management within the building. It also provides a channel of communication between the Government and the residents on matters affecting their well-being as well as opportunities for residents to participate in community activities.

An MAC supports a variety of community projects and campaigns organized by the Government to improve the quality of life, such as the Healthy Living Campaign, Keep Hong Kong Clean Campaign, Road Safety Campaign, Private Building Cleansing Campaign, civic education programmes, voter registration campaigns and district fight crime activities. MAC members also participate in seminars or workshops relating to building management and fire safety.

- (c) The respective numbers of liaison officers and community organizers responsible for liaising with MACs and providing support to them in District Offices in each of the past five years are provided below:

<i>Year</i>	<i>No. of Liaison Officers</i>	<i>No. of Community Organizers</i>
1995	273	465
1996	279	473
1997	282	482
1998	292	497
1999	296	495

- (d) Generally speaking, the more effective MAC liaison work undertaken by District Offices is, the better would be the performance of MACs in discharging their functions. The effectiveness of our liaison work with MACs is, therefore, assessed by making reference to the following indicators:
- (i) the degree of communication and neighbourliness among residents;
  - (ii) the activeness of the MACs in organizing programmes or activities for its residents;
  - (iii) the activeness of MACs in participating in activities organized by the Government or community; and
  - (iv) the activeness of MACs in reflecting to the Government the views of residents.

Generally speaking, the MAC liaison work undertaken by the District Offices has achieved positive results in both building management and the maintenance of a harmonious community.

- (e) With regard to inactive MACs, Liaison Officers and Community Organizers will, in their visits to these MACs, offer support and advice to the MACs concerned to help them strengthen the co-ordination within the MACs and solve any problems they have encountered. The District Offices will pay greater attention to the daily operation of the inactive MACs and encourage more residents to participate in MAC work to ensure that the MACs are operating smoothly.

Moreover, District Offices organize seminars and workshop for residents to strengthen their knowledge and interest in the operation of MACs. Members of inactive MACs are encouraged to participate in community activities so that they may have more opportunities to meet other active MACs and share experience among themselves.

**Meetings with Mainland Public Security Authorities**

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

- (a) *of the number of meetings held with the mainland public security authorities over the past three years to discuss law and order problems of mutual concern and police co-operation matters; and*
- (b) *whether any consensus on tackling cross-border law and order problems has been reached at those meetings; if so, of the details?*

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

- (a) During the past three years, the Hong Kong police held 11 high-level regular meetings with the mainland public security authorities. These included the "Biannual Bilateral Meetings between the Hong Kong Police and the Mainland Public Security Authorities" and the biannual "Heads of CID Meetings between the Hong Kong Police and the Guangdong Public Security Department. A number of working meetings were also held on investigation of crimes as follows:

<i>Year</i>	<i>Number</i>
1997	67
1998	88
1999	109
[2000	74]
(up to May 2000)	

In addition, the Hong Kong police maintain close liaison and co-operation with their mainland counterparts through the established boundary liaison channel to resolve issues concerning cross-boundary law and order (for example, illegal immigration, smuggling), boundary administration and cross-boundary traffic and so on. The number of working meetings held under this channel is as follows:

<i>Year</i>	<i>Number</i>
1997	159
1998	150
1999	153
[2000 (up to May 2000)]	55]

(b) At these meetings, consensus was reached between the Hong Kong police and the mainland public security authorities on a number of issues for combating cross-boundary crimes and maintaining law and order. These issues include:

- the mode and scope of police co-operation;
- the channels and mechanism for liaison and co-operation;
- the mechanism for exchange of criminal intelligence and information;
- exchanges, joint exercises and training between the police on both sides.

Specifically on combating crimes, the consensus reached include the following:

- in respect of cross-boundary crimes, both sides will strengthen co-operation to jointly tackle organized and triad crimes, commercial crimes and drug-related crimes and so on;
- in respect of organized and triad crimes, both sides have exchanged intelligence and plan to organize a seminar on the *modus operandi* of triad crimes in the latter half of this year;
- in respect of drug problems, the Hong Kong Police have enhanced liaison with mainland provinces which are drug trafficking blackspots in the exchange of intelligence and in joining forces for combating drug trafficking;

- in respect of commercial crimes, besides stepping up efforts against the increasing cross-boundary commercial crimes, the Hong Kong Police plan to organize seminars on frauds involving letters of credit so that mainland investigation officers may have a better understanding on these crimes. In addition, the Economic Crime Investigation Division of the Guangdong Public Security Department have established direct links with the Commercial Crimes Bureau of Hong Kong to strengthen co-operation in such cases.

### **Internet Website Developed by Hong Kong Tourist Association**

12. **MR HOWARD YOUNG:** *Madam President, the Hong Kong Tourist Association (HKTA) has engaged a service provider to develop for it an Internet website which acts as a dedicated interface for visitors, local events and local ticketing agencies. The funding in the amount of \$10.8 million for the project is provided by the Government and the Tourism Development Fund. In this connection, will the Government inform this Council whether:*

- (a) *it knows the detailed findings of the cost-benefit analysis conducted by the HKTA in respect of the project;*
- (b) *it knows if the HKTA will adopt measures to prevent the website from evolving into an Internet powerhouse or a market leader in the online travel service industry, or becoming an independent profit-making entity;*
- (c) *The HKTA has assessed if the new website will become a barrier to and a competitor with local travel agents and travel service providers in entering the electronic commercial market of ticketing and other travel-related services; and*
- (d) *it has assessed if the HKTA's selection process for the service provider was fair and transparent?*

**SECRETARY FOR ECONOMIC SERVICES:** Madam President, the Tourism Development Steering Committee (TDSC) approved in August 1999 an allocation of \$3.86 million to the HKTA to develop an e-ticketing interface system. In essence, it is a website which will serve as an interface between overseas visitors and ticketing agents with e-commerce facilities. The main objectives of the system are to promote international events being staged in Hong Kong and to facilitate booking of tickets for these events by overseas visitors. Our response to questions raised regarding this project is set out below.

- (a) The HKTA has not conducted a cost-benefit analysis for the project. However, according to surveys conducted by the Association, it is estimated that the general overseas visitors attendance at major international events in Hong Kong is around 8%. The HKTA therefore hopes to make it more convenient for visitors to buy tickets through the interfacing arrangements provided.
- (b) The HKTA plans to set up hyperlinks between agents who can sell tickets over the Internet and the new system so as to enable overseas visitors to buy tickets for events in Hong Kong. We understand that the HKTA will only provide an interface but not provide the ticketing service itself. Payment for tickets will be settled directly between the consumers and the ticketing agents issuing the tickets through their own websites. It is not the intention of the HKTA to make profit from the ticketing transactions which may be brought about through the interfacing arrangements although consideration may be given to a charge to recover cost of the system.
- (c) The HKTA will not be acting as a ticketing agent nor selling any travel service on line through the proposed e-ticketing interface system. The HKTA is fully committed to providing an open and fair system for all trade partners to participate in the project. If an event is supported by more than one ticketing agent, all the agents will be listed on-line for visitor's choice. Under the project, the Association will not be competing with local travel agents or travel service providers in the business of selling tickets.
- (d) The contract for the project was let by competitive tender. Seven service providers were invited to tender in view of their technical capability and service quality. A Consultant Selection Committee



comprised of representatives from the Government, Hong Kong Institute of Planners and Hong Kong Institute of Surveyors was formed under the TDSC to review proposals submitted by the service providers and make recommendation for approval by the TDSC.

### **Parent Education**

13. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the work items initiated in respect of "parent education" in the past five years, as well as the financial provision for these items and the number of parents involved;*
- (b) *the difficulties encountered in implementing parent education at present; and*
- (c) *the measures it will adopt to enhance parent education?*

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

- (a) The Government fully recognizes the importance of parent education. Due emphasis has been made on this front over the years. At present, government-funded parent education is mainly delivered through the Education Department (ED), Social Welfare Department (SWD) and non-governmental organizations (NGOs).

#### *ED*

A Committee on Home-School Co-operation (CHSC), with members appointed by the Director of Education and drawn from parent representatives and educators, was set up in 1993 to advise on ways to promote home-school co-operation including parent education. At present, the CHSC is staffed by the ED. The CHSC is also provided with resources by the ED to organize

activities. Since its establishment in 1993, the CHSC has been playing an active role in promoting parent education and raising parents' awareness of their role in the education process. Activities organized by the CHSC include publishing brochures on parenting skills, conducting surveys relating to parents' involvement in education, setting up a parent centre to provide reference materials for parents, and launching a website on home-school co-operation.

On the advice of the CHSC, the ED disburses grants to schools for setting up parent-teacher associations (PTAs), and to PTAs for running various kinds of activities which help promote home-school co-operation. Many of these funded activities are related to parent education.

The expenditure on home-school co-operation (including parent education) activities funded by the ED in the past five years is as follows:

<i>Financial year</i>	<i>Expenditure (\$ million)</i>
1995-96	2.8
1996-97	3.0
1997-98	3.1
1998-99	5.0
1999-2000	9.0

The ED does not keep separate records on the expenditure spent on parent education activities. Nor does the Department keep statistics on the number of parents involved in such activities.

#### *SWD and NGOs*

The SWD, through the Department itself and its subvented NGOs, promotes parent education as part of the family life education programme. Activities organized include workshops and talks on parenting skills, supportive groups for parents to share experiences, publishing pamphlets on parent education, and launching a website on family life education.

The SWD does not keep separate records on the expenditure spent on family life education nor parent education. The Department also does not keep statistics on the number of parents involved in these activities.

- (b) A major difficulty encountered in promoting parent education is that many parents, due to various reasons, could not devote much time in joining these activities. The lack of parents' awareness of their importance in the education process also affects the promotion of parent education.
- (c) The ED, the SWD and the NGOs will continue their existing efforts to promote parent education. For example, the ED will organize a number of activities including the following:
  - (i) launching TV programmes on parent education starting from end July 2000;
  - (ii) providing more training to PTA members on how to organize parent education programmes;
  - (iii) enriching the content of the website on home-school co-operation; and
  - (iv) publishing feature articles in newspapers to promote good parenting skills.

The SWD will also enhance its website on family life education.

### **Criteria for Identifying a Road Section as Traffic Accident Blackspot**

14. **MRS MIRIAM LAU** (in Chinese): *Madam President, two serious traffic accidents involving head-on collision of vehicles happened on the Texaco Road flyover, Tsuen Wan on the 7th of January last year and on the 9th of this month respectively, causing a death toll of six persons in total. In this connection, will the Government inform this Council:*

- (a) *whether the above road section has been identified as a traffic accident blackspot, and of the criteria adopted for identifying a road section as a "traffic accident black-spot";*
- (b) *whether it has plans to install facilities on the above road section to divide the lanes in opposite directions; if not, of the reasons for that; and*
- (c) *of other measures in place to reduce the chances of traffic accidents occurring on the above road section?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, a record or junction is classified as an accident blacksite for accident investigation purpose if "six or more pedestrian injury accidents or "nine or more injury accidents of all types" have occurred in any given 12-month period. During the most immediate 12-month period, two traffic accidents occurred on the Texaco Road flyover. The site has not hence been classified as an accident blacksite for accident investigation purpose.

However, for road sections or junctions where serious traffic accidents have occurred, the Transport Department will conduct a review to examine their safety standard having regard to records of previous traffic accidents. A detailed review for the Texaco Road flyover is underway to examine the need for remedial measures of additional safety measures with a view to further enhancing the safety standard of the flyover.

The Texaco Road flyover is a single two-way carriageway with no central divider. It is not advisable to install any rigid barrier to physically separate the two traffic lanes as this will prevent the police from implementing any temporary traffic diversion to allow other vehicles on the same lane to pass over a traffic accident spot or a breakdown vehicle on the flyover.

To alert drivers that the traffic on the two lanes of the flyover is running in opposite directions, suitable road markings have been placed on the flyover and its approach roads. These marking include double white line separating the two

traffic lanes and straight-ahead arrow markings indicating the flow directions both on the approach roads and on the flyover itself. In addition to placing additional traffic signs on the flyover and its approach road, the Transport Department is actively considering the installation of collapsible cylinders along the centre line of the flyover to minimize the chance of drivers driving into the adjacent land by mistake.

### **Monitoring the Company Dominating the Electronic Payment Market**

15. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, regarding complaints by members of the jewellery retail trade and tourist industry that the company providing the Easy Pay System (EPS) services had changed the charging method for its service, it is understood that the company is formed by a consortium of 34 banks regulated by the Hong Kong Monetary Authority and, apart from EPS, it also provides other services such as Payment by Phone, Payment Express Terminal and Octopus Add Value Machine. In view of the monopolizing edge the company has gained in the electronic payment market, will the Government inform this Council whether it will consider monitoring the charging rate and operation of the company?*

**SECRETARY FOR FINANCIAL SERVICES** (in Chinese): *Madam President, as the electronic payment market of Hong Kong is a free and open market, there is no need for market entrants to apply for licences or to meet specific conditions. At present, apart from the EPS, there are many other electronic payment methods, such as credit cards and stored value cards. Other effective retail payment modes include cash and other banking products, for example, cheques and cashier's orders, and so on. The terms and conditions of these services are different and the charges varied. Some are even free of charge. Shops and consumers therefore can make their choices freely.*

Any company which believes that the payment market has potential for commercial development can join the competition and offer new products and modes of services. For example, a company has already expressed interest in introducing internet payment service for the customers of its member banks.

Shops and consumers who are not satisfied with the means of retail payment that they currently use may choose to switch to other methods of payment. We believe that market forces will foster further development of the electronic payment market. We will also be glad to see more payment services being introduced for the choice of consumers.

We are of the view that there is competition in the retail payment markets including the electronic payment market. There are no barriers of entry to the electronic payment market. The charging policy of EPS is its own commercial decision. From the viewpoint of maintaining the stability of Hong Kong's financial system and promoting the development of payment market, the Administration considers that there is no need for regulating the charging rate and operation of this type of companies for the time being.

### **Impact of Declining Property Prices**

16. **MR JAMES TIEN** (in Chinese): *Madam President, given that the current prices of residential properties have dropped substantially compared to those in 1997, when the property market was at its height, will the Government inform this Council whether:*

- (a) *it has statistics on the number of families owning residential units which have market values lower than the respective amounts of their outstanding mortgage loans;*
- (b) *it knows the number of residential units taken possession of by financial institutions because the mortgagors have defaulted on mortgage payments, in each month since January 1997; and*
- (c) *it has assessed the impact of the substantial downward adjustment in residential property prices on the economy of Hong Kong, the consumer sentiment of the public and their confidence in the future?*

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

- (a) The Hong Kong Monetary Authority (HKMA) does not collect statistics on the number of units which have market values lower than the respective outstanding mortgaged loans. This is largely due to the fact that the majority of authorized institutions do not conduct regular revaluation of all residential properties mortgaged to them. Generally speaking, such revaluations are normally performed in respect of defaulted mortgages only. The primary focus of authorized institutions is whether the loans are performing rather than the fluctuations in the values of the mortgaged properties.
- (b) The HKMA does not collect information on the number of residential units taken up possession by authorized institutions in each month due to defaulted payments. However, through its monthly residential mortgage survey on 33 authorized institutions active in such business, the HKMA has been collecting since June 1998 statistics on the total number of outstanding cases which are under "mortgagee actions". "Mortgagee actions" refer to steps taken by an authorized institution to enforce its right on the security of a residential mortgage loan in default. The steps include the appointment of a receiver, application to the Court to take possession of premises, application to the Court for a foreclosure order or exercising the power of sale.

The information collected from the surveys in respect of "mortgagee actions" is tabulated below. It should be noted that the figures represent the total number of "mortgagee action" cases which the authorized institutions are taking on the day of survey (the end of the month). As "mortgagee action" involves a series of procedures, a case may take over a month to complete, and a case may appear in the table more than once. Thus, the monthly total figure covers those "mortgagee action" cases which are newly initiated in the month and those initiated earlier and are still in progress.

<i>Month-end</i>	<i>Total Number of "mortgagee actions" being taken by authorized institutions</i>	<i>Change from the previous month</i>
June-98	182	-
July-98	225	+43
August-98	278	+53
September-98	341	+63
October-98	428	+87
November-98	506	+78
December-98	597	+91
January-99	699	+102
February-99	780	+81
March-99	893	+113
April-99	957	+64
May-99	1 038	+81
June-99	1 088	+50
July-99	1 209	+121
August-99	1 353	+144
September-99	1 473	+120
October-99	1 534	+61
November-99	1 629	+95
December-99	1 634	+5
January-00	1 752	+118
February-00	1 757	+5
March-00	1 854	+97
April-00	1 863	+9
May-00	1 913	+50

- (c) The fall in residential property prices will in general dampen the asset market and create a negative sentiment on wealth. This may in turn weaken domestic consumption and internal demand. However, property price is only one of the many factors influencing the health of the Hong Kong economy.

With the strong recent momentum of economic recovery, all major sectors are on an uptrend, showing that the recovery process has broadened and consolidated. After a distinct pick-up to a 9.2%



growth in the fourth quarter of 1999, the Gross Domestic Product (GDP) attained a further growth of 14.3% in real terms in the first quarter of 2000 over a year earlier. This was the fastest growth recorded since the third quarter of 1987.

With the economy picking up strongly since the beginning of this year and the external environment remaining good, it is expected that the GDP for 2000 will attain a growth of 6% in real terms. The forecast growth rate has taken into account the impacts of the relative sluggish asset market and the upward trend of interest rate on local consumption and investment. Recently, China has reached an agreement with the European Union on its accession to the World Transport Organization and the United States House of Representative has passed the act to grant Permanent Normal Trade Relations (PNTR) status to China. These factors will render support to the confidence in and performance of the economy in the latter part of this year, and thereby alleviate the possible negative effect on domestic demand resulted from the fall in residential property prices.

### **Use of Recycled Aggregates by Construction Industry**

17. **MISS CHRISTINE LOH:** *Madam President, regarding the Government's effort to reduce construction and demolition waste and the potential for the use of recycled aggregates by the construction industry, will the Government inform this Council:*

- (a) *whether it knows the weight of filling materials both imported and used by the construction industry in each of the last two years;*
- (b) *of the total weight of filling materials used in public works in each of the last two years;*
- (c) *of the respective total weights of construction and demolition waste generated by public works and by the whole construction industry over the last two years;*

- (d) *of the estimated weight of recycled aggregates produced in Hong Kong that can be utilized for non-critical uses such as roads, foundations and so on during the next two years;*
- (e) *of the number of sets of specifications for the composition of concrete used by different government departments, and the details of each set of specifications;*
- (f) *of the division of responsibilities and the timetable for amending these specifications to enable the use of recycled aggregates; and*
- (g) *of the estimated savings to the Government arising from the use of recycled aggregates in place of new filling materials and the opportunity costs of saved landfill space?*

**SECRETARY FOR WORKS:** Madam President,

- (a) In accordance with our records on public works and the information provided by private sector, the quantities of filling materials imported from sources outside Hong Kong by the construction industry in 1998 and 1999 were about 2.14 million cu m (3.9 million tonnes)<sup>2</sup> and 2.84 million cu m (5.1 million tonnes) respectively. The quantities of filling materials used by the construction industry in 1998 and 1999 were about 11 million cu m (19.8 million tonnes) and 14.7 million cu m (26.5 million tonnes).
- (b) The total quantities of filling materials used in public works in 1998 and 1999 were about 8.8 million cu m (15.7 million tonnes) and 13.4 million cu m (24.1 million tonnes) respectively.
- (c) The total quantities of C and D materials generated by the whole construction industry in 1998 and 1999 were about 6.5 million cu m (11.7 million tonnes) and 7.5 million cu m (13.5 million tonnes) respectively. The public sector, including the works departments, the Housing Department, MTRC and KCRC, produced about 47% of the total C and D materials, which amounted to about

---

<sup>2</sup> using a conversion factor of 1 cu m = 1.8 tonnes

3.1 million cu m (5.5 million tonnes) and 3.5 million cu m (6.3 million tonnes) in 1998 and 1999 respectively.

- (d) The weight of recycled aggregate produced in Hong Kong that can be utilized for non-critical uses cannot be estimated at this stage since there is no recycling facility to produce recycled aggregate at a guaranteed quality at present. The Civil Engineering Department will commission a temporary C and D material sorting facility at Tseung Kwan O Area 137 by the end of July 2000. Also, the Works Bureau (WB) has identified the Tolo Highway widening project for the trial use of recycled aggregate as road sub-base material. The WB will also identify three or more projects for the trial use of recycled aggregate. Subject to the recycled aggregate from the sorting facility passing compliance tests, it will be used in these trial projects. Tests will be undertaken to collect data to assess the performance behaviour of the recycled aggregate under actual working conditions. After collecting sufficient data, we will look at the feasibility of wider use of recycled aggregate in Public Works Programme projects. Since the use of recycled aggregate at this stage is limited to trial projects, the quantities will be insignificant.
- (e) There are basically three sets of specifications being used by the works departments and the Housing Department. The General Specification for Civil Engineering Works is used in civil engineering works of public works projects. The General Specification for Building is used in building works of public works projects. The Housing Department use HKHA Specification Library for their housing projects. Details of the specifications for specified concrete strengths cover different mixes of cementitious materials, weight of aggregates of specified sizes, admixtures for concrete, water/cement ratio, and so on.
- (f) The WB Standing Committee on Concrete Technology is responsible for the review of concrete specifications for public works contracts. The Committee has already concluded that the use of recycled aggregate should only be considered in low strength concrete for non-critical uses at this stage. Draft specifications for using recycled aggregate in low strength concrete have been

prepared. A Task Group chaired by the Civil Engineering Department is reviewing other specifications for public works projects to explore the possibility of using recycled C and D materials. Since the specifications cover a wide range of areas, the revision to the specifications is in stages and is expected to be completed by the end of 2000. Draft specifications for using recycled aggregate as road sub-base have been prepared. For earthworks, suitable C and D materials (that is public fill) have already been used in many Public Works Programme projects.

- (g) We are not able to estimate the savings to the Government due to the absence of a market to provide a steady supply of recycled aggregate of guaranteed quality. We plan to invite tenders in 2001 to establish a pilot C and D material recycling facility at Kai Tak Airport by early 2002. The pilot project would provide the necessary information to estimate the costs of recycled aggregate. For existing landfills, the capital/operating costs and land opportunity cost at 1998 price levels are about \$125/tonne and \$90/tonne respectively.

## **BILLS**

### **Second Reading of Bills**

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Road Traffic Legislation (Amendment) Bill 1999.

### **ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 8 December 1999**

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

**MR DAVID CHU:** Madam President, as Chairman of the Bills Committee on Road Traffic Legislation (Amendment) Bill 1999, I wish to report on the work of the Committee.

The Road Traffic Legislation (Amendment) Bill 1999 seeks to implement a probationary driving licence scheme for inexperienced motorcyclists. During the 12-month probationary driving period, an inexperienced motorcycle or motor tricycle driver is subject to various restrictions prescribed in the Bill.

We have held two meetings with the Administration.

We notice that the accident involvement rate of inexperienced motorcyclists has remained at high level over the years. We, therefore, welcome the Administration's proposal to introduce a probationary driving licence scheme for inexperienced drivers of motorcycles and motor tricycles. We trust that this will enable them to gain more road experience under a more restrictive, hence, safer driving environment before being granted a full driving licence.

We have also examined the appropriateness of extending the probationary driving licence scheme to drivers of private cars and light goods vehicles. We note that in the past five years, motorcyclists had a much higher accident involvement rate (an average of 21 per 1 000 drivers) than those of private cars and light goods vehicles (6.4 and 3.7 per 1 000 drivers respectively). Among motorcyclists, inexperienced drivers had an accident involvement rate of about five times that of experienced drivers. For private cars and light goods vehicles, the accident involvement rates of inexperienced drivers were only 1.8 and 1.9 times higher than those of experienced drivers respectively. Given the significantly higher accident involvement rate of inexperienced motorcyclists in Hong Kong, we agree with the Administration that we should target at drivers of motorcycles and motor tricycles as a matter of priority. We consider that the proposal to extend the probationary driving licence scheme to cover drivers of private cars and light goods vehicles should be pursued separately, taking into account the trend of the accident involvement rates of private cars and light goods vehicles and the views of the general public.

We understand that the Honourable Andrew CHENG holds a different view. He has pointed out to us that the idea to introduce a probationary driving licence scheme for drivers of private cars and light goods vehicles had already

been put to the Administration for consideration when the Panel on Transport was consulted in 1998 on the probationary driving licence scheme for motorcyclists. As such, he cannot accept that the proposal shall be withheld, pending another round of consultation.

Madam President, the Bills Committee raises no objection to the Administration's proposal to implement the probationary driving licence scheme for motorcyclists on 1 October 2000. We note that the Administration will move a Committee stage amendment to this effect, together with a consequential amendment to the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg.). We support the Committee stage amendments from the Administration.

With these remarks, I support the Second Reading of the Bill.

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

**MR CHAN WING-CHAN** (in Cantonese): Madam President, each year, there are some 20 000 traffic accidents that involve casualties in Hong Kong. Thus, we cannot but be concerned about road safety. According to figures provided by the Transport Bureau, in the past five years, the accident involvement rate of motorcyclists (21 per 1 000 drivers) was more than three times and five times that of private cars and light goods vehicles respectively. This shows that the risk of motorcycles is higher than that of other types of vehicles.

Among motorcyclists, inexperienced drivers had an accident involvement rate as high as five times that of experienced drivers. The fact that the accident involvement rate of motorcyclists is higher than that of other vehicles came as a cause of grave concern to us.

To ensure the safety of inexperienced motorcyclists and other road users, the Government has proposed the Road Traffic Legislation (Amendment) Bill 1999 to introduce the 12-month probationary driving licence scheme for inexperienced motorcycle and motor tricycle drivers. During the period, apart from being required to display a "P" plate at the front and rear of the vehicle, they are prohibited from carrying any passenger, from driving at a speed of more than 70 km/h, and from driving on the offside lane of an expressway.

While these restrictions will cause inconvenience to inexperienced drivers, they will enable motorcycle and motor tricycle drivers to gain more road experience under a safer driving environment as well as ensure the safety of other road users. Given that "life is priceless", the requirements proposed by the Government are reasonable. Therefore, the Hong Kong Federation of Trade Unions and the Democratic Alliance for the Betterment of Hong Kong support the Bill.

Madam President, I so submit. Thank you.

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

(No Member responded)

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the Road Traffic Legislation (Amendment) Bill 1999 seeks to amend the Road Traffic Ordinance and its subsidiary legislation, that is, the Traffic Accident Victims (Assistance Fund) Ordinance and the Fixed Penalty (Criminal Proceedings) Regulations. The Bill will implement a probationary driving licence scheme for inexperienced motorcyclists who can gain more road experience under a more restrictive, hence, safer driving environment before a full driving licence is granted. With the implementation of this scheme, we hope to reduce the accident involvement rate of inexperienced motorcyclists and improve road safety. Since its tabling to this Council on 8 December last year, the Bills Committee has scrutinized the Bill in detail and provided valuable views. Today, I would like to express my sincere gratitude to the Chairman and members of the Bills Committee for their support of the Bill and the resumed Second Reading debate. I will propose a number of Committee stage amendments on the Bill concerning the technical aspects later, including stipulations on the commencement date and consequential amendments to the Schedule of the Fixed Penalty (Criminal Proceedings) Regulations.

Madam President, I commend the Road Traffic Legislation (Amendment) Bill 1999 to Members.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Road Traffic Legislation (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 1999**

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

**CLERK** (in Cantonese): Clauses 2 to 14.



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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 1 and heading of Part IV.

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam Chairman, I move the amendment to clause 1 and heading of Part IV, as set out in the paper circularized to Members.

These amendments are pure technical. They stipulate the effective date of the Bill to be 1 October this year and make consequential amendments to the Schedule of the Fixed Penalty (Criminal Proceedings) Regulations.

The amendments are supported and endorsed by the Bills Committee. I urge Members to support the Government's amendments.

*Proposed amendments*

**Clause 1 (see Annex IV)**

**Heading of part IV (see Annex IV)**

**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 Transport be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 1 and heading of Part IV 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): Heading before  
new clause 13A

Fixed Penalty (Criminal  
Proceedings) Regulations

New clause 13A

Schedule amended.

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam Chairman, I move that heading before new clause 13A and new clause 13A, as set out in the paper circularized to Members, be read the Second time.

These are technical amendments to revise the Schedule of the Fixed Penalty (Criminal Proceedings) Regulations.

The clause is supported and endorsed by the Bills Committee. I urge Members to support the Government's amendment. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That heading before new clause 13A and new clause 13A 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): Heading before new clause 13A and new clause 13A.

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam Chairman, I move that heading before new clause 13A and new clause 13A be added to the Bill. I urge Members to support the Government's amendment. Thank you, Madam Chairman.

*Proposed additions*

**Heading before new clause 13A (see Annex IV)**

**New clause 13A (see Annex IV)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That heading before new clause 13A and new clause 13A 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.

**ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 1999**

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

Road Traffic Legislation (Amendment) Bill 1999

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

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Road Traffic Legislation (Amendment) Bill 1999.

**Resumption of Second Reading Debate on Bill**

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

**ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2000****Resumption of debate on Second Reading which was moved on 1 March 2000**

**PRESIDENT** (in Cantonese): Mr CHAN Kwok-keung, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's report.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, as Chairman of the Bills Committee on Road Traffic Legislation (Amendment) Bill 2000, I wish to report to this Council the deliberations of the Bills Committee.

The Bills Committee has conducted a total of four meetings with the Administration and received two submissions and met the representatives from nine transportation organizations.

Although the Bills Committee and the transportation organizations support the imposition of heavy penalties for more serious speeding offences, in view of the unrealistic speed limits on certain road sections and the lack of suitable advance warning signs and road markings, they think that it is difficult to remind motorists to make timely preparations and adjust speed for an abrupt change in speed limits ahead. Besides, members of the Bills Committee are of the view that the complexity of the existing speed limit structure in Hong Kong easily makes motorists inadvertently commit a speeding offence. In the light of the above imperfections, members are concerned about whether increasing the penalty levels for the more serious speeding offences at this stage will be unfair to motorists.

During our scrutiny, members have considered simplifying the speed limit structure into three tiers (that is, 50/70/100 km/h or 60/80/100 km/h), and imposing different penalties on different speeding offences on the basis of different speed limit structures. According to the Administration, excessive

speeding on road sections with a lower speed limit in the urban area may pose a greater potential hazard than excessive speeding on expressways as there are more pedestrians and vehicles using those road sections.

The Administration holds the view that the speed limit structure in Hong Kong is in line with international practice. A consultancy study conducted in 1999 also showed that the existing structure suited the situation in Hong Kong and it was not necessary to make any changes.

The Bills Committee notes that in the Administration's comprehensive review of the speed limits of some 40 major road sections in the past two years, the speed limit on 18 of them have been relaxed while the speed limits of the remaining road sections remain unchanged. Even so, the Bills Committee thinks that the speed limits of individual road sections, especially those in the periphery of new towns, may be relaxed to 70 km/h.

The Administration notes the concern of the Bills Committee and agrees to review the speed limits of all trunk roads and primary distributors in the periphery of new towns with speed limits set at 50 km/h.

The Administration has also pledged to place "reduce speed signs" and yellow bar road markings on major highways and approaches to road tunnels to remind motorists to reduce speed earlier so as to meet the speed limit of the road section ahead.

Members note that the Administration proposes to increase penalties for serious speeding offences on 1 January 2001, and the review of speed limits on the road sections and the installation of road signs mentioned above would have been completed then. The Bills Committee also notes that the Gazette notice of appointing the commencement date of the Bill should be subsidiary legislation subject to approval by the Legislative Council. And, at the request of the Bills Committee, the Administration undertakes to report to the Panel on Transport on the relevant work before submitting the relevant subsidiary legislation appointing the commencement date of the Bill.

Madam President, I have elaborated the deliberations of the Bills Committee. The Bills Committee supports the resumption of the Second Reading of the Bill.

I know that Mrs Miriam LAU will later move a Committee stage amendment to maintain the existing driving-offence points system under which motorists have points deducted for driving in excess of the speed limits by 30 km/h to 45 km/h . Mr LAU Kong-wah will also move an amendment to maintain the current penalty levels for driving in excess of the speed limits by 30 km/h to 45 km/h.

Madam President, the following are my remarks as a member of the Bills Committee.

Madam President, the purpose of the Road Traffic Legislation (Amendment) Bill 2000 introduced by the Administration is to target at motorists who are heedless of safety and alert them to irresponsible driving conduct. The Government proposes to amend the relevant Ordinance, particularly pinpointing at motorists driving in excess of the speed limits by 30 km/h to 45 km/h and imposing heavier penalties on them, while the penalties for less serious speeding offences remain unchanged.

The original intent of the Government's amendment is to protect the safety of road users which is not at all controversial. Serious speeding not only endangers the safety of motorists but also poses a serious threat to the safety of other road users. Serious speeding should especially be prohibited in such a small place as Hong Kong with a high density of vehicles and narrow roads.

A lot of people think that the relevant amendments should have been accepted by motorists and the transportation trade, and there should be no problem with them. Yet, the reality is quite the opposite and many people have reservations about the Government's amendments. According to them, the speed limit system in Hong Kong is defective and road users often commit speeding offences inadvertently. It is really unfair to motorists for the Government to increase penalties before solving the relevant problems.

Some may say that motorists have the responsibility of paying attention to roadside speed limit signs. If motorists often drive on certain road sections, the problem should not be too big once they form the habit. But I would like to say that roadside signs are sometimes not very clear and signs are even not placed at some road sections. As some professional drivers such as taxi drivers travel all over the territory, excessively tedious speed limits will virtually increase the chances of their violating the relevant ordinance.



Taking into account the advent in road design and improved performance of motor vehicles, motorists may safely drive at high speeds. However, the Government still sticks to a minimum speed limit of 50 km/h, as a result, many road users inadvertently drive in excess of speed limits when they use such road sections with speed limits that need to be relaxed. There are also great speed limit variations at the interchanges between expressways and other road sections, and motorists will be prosecuted by traffic policemen when they are not aware of such changes. Quite many professional drivers have told me that the existing signs are inadequate and there may be a difference of 20 km to 30 km between the speed limits of some road sections, thus, motorists will commit serious speeding when they are less alert.

To improve the situation, the Government has reviewed some 40 major road sections and considered relaxing the speed limits for another 15 road sections upon the request of some groups. It has also placed yellow bar road markings at locations which involve a significant reduction in speed limit, for example, at the approaches to the toll plaza on North Lantau Highway, to remind motorists of changes in speed limits. The Hong Kong Federation of Trade Unions and the Motor Transport Workers General Union welcome this. Nevertheless, I request the Government to review the speed limits of all roads in Hong Kong and to extensively consult the public especially those in the transportation trade and give the public an account of the reasons why the speed limits of some road sections cannot be relaxed. In addition, the Government should expeditiously install additional signs at road sections with substantial changes in speed limits to prevent motorists from violating the legislation inadvertently.

Madam President, I so submit.

**MRS MIRIAM LAU** (in Cantonese): Madam President, Members of this Council, the general public and law-abiding drivers absolutely support the imposition of heavier penalties on drivers committing serious speeding offences. Both the Legislative Council Panel on Transport and the Bills Committee have spent considerable time on discussion before the Bill is able to resume its Second Reading today. It does not, however, mean that Members harbour any intentions to deter the passage of the Bill. On the contrary, we want to ensure that the imposition of heavier penalties can be effected in a fair and reasonable manner so as to convince the offenders that they are being punished with sound justifications.

Actually, the focus of Members' concern is that the unreasonable speed limits for many road sections have given rise to speeding traps. Furthermore, Members are concerned that drivers are not warned of abrupt change in the speed limits for the road sections ahead because of the lack or inadequacy of warning signs at certain road sections. As they are not aware of the lower speed limits, they will continue to drive at their prevailing speed, thus committing speeding offences. Many violations are caused by the fact that drivers fail to reduce the speed of their vehicles in time.

Because of the existence of numerous speeding traps, I have received a lot of complaints from the trade over the past few years and reflected this situation to the Government. In last year as well as this, the Government reviewed a great number of roads and has actually relaxed the speed limits for some road sections. Nevertheless, the mechanism for reviewing speed limits is still far from comprehensive. As a matter of fact, roads built in the past decade or so, that is, roads built in Hong Kong, have seen constant improvements in terms of quality. The speed limits permissible by road surface have raised substantially, while the construction and safety systems of vehicles have also been constantly improved. Under such circumstances, road surface speed limits can actually be raised. As such, I have proposed a principle for reviewing speed limits — the speed limit should be at least 70 km/h for new roads outside urban areas, particularly roads in new town fringe areas. Speed limit should only be lowered to 50 km/h under very exceptional circumstances, particularly when road safety is being affected. In deciding whether a speed limit should be lowered to 50 km/h or fixed at over 70 km/h, the Government should consult the trade extensively and, if possible, try every possible means to solicit the views of the general public. In making a decision, the Government should also offer detailed rationales to explain why the speed limit for certain new roads should be lowered to 50 km/h. I am glad that the Government has accepted my proposal and reviewed the speed limits of roads outside urban areas in accordance with this principle. I hope the Government can really carry out its work in concrete terms this time and prevent the reoccurrence of so many disputes.

A reasonable speed limit can not only improve traffic flow, but also improve driving safety. Let me cite the Tuen Mun Road as an example. The speed limit for some sections of the Road has been relaxed from 70 km/h to 80 km/h. I have the experience of driving on these road sections and finding substantial improvement in traffic flow after the relaxation, despite the fact that the speed limit has only been increased by 10 km/h. I also noted that fewer

vehicles opted for "cutting lanes and overtaking". Many accidents were actually caused by the fact that drivers opted for "cutting lanes and overtaking" because they were reluctant to drive at an exceedingly low speed. Such acts have been one of the causes of traffic accidents.

Over the past several years, I have also received numerous complaints from the trade alleging that they failed to respond promptly in lowering the speed of their vehicles because of a change in speed limit, particularly at the very moment when the speed limit starts to lower. When they failed to lower their speed, policemen "waiting for them cordially" at road junctions would issue them a "penalty ticket". At a meeting held by the Bills Committee, I was pleased to learn that the police had promised that such traps would no longer exist. This means that we will find no more policemen "waiting" for us when our vehicles start to reduce speed. I hope that policemen will "catch speeding vehicles" only after such vehicles have entered a low-speed section for a certain period of time. In addition, I welcome the Administration's decision to install warning signs or additional warning signs to warn drivers of changes in speed limits for the road sections ahead.

On the speeding issue, I have held a number of meetings to consult the transport sector. Actually, such meetings were held during the last one or two years. People in the trade have been constantly consulted on whether roads in Hong Kong meet a reasonable standard and which road sections are, in their opinion, in need of changes. We have also reflected their views to the Government. People in the transport sector have expressed strongly that the speed limits for many roads in Hong Kong are extremely unreasonable and they are often at a loss as to what to do as a result. Nevertheless, most trade representatives attending these meetings supported that the Government should combat serious speeding. As such, the transport sector supports the proposal of raising the driving-offence points from eight to 10 and the penalty from \$450 to \$1,000 for speeding in excess of 45 km/h.

As there are still a lot of speeding traps on the roads and the speed limits for numerous roads are still not rationalized (though the Government says that a review will be conducted but the situation remains the same up till now), tremendous pressure will be imposed on the transport sector if one more point is to be incurred for speeding in excess of 30 km/h to 45 km/h, not to mention the present practice of incurring five points which is already a very heavy penalty for drivers. As such, the transport sector is of the view that speeding in excess of

30 km/h to 45 km/h should incur five points as is now the law. On the speeding issue, although the trade objects to the proposal of incurring one more point and hopes to maintain the five-point level, it has reacted in a rational manner. People in the trade well understand that if the penalty, including the fine, imposed for speeding in excess of 30 km/h to 45 km/h remains unchanged, it might send out a wrong message. As a result, drivers and members of the public might think that speeding in excess of 30 km/h is not a serious offence and only speeding in excess of 45 km/h warrants a heavier penalty and an additional fine. As such, the transport sector does not object to raising the fine from \$450 to \$600. Judging from their standpoint, it is clear that they discourage speeding in excess of 30 km/h, no matter under what circumstances and how sound the reasons are. The transport sector will definitely object to speeding.

Based on the abovementioned reasons, I will introduce a Committee stage amendment later on to delete the provision for raising the driving-offence points from five to six with respect to speeding in excess of 30 km/h but below 45 km/h.

Madam President, I so submit.

**MR LAU KONG-WAH** (in Cantonese): Madam President, today, the Government asks this Council to vote in support of the imposition of heavier penalties on speeding offences. The Democratic Alliance for the Betterment of Hong Kong (DAB) will introduce amendments for not all of the new penalties proposed by the Government are reasonable. Moreover, the Government has failed to thoroughly address the problem related to traps laid by it. At the last meeting of the Bills Committee, the Government could still raise 15 road sections where a review will be conducted but its result would not be available until the end of this year. This precisely illustrates the fact that road sections where unreasonable speed limits are imposed might still be found today.

With the imposition of unreasonable speed limits, raising financial penalties and incurring additional driving-offence points will only penalize more and more innocent people. It has now become a common phenomenon that the speed limit for some road sections will lower from 80 km/h to 50 km/h abruptly. Moreover, we can frequently find traffic policemen taking enforcement action. As a result, vehicles were caught one after another. Why? To start with, warnings are not clear enough to remind drivers of immediate speed reduction in

time. Consequently, when drivers realize that they have entered a new speed limit section, they might choose to brake suddenly but this practice is actually extremely dangerous. As for those who have better safety awareness, they will lower the speed of their vehicles gradually. Unfortunately, they will end up being "issued a penalty ticket" or "taken a picture for speeding". This is disgusting and unreasonable insofar as all drivers are concerned.

There is a fundamental problem with speed limits imposed in Hong Kong and that is related to its excessive classification — namely 50 km/h, 70 km/h, 80 km/h, 100 km/h and 110 km/h. This classification system has led to numerous adverse consequences. First, it has caused confusion to drivers. Second, there are some road sections where speed limits suddenly reduce. I wonder why it is impossible for Hong Kong to adopt a three-tier road system enforced in most foreign places, such as one in which 60 km/h, 80 km/h and 100 km/h are used, to give us a completely clear picture. Otherwise, with the completion of more and more new expressways, drivers will only be penalized for speeding in excess of 30 km/h more easily.

Madam President, during the Bills Committee stage, a number of Members and people of the trade expressed support for combating speeding behaviour, but under the prerequisite that there are reasonable speed limits. Otherwise, the law on the imposition of heavier penalties and additional driving-offence points will easily become a draconian law. As regards serious speeding behaviour, most Members and people of the trade opine that a slightly heavier penalty can be imposed so as to stem the unlawful acts committed by those who do not care for the safety of other people on the roads.

As such, the DAB will not object to all amendments to be introduced by the Government. However, it will object to raising the penalty imposed for speeding in excess of 30 km/h to 50 km/h for the Government has failed to conduct a comprehensive review of speed limits imposed in Hong Kong. It will be unfair to all drivers in the territory if heavier penalties are imposed and additional driving-offence points incurred under such circumstances.

The DAB will only introduce a very simple amendment — to delete the Government's proposed amendment concerning 30 km/h to 45 km/h in order to maintain the existing amount of fines and number of points. This practice will retain a punitive effect on unlawful acts but will not undermine the effort of the Government and the police in combating speeding offences. I hope Honourable colleagues can support the DAB's amendment. Thank you, Madam President.

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

**MR ANDREW CHENG** (in Cantonese): Madam President, the Democratic Party supports the Government's proposals of imposing heavier penalties on speeding offences of a more serious nature. Nevertheless, before the implementation of these proposals, the following issues must be resolved so that the proposals can be implemented in a fair and impartial manner.

First, the speed limit classification. I have repeatedly raised in the Bills Committee the complexity of Hong Kong's speed limit structure. Many drivers will fall into speeding traps just because they are not familiar with the speed limit for a certain road section. It is therefore essential for the Government to simplify the existing speed limit classification from the five-tier system (that is, 50/70/80/100/110 km/h) to a three-tier system (that is, 50/70/100 km/h or 60/80/100 km/h). But regrettably, the Government still insists that the existing speed limit classification is a three-tier system and that the current speed limit structure is suitable to the local situation. As a result, it is reluctant to revise it.

Second, regarding the speed limits. At present, the speed limits for certain roads are actually extremely low. Moreover, there is a lack of proper warning signs and road markings along the roads. As a result, drivers easily fall into speeding traps. Although the Government has conducted a review on the speed limits of a few dozens of road sections in Hong Kong, relaxation has been effected in only a few road sections. As such, I would like to urge the Government to conduct a comprehensive review of speed limits for all the roads in Hong Kong, particularly trunk roads in new town fringe areas, in an expeditious manner.

Madam President, I would like to state the position of the Democratic Party on the following two amendments. To start with, the Democratic Party is unable to support Mr LAU Kong-wah's amendment. This is because Mr LAU's amendment only aims to impose a heavier penalty on drivers for speeding in excess of 45 km/h, while the same penalty will be imposed for speeding in excess of 30 km/h to 45 km/h. The Democratic Party is of the view that although offences related to speeding in excess of 30 km/h to 45 km/h account for a few percentage points of all speeding offences, a driver will have driven at

a speed of 130 km/h to 145 km/h if he is driving at a speed in excess of 30 km/h to 45 km/h on a road where 100 km/h is permitted. This is extremely dangerous for road users.

If only those who are found to have driven in excess of 45 km/h of the speed limit receive a heavier penalty while those in excess of 30 km/h to 45 km/h receive the same penalty, it will very probably send out a wrong message to drivers. As a result, they might think that speeding in excess of 30 km/h to 45 km/h is not too serious. This actually defeats the legislative intent of the Bill, which aims to enhance the safety of road users, including drivers, passengers and pedestrians. As such, the Democratic Party is unable to support Mr LAU Kong-wah's amendment.

Likewise, the Democratic Party is unable to support Mrs Miriam LAU's amendment. From the angle of road safety, the incurring of driving-offence points is the most effective punitive measure which carries the greatest deterrent effect. From our point of view, it is more effective than fixed penalties. Therefore, insofar as people who drive at a speed in excess of 30 km/h to 45 km/h of the speed limit are concerned, it will not produce a deterrent effect if only fixed penalties are imposed without raising the number of driving-offence points incurred at the same time. For the same reason, it cannot comprehensively enhance the protection of the safety of road users. Therefore, the Democratic Party finds it impossible to support Mrs Miriam LAU's amendment.

Lastly, Madam President, I want to stress that the Democratic Party supports the imposition of heavier penalties on serious speeding offences. Nevertheless, as many problems, including those I have raised, remain unresolved at the moment, drivers will fall into speeding traps very easily. I would therefore like to urge the Government to expeditiously review the local speed limit classification and problems related to speed limits on roads in Hong Kong so as to enable the Bill to be implemented in accordance with a fair and impartial principle.

With these remarks, Madam President, I support the resumption of the Second Reading of the Bill.

**DR RAYMOND HO** (in Cantonese): Madam President, some Members might consider this topic a simple subject when the Bill was first discussed by the Bills Committee, for the imposition of heavier penalties on speeding appeared to be nothing complicated. However, this is actually not the case. If we are to raise the level of financial penalties, we shall aim not only at preventing drivers from speeding at will for the sake of public safety. At the same time, we consider the speed limit system a matter of paramount importance. Otherwise, like this incident, it may spark off numerous opinions, including those from the general public and Honourable Members, who consider that the Government has failed to pay particular attention to the existence of numerous traffic traps. Subsequently, many drivers fell inadvertently into these traps despite the fact that they had no intention at all of breaking the speeding law.

We have discussed a number of examples during several meetings held by the Bills Committee. Particular reference was made to Tai Chung Kiu Road in Sha Tin New Town. This is because the speed limit for the trunk road leading from the Lion Rock Tunnel towards Sha Tin is 80 km/h. However, the speed limit suddenly changes to 50 km/h when it comes to the section of Tai Chung Kiu Road adjacent to Shing Mun River. I also noted that drivers were frequently charged for speeding on this road fringing the New Town over the past few years. In my opinion, it is not at all scientific for the Government to rely on traffic signs to warn drivers of the change in speed limit from 80 km/h to 50 km/h despite the provision of traffic signs and warning notices in the area. This is because it is not so easy for drivers to notice the traffic signs while they are driving. Sometimes, a double-decker bus or lorry might pass by when the drivers are trying to watch out for traffic signs, thereby blocking the traffic signs or what they should have seen. Furthermore, there is a lack of eye-catching yellow road markings on the road surface to warn drivers. As a result, drivers often fail to notice the sudden change in speed limit from 80 km/h to 50 km/h and find it difficult to reduce speed. Traffic policemen often set up speeding detectors among trees on roadsides to take pictures of speeding vehicles at this road section. I consider this practice not fair given such circumstances. This is because a fair and reasonable system must be in place as a prerequisite for the imposition of speed limits. Insofar as the overall traffic management mode is concerned, it is important that the general public is given a good understanding of speeding charges so as to prevent them from violating rules easily. In particular, we should prevent those who have no intention to violate rules to fall into traps just because of carelessness.



As regards financial penalties, the Government's motion mainly targets speeding offences of a more serious nature. I agree that heavier penalties should be imposed for such offences. This is because if the specified speed limit is 100 km/h, one will be driving at 145 km/h if he is driving in excess of the speed limit by 45 km/h. However, my view is slightly different from that held by Mr Andrew CHENG, particularly in the area of low-speed restrictions. Let me cite an example. If one drives at a speed in excess of the speed limit by 45 km/h on a road section which is subject to a speed limit of 50 km/h, he will actually be driving at a speed of 95 km/h. In urban areas, the impact of this speeding behaviour on public safety will be even more serious. For these reasons, I support the imposition of heavier penalties on serious speeding offences.

I also agree to the Government's proposal of maintaining the old penalty for minor speeding offences. Still, I hope that the Government can appreciate Members' concerns after discussing with the Bills Committee. Actually, we are only asking for a fair and reasonable mode of speed limits. Of course, if we should insist on maintaining the speed limit at 50 km/h for urban areas, 70 km/h for some other areas, 80 km/h or 100 km/h for highways of a higher standard, and even 110 km/h for highways in Lantau, we will have, in other words, a five-tier speed limit system. However, drivers often fail to notice that they have suddenly entered a road section of a different speed limit. In its ongoing exercise to streamline its speed limit classification, the Government should prevent the occurrence of unreasonable situations in which innocent drivers are charged after entering a different speed zone unknowingly. It is also very important for the Government to take public safety into account.

At present, Tai Chung Kiu Road is subject to a speed limit of 50 km/h. However, many drivers lose their patience in driving on the road at such a speed. This is because there is a number of factors, ranging from the radius and aspect of the road to the fact that there is a gap of a few hundred metres in between traffic lights, that make it suitable for drivers to drive at a higher speed on this road section under reasonable circumstances. As such, I hope the Government can consider these crucial elements for the purpose of relaxing the speed limit for the road. Now the Government has decided not to consider the two classification systems of 50 km/h, 70 km/h, 100 km/h and 60 km/h, 80 km/h, 100 km/h. I cannot share the Government's decision totally for I think the Government should consider whether the mode of 50 km/h, 80 km/h and 100 km/h should be maintained. This is because a difference of 10 km in speed

represents a very slight difference of 6 miles only if calculated according to the British system. Even drivers themselves frequently fail to notice that they have exceeded the speed limit.

I hope the Government can consider streamlining the classification system for speed limits after collecting so many views in this discussion and in reviews in the future.

With these remarks, I support the Government's amendment. Thank you.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, we, Members from the Hong Kong Progressive Alliance, support the amendments moved by Mr LAU Kong-wah and Mrs Miriam LAU.

Madam President, being drivers ourselves, we consider the increase exceedingly high if the base for speed limit is to be raised from 100 km/h to 135 km/h. We will definitely raise objection if one drives at a speed as high as 135 km/h. We also deem it necessary for a heavier penalty to be imposed. But the crux of the problem is, Madam President, the speed limits imposed with respect to overall traffic in Hong Kong are extremely confusing at the moment. There are several major problems. First, roads in urban areas are all subject to a speed limit of below 50 km/h. For some of these roads, the maximum limit of 50 km/h is, relatively speaking, a reasonable restriction. But for quite a large number of roads, this speed limit is extremely unreasonable. For example, the flyover over Waterloo Road provides a very straight access road. On a Sunday morning, there is hardly anyone who will drive at a speed below 50 km/h when there are no other cars running on the road. However, when one drives at a speed of 80 km/h, he will have to face the possibility of incurring six points and being fined \$600. This is our strongest view on this Bill.

Even after several discussions with us, the Government is still reluctant to relax the speed limit for some roads in urban areas, though it maintains that minor changes have been made to the speed limit for certain roads. Nevertheless, it is still unwilling to change the speed limit for most urban roads.

Second, some Members mentioned sudden speed changes of vehicles earlier. When we head for a feeder road straight from an expressway without

the need to negotiate any turns — as the road we have just left is straight — we might need to change all of a sudden from a speed of 90 km/h, 100 km/h or at least 80 km/h to a speed of 50 km/h, without knowing in advance there is a need to suddenly change speed, that is, a maximum speed of 50 km/h. We will then be punished immediately by incurring six points if our vehicles head straight forward. This is extremely unreasonable.

Furthermore, it is found that the Government often installs such "traps" intentionally in the course of taking enforcement action. Given the fact that drivers usually make mistakes in the same place, the authorities concerned have found it most convenient to catch such speeding drivers on weekends. Madam President, we can see that if a traffic policeman chooses to stay at a certain spot on the road and intercept all passing vehicles, most of the vehicles will end up being prosecuted and fined one after another. This is because, under the circumstances, drivers will be unaware that they have exceeded the speed limit or they might presume that there is no problem as long as the speed of their vehicles is maintained at 70 km/h, without realizing that they will incur points for driving even at this speed. Under the circumstance that the Government has yet been able to perfect its regulation on speed limits for roads in Hong Kong, we will object to the Bill and support the two amendments.

Thank you, Madam President.

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

(No Member responded)

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the Bill aims to increase the penalty levels for serious speeding offences.

Over the past few years, speeding was still one of the main causes of traffic offences in Hong Kong. Recently, several serious traffic accidents were connected with speeding. We are extremely concerned about the serious speeding problem just as the public does. We propose to increase the penalty and driving-offence points incurred for serious speeding offences this time (I have to put emphasis on the term "serious"), which we consider an effective measure to deter driving offences.

After the Road Traffic Legislation (Amendment) Bill 2000 was proposed on 1 March this year, the Bills Committee has conducted altogether four meetings, and Members have addressed their views on the Bill. Thanks to the endeavours and dedication of the Chairman and other members of the Bills Committee, the Second Reading debate of the Bill can be resumed today. Here, I wish to express my heartfelt gratitude to them.

In the course of the scrutiny, members of the Bills Committee were generally in support of the proposal to increase the penalty levels for serious speeding offences. However, some Members were of the view that as certain problems exist in the present speed limits structure and warning signs arrangement, they have to be improved beforehand. Therefore, I would like answer briefly to the questions of speed limits and warning signs.

At present, the general maximum speed limit for roads in urban areas in Hong Kong is set at 50 km/h. This is in line with international practice. An overwhelming majority of European, North American and Asian countries also adopt 50 km/h as the general speed limit for roads in their urban areas. Some Members have suggested to raise the limit to 60 km/h or 70 km/h for roads in urban areas. Nevertheless, Hong Kong is a very crowded city with high density of vehicles and pedestrians in the urban built-up area. There are many vehicle ingress and egress, bus stops, and signalized junctions with pedestrian crossings along these roads. Weaving and merging traffic movements between junctions are heavy. Besides, the design speed of these roads on aspects such as visibility, stopping sight distance, signing and the like is also based on 50 km/h. An across the board relaxation of the speed limit for roads in the urban area from 50 km/h to 60 km/h or above in Hong Kong will increase the risk of road users and pedestrians and will have road safety implications. If we are to relax the speed limit for certain road sections in urban areas to 60km/h, the system of speed limits in Hong Kong will become even more complicated, and drivers will find it harder to adapt in addition to the safety issue.

Basically, Hong Kong adopts a three-tier system of 50/80/100 speed limit structure at the present time. That is, 50 km/h for roads in the urban areas, 80 km/h for roads in the periphery of urban areas, and 100 km/h for expressways. However, the speed limit for some of the older urban expressways and rural dual-carriageways is set at 70 km/h instead of 80km/h. This is mainly attributable to the terrain and design limitations. If we are to relax the speed limit to 80 km/h narrowly, it will have adverse impact on road safety. However,

when we are about to conduct improvement works on existing roads, we will consider to relax the speed limit to 80 km/h only if road safety will not be impaired. In fact, 80 km/h is the latest standard of the design for roads in the periphery of urban areas.

With regard to warning signs, we have started to add new reduce speed signs in different road sections to remind drivers of the change in speed limit when it is lowered by 20 km/h or more.

Moreover, we have started to paint yellow bar road markings or other appropriate markings in suitable road sections, so as to further remind drivers of the need to reduce speed and to cope with the change of environment in the specific road section. The Transport Department will install reduce speed signs and yellow bar road markings or other appropriate signs for all highways and approaches to road tunnels by the end of this year, in order to remind drivers that they should reduce the speed as they are driving away from trunk roads or approaching road tunnels or toll plaza. We believe when these warning signs are set up, drivers will have sufficient time to reduce their speed and to stay in line with the speed limits.

When the Administration studies the likelihood of increasing the penalty levels for more serious speeding offences, we have to take the safety of the public and the pedestrians into consideration in addition to the opinions of drivers. In most traumatic traffic accidents, innocent pedestrians and passengers on board are involved. We therefore consider it necessary to increase the penalty level for more serious speeding offences, in order to deter this kind of dangerous driving behaviour and improve road safety.

Madam President, I commend this Bill to Members of this Council. Thank you, Madam President.

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

Council went into Committee.

### **Committee Stage**

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

### **ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2000**

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

**CLERK** (in Cantonese): Clauses 1, 3 and 5.

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

(Members raised their hands)

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

(No hands raised)

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

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

**MR LAU KONG-WAH** (in Cantonese): Madam Chairman, I move the deletion of paragraph (a) from clause 2 and paragraphs (a) and (b)(i) from clause 6, as set out in the paper circularized to Members.

Madam Chairman, the amendment mainly seeks to delete from the Bill all provisions relating to the proposal to increase the fixed penalties for speeding in excess of the speed limit by 30-45 km/h from the existing level of \$450 to \$600. Why do we put forward such an amendment? This is because we should like to maintain the fixed penalties for speeding in excess of the speed limit by 30-45 km/h at the existing level of \$450. There are three reasons. Firstly, we consider that a fine of \$450 and five driving-offence points are indeed heavy penalties under the present circumstances. Secondly, we consider that the present speed limit of 50 km/h adopted for many roads should be relaxed. At the last meeting of the Bills Committee, the Government also said it could consider relaxing the speed limits on 15 roads (including the Tai Chung Kiu Road referred to by Dr Raymond HO just now) in principle, only that a conclusion had yet to be made. Even though the Police Force could not provide us with statistics on the number of vehicles prosecuted for speeding offences on these 15 roads, we still believe that the figure would most probably represent a considerable percentage of the speeding offences prosecuted. So, at the present stage when the review on the roads that are full of traps has yet to be completed, drivers will very easily fall into the traps of driving in excess of the speed limit by 30 km/h. Thirdly, as I said before, when turning from a road section with a speed limit of 80 km/h into one with a 50 km/h limit, drivers would very easily fall into traps if they should fail to brake in time. For the three reasons referred to just now, we hope to maintain the penalty for speeding in excess of the speed limit by 30-45 km/h at the existing level of \$450.

Why do we not propose any amendments to the penalties for speeding in excess of the speed limit by 45 km/h or more? We accept the Government's proposals in this respect for a very simple reason. We agree that heavy penalties should be imposed on drivers who accelerate the speed of their vehicles

to more than 95 km/h on roads with a speed limit of 50 km/h or to more than 140 km/h on roads with a speed limit of 100 km/h. So, that is why we support the proposal put forward by the Government.

Madam Chairman, actually, at the meetings of the Bills Committee, from the first meeting through to the last one, Members and government officials had all along agreed on the principle of increasing penalties for more serious speeding offences. Another consensus amongst us was that the speed limits on roads should be acceptable and reasonable to drivers and the public at large; otherwise, the traps on roads must be reduced. The Government has referred many times to the review of more than 40 roads it had conducted in the past two years. At the last meeting, it also mentioned that another 15 roads would be considered for review as well. With regard to the roads included in the review, we had insisted on relaxing their speed limits. However, the reply from the Government was that the speed limits could be relaxed in principle. We find this unacceptable.

Let me cite the Tai Chung Kiu Road mentioned by Dr Raymond HO as an example — it is not our intention to target at a particular road, we are using this road for case study only. We have studied in detail the statistics on speeding offences and the causes for other traffic accidents provided by the Police at our request. As indicated in the findings, the speed limit of 50 km/h adopted for Tai Chung Kiu Road is very unreasonable. This is because traffic accidents caused by speeding or overtaking are far less than arising from tailgating. Why should there be tailgating? The unreasonable speed limit is the major cause. Just now Dr Raymond HO has already explained that very clearly. Perhaps, our Honourable Chairman has also travelled along that road for many times before. Actually, the relevant District Council, the media, as well as Members of the Council all consider that the speed limit of that road should be revised. But the Government had insisted that the speed limit should not be revised. Nevertheless, at the last meeting of the Bills Committee, the Government said it could be relaxed in principle. We consider this to be unacceptable because the message given by the Government is very confusing; besides, we do not know what conclusion will the Government draw upon completing the review of those 15 roads. Even though the Government has said that the speed limits could be relaxed in principle, it may also say after the review that they should not be relaxed. In that case, I am afraid Members of the Council would also be trapped. I could not remember whether Mr Andrew CHENG was present at the last meeting of the Bills Committee, albeit that was a very important meeting.



From the first meeting through to the last one, the Bills Committee had all along stressed that the number of traps along roads must be reduced. How can we approve of the Government's amendment when it suddenly told us at the last meeting that the traps might also exist along the 15 roads?

Madam Chairman, if the object of the review conducted by the Government over the past year was to reduce the number of traps, why could we not wait half a year longer then? I should also like to discuss that with Mrs Miriam LAU. Since it only takes half a year for the review of those 15 roads to complete, we only have to wait half a year to tell drivers very clearly whether there will be traps. While my view on the amendment relating to the penalty of five driving-offence points is in line with that of Mrs Miriam LAU, we still wish to persuade Mrs LAU and the Liberal Party to support our proposed amendment which seeks to reduce the relevant penalty from a fine of \$600 to \$450. Why? Perhaps Mrs LAU might have learnt from some members of the transport industry that increasing the penalty to \$600 would not be a problem to them. However, there are other members of the trade who consider it not at all appropriate to increase the level of fine to \$600, given the present economic situation and the existence of so many road traps, let alone the fact that those 15 roads in question are the subject of complaints by many deputations of the trade. Hence, to play safe, I hope Mrs Miriam LAU and the Liberal Party will also support my proposed amendment.

Madam Chairman, the Government has been cautioning against giving the community the wrong signal that speeding offences will not entail heavy penalties. However, Madam Chairman, my proposed amendment does not seek to reduce the fine of \$600 to \$0 or to reduce the driving-offence points incurred by speeding from six points to zero points; all I want is to maintain the penalty level at \$450 and five driving-offence points. I hold that the penalty is still deterrent enough under the present circumstances. However, if we should try to win the support of drivers, members of the public and the industry, the penalty suggested in my proposed amendment would be a very reasonable one.

Thank you, Madam Chairman.

#### *Proposed amendments*

#### **Clause 2 (see Annex V)**

#### **Clause 6 (see Annex V)**

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

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, during the meetings of the Bills Committee, I have discussed with Mr LAU Kong-wah and Mrs Miriam LAU a number of the main points referred to in the Second Reading debate just now, including speed limits and road traps. At the last meeting of the Bills Committee, the Government provided us with a list of more than a dozen roads the problems of which have yet to be resolved. In this connection, if the Government should insist on reviewing speed limits on the current basis, most probably it would still be unable to resolve the road trap problem we have expressed concern over all along. Time and again I have repeated this point at the meetings of the Bills Committee. While we consider that the speed limit system in operation in Hong Kong is a five-tier system, the Government insists (or tries to convince us) that it is a three-tier system. So, we are talking as if we come from two different planets. According to overseas records and the information furnished by the Bureau, if I remember it correctly, Portugal is the only country that implements a five-tier speed limit system when other countries in the world, including many European countries and cities with a long history, are mostly implementing a three-tier one. Honourable Members who have been to Paris would know that while the roads in Paris are by no means straight, the speed limit structure adopted for the super-highways and major roads in the city is still a three-tier one. Though I am not sure whether it is a 60/80/100 speed limit structure or a 50/70/100 one.

I consider the so-called review conducted by the Government currently is aimed at revising the speed limits on certain roads from 50 km/h to 70 km/h or 80 km/h, or from 70km/h to 80km/h or 100km/h. Hence, there will still be lots of road traps in the end. Under such circumstances, Mr LAU Kong-wah has put forward his proposed amendments. Just now Mr LAU Kong-wah raised three major points to explain his rationale for moving the proposed amendments. He considers a fine of \$450 and five driving-offence points to be heavy penalties, and has therefore found it unfair to impose heavier penalties given the existence of so many road traps. In the face of the Bill submitted by the Government and the amendments proposed to it by Members, the Democratic Party could only choose the lesser evil. For safety's sake, we still hold that all regulations on road safety should better be stringent than lenient. Moreover, we do not wish to give drivers a signal that the penalty for speeding is commensurate with the margin by which one is driving in excess of the speed limit concerned. We just cannot accept this principle.

As I said during the Second Reading debate, on roads with a speed limit of 100 km/h like the Tolo Highway or the Lantau Link the speed limit of which is 110 km/h, if one should drive in excess of the speed limit by 30-40 km/h, the vehicle is actually running at a high speed of 150 km/h or more, posing a grave threat to the safety of both the driver and the passengers. For this reason, I hold that the principle behind the different levels of penalty should remain consistent. In this connection, I had originally intended to put forward an amendment to the Bills Committee on behalf of the Democratic Party. But then again, we considered it unfair if drivers caught speeding on roads with speed limits of 50 km/h or 70 km/h should be subject to the new penalties, bearing in mind the many road traps there and the fact that the speed limit review of the roads concerned has yet to be completed. We therefore hoped that the new penalty levels would be applied to roads with a speed limit of 80 km/h, while the old penalty levels would be maintained for roads with a speed limit of 50 km/h or 70 km/h. I understood then that Members from other parties were generally not in support of my proposal, as they considered that different penalties should not be imposed with reference to the speed limits of roads. Subsequently, when the matter was discussed by the parliamentary group of the Democratic Party, we also felt that we should not give the public the signal that different penalties for speeding offence would be imposed with reference to the speed limits of roads.

For my part, I personally feel that if the Government does not wish to give the public the impression that it is being unfair and unreasonable, or that the roads in Hong Kong are full of traps, the Secretary should give us two undertakings when he rises to speak later on. Firstly, the Government should undertake to genuinely review the existing speed limit structure. Given the many criticisms made by Members, could the Government stop being so stubborn and start considering seriously adopting a more decisive approach? The impression I have got in this connection is: The Transport Bureau is concerned that it might be held fully responsible for traffic accidents that take place after the speed limit has been revised from 50 km/h to 70 km/h. I have a very strong feeling that it is out of this concern that the Government has insisted on using this complicated speed limit structure. So long as this complicated speed limit structure is still in use, the problems we are now debating will just continue to exist. As regards the second undertaking, the Government should remind the Traffic Branch of the police to make every effort to avoid the situation referred to by Miss CHOY So-yuk just now. In which case drivers will feel that the Traffic Branch and the Police Force are deliberately staking out for speeding vehicles at roads with a speed limit of 50 km/h or 70 km/h. Worse

still, they may even consider the Traffic Branch and the Police Force are deliberately staking out for speeding vehicles at roads that are full of traps to achieve the monthly target number of fixed penalty tickets. I just hope the Government will not give drivers this impression. Otherwise, drivers will never give it their support irrespective of the road safety regulations and heavy penalties introduced. That way, both the credibility of the Government and its goodwill in combating excessive speeding will be gravely undermined. For these reasons, I hope the Government could review the speed limit structure and make every effort not to give drivers the impression that it is deliberately setting traps along roads to catch speeding offenders. These are the two undertakings that I am looking forward to from the Government.

The Democratic Party supports the amendment proposed by the Government. As regards the amendments proposed by Mr LAU Kong-wah, which seeks to impose different penalties for different speeding offences, I am afraid we cannot lend them our support. Although we do agree that there are indeed loopholes in the original proposal put forward by the Government, we still hold that penalties imposed under road safety-related regulations should better be stringent than lenient. I hope the Secretary could get the two points I have just raised. Thank you, Madam Chairman.

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

**MR ANDREW WONG** (in Cantonese): Mr Deputy, I am also a member of the Bills Committee, and it seems to me that all the discussions have so far centred on the views of Mr LAU Kong-wah, Mr Andrew CHENG and Mrs Miriam LAU. Members have actually said a lot on this matter, so I do not intend to discuss it in any great detail here.

I just want to say a few words on my position. To me, the main problem with the Bill actually centres on the fundamental principle of which speed limit classification system should be adopted. As I pointed out clearly at the meetings of the Transport Panel, a three-tier system should be the best under all circumstances. That is why I think that the analyses of Dr Raymond HO and Mr Andrew CHENG are most to-the-point. This point constitutes the fundamental principle, the crux of the problem, and "speed traps" are not quite so relevant as such. Should driving in excess of the speed limit by 30 km/h be

considered extremely dangerous under all circumstances, regardless of how lenient the speed limit in question is? I think so, regardless of how lenient the speed limit is. And, I must add that the more lenient the speed limit, the more dangerous it will be. So, if more stringency is applied, the new penalties may well work better than the existing penalties which are not quite so harsh. That is why I tend to support the Government, the original scheme. The reason is that I do not wish to impart a wrong message. I think this position is proper.

The passage of Mr LAU Kong-wah's amendment will impart a very dangerous and wrong message. But I also think that the amendment of Mrs Miriam LAU does represent an attitude which is a bit more progressive. While she admits that offences must be punished by imposing driving-offence points, she also points out that given the current chaotic system and the many "speed traps" on the roads, any further deduction of driving-offence points is bound to adversely affect all drivers, particularly professional drivers who drive long hours on the roads, for they may thus be deprived of their means of earning a living. Therefore, I think we can actually accept the proposal to defer the increase from five points to six points at this stage. However, I also think that the fines should be increased, or else a wrong message may be imparted.

I also wish to ask Miss CHOY So-yuk to stop saying that she will support the amendments of both Mrs Miriam LAU and Mr LAU Kong-wah, because these two amendments are actually quite different things. The point is that if Miss CHOY So-yuk supports the amendments of Mr LAU Kong-wah, she will have to oppose the "middle-of-the-road" proposal put forward by Mrs Miriam LAU. Therefore, I hope that the Hong Kong Progressive Alliance can change its position. Thank you, Mr Deputy.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, I think the explanation I offered just now should already be clear enough. Actually, as was also pointed out by Mr LAU Kong-wah, even if we support his amendments, it certainly does not mean that we do not find it necessary to duly punish drivers guilty of serious speeding, nor does it mean that we are opposed to heavier penalties.

Mr Deputy, the main problem is that the Government did not promise to conduct a review until very recently. The current Legislative Council Session is already drawing to an end, and in the following months, the Government can

always introduce further amendments and new motions. Therefore, in the meantime, when the Government is not yet fully prepared, I hope that Members can avoid making any decisions that may victimize more innocent drivers.

Actually, what we are talking about is just several months, and so, I simply fail to see the reason for the Government's reluctance. During the meetings of the Bills Committee, I also expressed the hope that the Government could withdraw this amendment and wait until the first possible opportunity in the new Session, when the comprehensive review on all urban roads is completed, before submitting a proposal to the Legislative Council. I think this will be much better. However, since the Government refuses to listen, we are now forced to support Mr LAU Kong-wah's amendments. If Mr LAU Kong-wah had not moved his amendments, we might have been forced to oppose the entire Bill submitted by the Government.

**DEPUTY CHAIRMAN** (in Cantonese): Mr Andrew WONG, do you wish to speak for the second time?

**MR ANDREW WONG** (in Cantonese): Thank you, Mr Deputy. I forgot to mention one point just now. At the last meeting, the Government promised that before finalizing the date of implementation, it would certainly inform the Legislative Council of the progress of the review. It also clarified that the date of implementation would be tabled before this Council in the form of subsidiary legislation. This means Members will still have the chance to repeal, amend or alter the legislation within a 28-day period. The Government has promised not to put forward the implementation date before October, when the Legislative Council is not in session. For the sake of clarity, it will be better if the Secretary for Transport can repeat the Government's undertaking publicly when he gives his reply later on.

**DEPUTY CHAIRMAN** (in Cantonese): Mr LAU Kong-wah, you still have more chances to speak later on. Does you wish to speak now, or later?

**MR LAU KONG-WAH** (in Cantonese): Mr Deputy, I wish to give my reply now.

I have listened to the views of the several Members who spoke just now, but I of course still hope that Mrs Miriam LAU can give further consideration to our amendments. Actually, at the meetings of the Bills Committee, Mrs Miriam LAU, Mr Andrew CHENG and I all shared one common view. We all thought that there were actually two kinds of "traps", one relating to the speed limit classification system, and the other to the choice between 50 km/h and 70 km/h as the speed limit for some particular roads. The fact is that the speed limits for as many as 15 roads have yet to be reviewed. That being the case, how should speeding be defined in the context of these 15 roads? We have talked about definitions. If the speed limit for a certain road is 50 km/h, then speeding is said to have occurred when a driver drives at a speed of 70 km/h on the road. But suppose the speed limit concerned is 70 km/h, then a driver who drives at a speed of 70 km/h should not be prosecuted for speeding. Am I correct? So, the most important thing seems to be the setting of speed limits. This is the crux of the whole problem. I agree that the speed limit classification system is a key factor, but so are speed limits, I must say. That being the case, and since the Government has already agreed to relax the speed limits for the 15 roads concerned, why do we not wait half a year more and decide what to do after the completion of the review? Thank you, Mr Deputy.

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

(No Member responded)

**DEPUTY CHAIRMAN** (in Cantonese): Secretary for Transport, do you wish to speak?

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr Deputy, having listened to Members' speeches on this amendment and Mr LAU Kong-wah's amendment, I have a few points to make in response to them.

Firstly, at meetings of the Bills Committee and from Members' speeches today, it is obvious that an overwhelming majority of Members agree that

speeding remains a serious problem. As I said just now, the police on average have issued 185 000 fixed penalty tickets annually for speeding offences over the past three years, representing 40% of the total number of fixed penalty tickets issued for moving offences. In other words, 40% of the fixed penalty tickets issued by the police is related to speeding. It shows that speeding remains a serious problem and explains why amendments are proposed by the Government to address this problem by increasing penalties and strengthening the deterrent effect. This is the first point.

Secondly, what we are discussing or dealing with now is not "innocent drivers", as Miss CHOY So-yuk put it. We are targeting at drivers who exceeded the speed limit excessively on purpose or intentionally. They are not innocent. What we are discussing now is the problem of excessive speeding, and the new fixed penalty is only directed against speeding in excess of the speed limit by 30 km/h or more. For speeding by less than 30 km/h, that is, first-level speeding in the range of 0 km/h to 15 km/h, or second-level speeding in the range of 15 km/h to 30 km/h, we agreed that a heavier penalty is not required at this stage. We are targeting at those drivers who purposely exceeded the speed limit by 30 km/h or more. These drivers are not innocent. Who are the innocent ones? Those who are injured or killed in traffic accidents caused by speeding drivers are truly the innocent. Other than a number of Members who touched on the need to protect the safety of pedestrians and therefore supported the Government, an overwhelming majority of political parties made no mention of those innocent pedestrians or passengers who fell victim to the recklessness of drivers who deliberately exceeded the speed limit by 30 km/h or more. We must protect the safety of all road users, including drivers, pedestrians and passengers; and we are just targeting at excessive speeding. This is the second point.

Thirdly, excessive speeding. We are now targeting at offenders who exceeded the speed limit by 30 km/h or more. Let us leave behind the contention about whether it is a five-tier or three-tier system or whatever. As a first step of discussion, we can basically look at the scenario of speeding by 30 km/h with reference to a three-tier system under which the first tier refers to a speed limit of 50 km/h, the second 70 km/h or 80 km/h and the third 100 km/h or 110 km/h. Let us now focus on the first tier. If, on a road with a speed limit of 50 km/h, a driver excessively exceeded the speed limit by driving at 80 km/h or above — imagine someone driving a vehicle at 80 km/h on Nathan Road of which the speed limit is 50 km/h — and if we said that it does not matter, that we



should put up with it, and that we should wait until the completion of a review to be conducted in October next year before making a decision, that is impossible and impracticable. If we go further to say that we have to put up with speeding drivers who drive at 100 km/h to 115 km/h on Tai Chung Kiu Road with a speed limit of 70 km/h, or on other roads in the New Territories, that is also impossible for that is grossly reckless behaviour of a very serious nature. As our discussion targets at excessive speeding of a very serious nature, we must strengthen the deterrent effect to ensure safety of road users. This is the third point.

Fourthly, just now a number of Members also mentioned the speed limits on existing roads in Hong Kong, that is, the three-tier system or the five-tier system, so to speak. I wish to remind Members that the review of speed limits on roads is an ongoing exercise. I remember that at the resumption of the Second Reading debate and meetings of the Bills Committee, I pointed out that there are numerous roads in Hong Kong and that everyday there are new roads completed, old ones being rebuilt and alterations being made on existing roads. It is indeed impossible to freeze the site conditions on all existing roads for a comprehensive review and determine if any follow-up actions are required after the review is completed. It is impossible for us to do so. I think this would be possible only if Members accepted that no driver be allowed to use the roads during this period of time. Over the past two years, we have been making every effort to specifically expedite the review of roads, and some 60 road sections which are more commonly used were reviewed. The speed limits of 20 road sections have been relaxed while ensuring road safety at the same time. The speed limits on the other 40 road sections have not been relaxed due to obvious site restrictions, but it does not mean that our work will come to a halt. We have made a pledge that this will be an ongoing exercise and the review will be conducted in the light of the new environment and new conditions. A road that stands idle today may turn out to have a high utilization rate in future as a result of developments in the locality, thus making it necessary for us to review the speed limit of that road. This is an ongoing exercise and we are certainly committed to it.

Just now a number of Members said that at the last meeting of the Bills Committee, we proposed — or to be more correct, we undertook at Members' request — to further examine 15 roads skirting our new towns. We may have examined some of these 15 roads for they are part of the 60 roads examined by us in the past two years. Yet, we undertake to re-examine them and go over

again the practical information supplied by Members in order to reconsider the feasibility of relaxing the speed limits of these roads in the periphery of new towns with a speed limit generally in the range of 70 km/h to 80 km/h while ensuring safety at the same time. We will certainly carry out such work, and we will conduct a review in the light of practical needs disregarding whether Members have made such request. So, on Members' earlier suggestion that we should table the amendments for approval by the Legislative Council a few months later after the completion of the review of those 15 roads, I think it is flawed in logic. We must review the speed limit on the basis of the new conditions for use and objective factors of each road. It is impossible for us to ask the Transport Department to review, with the use of computer, the thousands of roads in Hong Kong every day. This is impossible. We must adopt a step-by-step approach to conduct the review.

Fourthly, on the question about the date of commencement as raised by the Honourable Andrew WONG just now, the Bill has, in fact, clearly provided that the Ordinance shall come into operation on a day to be appointed by the Secretary for Transport. The appointment of the commencement date by the Secretary for Transport will be subject to negative vetting by this Council. Therefore, as Mr WONG has said, if Members disagree with the date of commencement proposed by us in future, they still have the opportunity to propose a deferral or other changes.

Mr Deputy, I have made these points in response to Members' views on Mr LAU Kong-wah's amendments. Thank you, Mr Deputy.

THE CHAIRMAN resumed the Chair.

**CHAIRMAN** (in Cantonese): Mr LAU Kong-wah, do you wish to speak again?

**MR LAU KONG-WAH** (in Cantonese): Madam Chairman, I wish to say something in response to the remarks made by the Secretary for Transport. First, the Secretary has mentioned earlier that 40% of the tickets issued are against speeding. In the meetings of the Bills Committee, we have asked the Government many times to provide us with a breakdown of the figures on speeding. Our estimates are that in some roads with a speed limit of 50 km/h

which is quite unreasonable, many drivers may fall into the trap of speeding and be prosecuted. This is precisely why we feel that this is a crucial point. But unfortunately, the executive authorities were unable to provide us with any figures on that.

Second, on the issue of innocence. We are not talking about people who drive at 100 km/h or more on roads with a speed limit of 50 km/h, in this case, as the Secretary has said earlier, the driver is not innocent at all. What we are talking now is the situation where the speed limit goes suddenly from 80 km/h to 50 km/h and it is very common. In such cases, I have said, stomping on the brakes suddenly would be very dangerous. But if the driver does not apply the brakes, he will fall into the speed trap. Would you not call that innocent if a driver is prosecuted under these circumstances?

The Secretary has made it clear just now that apart from taking the drivers into consideration, we also need to take into account the safety of passengers and pedestrians. During the course of the deliberation of the Bill, we have kept this in mind. We have also said that accidents may happen if drivers drive too fast. But if drivers drive too slowly, accidents may happen as well. Take the example of Tai Chung Kiu Road, accidents caused by cars which do not keep a safe distance from the cars ahead may be more than those caused by speeding. This is something we must consider.

All in all, we are not saying that we oppose imposing heavy penalties on speeding drivers. We have never said that. But we insist that accidents can also happen when drivers drive too slowly. In the Bills Committee, when we made a review of the 15 new roads, some new principles and definitions appeared and we ought to take these all into consideration. Just now the Secretary has also said that those roads in the fringe areas are not those in the town centre. The term fringe roads is a new term and drivers do not know how it is different from other roads. According to existing definitions, Tai Chung Kiu Road can be said to be a road not in the town centre. I am surprised why it is not. Besides, according to another definition, if a road leads to a new town, for example, Ma On Shan, its speed limit can be raised from 50 km to 70 km. Under such a definition, it is still not clear enough and so traps can be said to be lying everywhere.

Lastly, I would like to appeal to Mr Andrew CHENG. During the course of deliberations, our position was originally the same. But he said all of a

sudden that he wished to make a clarification with his party. That move is something which I respect, but I would like to ask Mr CHENG to talk to his colleagues that the questions involving these 15 roads represent a very important approach that we have taken in the Bills Committee. Some Members have said that the Bills Committee may not even have to hold even one single meeting, because the members would certainly express their support for the increase in fines and deducting more points. Then why did we raise this point in the first meeting of the Bills Committee? It is because insofar as the spirit of the Bill is concerned, these traps should never have existed. I agree with the Secretary's point that reviews can be ongoing. But should we wait any more if we know very well that drivers on these 15 roads would easily fall into the traps? Furthermore, the existing penalties are still in force, so drivers will get a \$450 fine and have five points deducted. That is no light penalty at all.

Madam Chairman, I therefore urge Honourable colleagues to support my amendments. Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LAU Kong-wah rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr LAU Kong-wah has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr WONG Yung-kan and Dr TANG Siu-tong voted for the motion.

Mr Kenneth TING, Mr Edward HO, Mr Michael HO, Dr Raymond HO, Mr LEE Kai-ming, Dr LUI Ming-wah, Miss Margaret NG, Mr CHEUNG Man-kwong, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK and Mr LAW Chi-kwong voted against the motion.

Geographical Constituencies and Election Committee:

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr Andrew WONG, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai and Mr MA Fung-kwok voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 22 were present, five were in favour of the motion and 17 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, eight were in favour of the motion and 16 against it. Since the question was not agreed by a

majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of further divisions being claimed during this Meeting in respect of other provisions of the Road Traffic Legislation (Amendment) Bill 2000, the Committee of the whole Council do proceed forthwith to each of these divisions after the division bell has been rung for one minute.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That in the event of further divisions being claimed during this Meeting in respect of other provisions of the Road Traffic Legislation (Amendment) Bill 2000, the Committee of the whole Council do proceed forthwith to each of these divisions after the division bell has been rung for one minute. 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 respectively from 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.

I order that in the event of further divisions being claimed during this Meeting in respect of other provisions of the Road Traffic Legislation (Amendment) Bill 2000, the Committee of the whole Council do proceed forthwith to each of these divisions after the division bell has been rung for one minute.

**CHAIRMAN** (in Cantonese): I now put the question to you as stated, and that is: That clause 2 stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Mrs Miriam LAU and Mr LAU Kong-wah have separately given notice to move amendments to clause 4(a) and paragraph (b)(iii) of clause 6. Their amendments are the same. Since Mrs Miriam LAU has given notice of amendments earlier than Mr LAU Kong-wah, in accordance with the Rules of Procedure, only Mrs Miriam LAU will be called upon to move the amendments.

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, I move the deletion of clause 4(a) and clause 6(b)(iii) from the Bill as set out in the paper circularized to Members. Madam Chairman, my amendment seeks to delete the provision on increasing the penalty for driving in excess of speed limit by 30 km/h to 45 km/h from five driving-offence points to six driving-offence points. In other words, if my amendment is passed, the relevant penalty will remain at the level of five driving-offence points.

Madam Chairman, I am sure that all drivers must be very concerned about their driving-offence points, because if a driver accumulates a deduction of 15 points within two years, his driving licence will be suspended immediately. To an ordinary driver, a licence suspension upon the accumulated deduction of 15 points is already very inconvenient, for he may then have to use the public transport system, or he may have to employ a driver to drive for him, or he may simply have to walk. However, to a professional driver, a suspension upon the accumulated deduction of 15 points will deprive him of a means of living. We have had a very long discussion today. As a matter of fact, the speed limit structure for roads in Hong Kong is extremely complicated and therefore contentious. During the Second Reading debate earlier, I tried to voice the feelings of the transport sector. But I must now add that during the past few years, in addition to complaints from the transport sector about unreasonable speed limits and unclear road markings, I also received many similar complaints from other people. So, today, I am moving this amendment not only as the representative of the transport sector, but also as the representative of many other motorists. As I pointed out just now, to professional drivers, whom I represent, each and every driving-offence point counts a lot, because licence suspension will deprive them of their means of living, and the consequences are serious. That is why even one driving-offence point is very important to them. These drivers spend at least eight working hours on the roads every day, and they drive for a long time on the roads every day. When they are driving, they will always pay full attention, for they do not want to be prosecuted or have their points deducted. But even if they drive very carefully and refrain from speeding intentionally, very often, they will still fall into "speed traps". By moving my amendment today, I hope that the Government will not increase the penalty by one more driving-offence point for anyone caught driving in excess of speed limit by 30 km/h to 45 km/h.

As I pointed out during the Second Reading debate just now, and as the transport sector itself is also aware, serious speeding may pose very negative impacts on road safety. As people who drive on the roads for long hours during the day, professional drivers naturally do not wish to see the roads rendered unsafe in any way. To these grass-roots taxi drivers and minibus drivers, even one dollar counts a lot; the deduction of any additional driving-offence point and an additional fine of \$150 will all mean a very heavy burden to them. However, a vast majority of the representatives from the sector whom I consulted all told me that they attached great importance to road safety, and they said that no wrong message should be imparted. It is because they were afraid that if some



people ignored the safety of others and drove far in excess of speed limit on some roads such as the North Lantau Expressway, where the speed limit was 110 km/h, and if these people intentionally sped at 140 km/h, which fell precisely between the range of 30 km/h to 45 km/h in excess of speed limit, then the safety of drivers would be seriously endangered. The transport sector does not wish to see this, but it is also deeply frustrated by the possibility of falling into "speed traps". Therefore, in the end, most in the transport sector decided not to oppose the increase in the fine. To these grass-roots drivers, this is indeed a very painful choice, for even a one-dollar increase in the fine is a very heavy burden to them. But to them, the deduction of points is even more painful, and indeed totally unacceptable, because under the existing penalty system, if they fall into a "speed trap", they will incur a deduction of five driving-offence points. If they are to incur one more driving-offence point, they will certainly grumble, and they will not be convinced, because they simply cannot accept such a penalty. As for the "speed traps" on the roads, I do not want to say anything further on them, because many colleagues have given many examples. Owing to the time constraint, I do not want to repeat the points here. I know that some colleagues may have lunch appointments today, but no matter what, we must carry on with the debate. I hope that Members can stay behind to vote on my amendment before they go for lunch.

Mr Andrew WONG has rightly pointed out that my amendment today is actually a middle-of-the-road proposal aimed at preserving the original intention of the Government to give a warning to the public and motorists that driving in excess of speed limit by 30 km/h is a serious offence punishable by a heavier penalty. My amendment is fully able to preserve this original intention, in the sense that it supports the move of the Government to increase the fine from \$450 to \$600. But at the same time, it also reflects the opinions of motorists, including professional drivers, who grumble that the many "speed traps" on the roads often cause them to be prosecuted, and that, therefore, the increase of one driving-offence point should not be put in place at this stage. It is of course best for the Government to put off the whole thing until it has completed a comprehensive review and until the public at large is satisfied that the speed limits in Hong Kong are all reasonable and acceptable. By that time, the imposition of one additional driving-offence point may well be considered for anyone who still intentionally violates the law on speeding. However, at this stage, although the Government has agreed to conduct a review based on the principle advanced by me earlier, that is, although it has agreed that the speed limits for suburban roads should be reviewed by adopting 70 km/h as a starting

point, with 50 km/h retained only under very special circumstances, we have so far failed to see any concrete results. Frankly speaking, for those existing speed limits which we think are unreasonable, we simply do not know whether the Government will really rationalize them after the review. The Government says that it will erect many warning signs to remind motorists of speed limit changes. But will a sufficient number of such signs be erected in the future? Will they be properly positioned? Will they cause any confusion to motorists? No one knows the answers to these questions at this stage.

The Government hopes that the ordinance can take effect on 1 January next year. Although the Secretary said that the Legislative Council would be requested to handle the matter by way of negative vetting procedure, I must still say that the Government has been rather conservative over the issue of revising speed limits. Actually, over the past one or two years, I have held many discussions with the Transport Department on the issue of speed limits. I have also sent many written submissions to the Department and conducted many site visits. But the Government has been extremely slow in the relaxation of sectional speed limits, for its attitude is very conservative. I hope that following the debate today, the Government can heed the voices of Members, the transport sector and motorists in general. I hope that in the upcoming review, genuine and pragmatic efforts can be made to rationalize speed limits. Madam President, I do not wish to waste any more time of Members. With these remarks, I beg to move.

*Proposed amendments*

**Clause 4 (see Annex V)**

**Clause 6 (see Annex V)**

**MR LAU KONG-WAH** (in Cantonese): Madam Chairman, I shall be very brief. I support most of Mrs Miriam LAU's arguments with the exception of one small difference. She says that points deduction is worse than a fine. But I maintain that both of them will have direct negative implications. Therefore, as long as the speed limits for our roads remain unreasonable, the Democratic Alliance for the Betterment of Hong Kong will think that it is unreasonable to raise the penalty points and the fine. For this reason, I call upon Members to support my amendment.

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

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, earlier on, Mr LAU Kong-wah urged the Democratic Party to support his amendment, and Mrs Miriam LAU also repeatedly stressed her hope that the demands of the transport sector be properly addressed. During the resumption of Second Reading debate, and when I spoke on the amendments just now, I repeatedly expressed the hope that the Secretary could make a serious undertaking in respect of those motorists who fell into "speed traps" innocently. But the Secretary did not actually respond to my request. The Secretary still insists on upholding the speed limit classification system, and I find this very much regrettable. Besides, the Government should also pay attention to how the Traffic Branch and the police have been handling this matter. The Government must not give motorists, in particular professional drivers mentioned by Mrs Miriam LAU just now, any wrong message — "wrong" may not be the right word, but, to be honest, I must say that for a considerable period of time, there were many "speed traps". Some drivers might have driven in excess of speed limit because of unclear indication. If these drivers happened to be professional drivers, they would certainly think that the policy was unfair to them. So, if the Government continues to evade this problem, our discussions today, and also the discussions in the four meetings, would all fail to solve the problem. Therefore, I hope that when the Secretary speaks later on, he will make an undertaking to the effect that he will positively and resolutely try to tidy up the existing classification system.

As for the amendments of Mr LAU Kong-wah and Mrs Miriam LAU, I am of the view that since there is so much confusion over the speed limits of 50 km/h and 70 km/h on some particular roads, and since a further review is required, I would rather retain the existing classification system for the roads concerned. I think this is more desirable. But if we look at their respective amendments, we will see that one of them advocates an increase in the fine with no increase for driving-offence points, and the other advocates a complete adherence to the old system. This actually gives a rather undesirable message, making people feel that there can be two types of different penalties for the offence of speeding. We also think that this is unfair to other road users, particularly pedestrians and passengers. And, from the perspective of road safety, we also think that this is unacceptable. We in the Bills Committee did share the view that the Government should conduct a review, and I believe that

we have, to a certain extent, succeeded in urging the Government to speed up its review. However, when it comes to the amendments of these two Members, we do think that they are not in line with the underlying object of the Bill, that is, the object of imposing heavy penalties on drivers found guilty of speeding. I agree with the Secretary that we should heavily penalize all those drivers who have intentionally broken the law; these drivers may have driven at a speed of 80 km/h, or even 100 km/h, when the speed limit is just 50 km/h. This is extremely dangerous. To sum up, I hope that when he speaks again later, the Secretary can give us some assurance to allay our anxieties, or else all our discussions will end up in nothing at all. Thank you, Madam Chairman.

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

**MISS CHOY SO-YUK** (in Cantonese): Madam Chairman, I wish to comment on the remarks of Mr Andrew CHENG and the Secretary, for both of them have made reference to my point on "innocence".

Madam Chairman, the Hong Kong Progressive Alliance has always held the view that the Government should heavily penalize dangerous drivers. We agree that drivers posing serious danger to road safety should receive heavier penalties. When I said "innocence", I was actually referring to those drivers who had fallen into the "speed traps" set up by the Government for the sole purpose of pressing prosecutions. The speed limit for many straight roads in the urban areas is 50 km/h, and the Government often tries to take enforcement actions on these roads at hours when the traffic is least busy, when the traffic flow is the smoothest.

Mr Andrew CHENG said just now that he originally wanted to move an amendment to retain the old speed limit classification system for roads with speed limits of 50 km/h and 70 km/h. Unfortunately, he has not done so. If he had done so, we surely would have rendered our support. Since he has not done so, and in order to prevent people, especially professional drivers, from falling into these "speed traps", I hope that the Democratic Party can give its support. I also hope that the Liberal Party can support Mrs Miriam LAU's amendment; in the past, with respect to voting, the most that the Liberal Party would do was to grant Mrs Miriam LAU exemption from the party stand. I

hope that the Liberal Party can really render its support to her this time, so that the amendment can be passed.

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, I wish to respond to Miss CHOY So-yuk's comment that I have done nothing at all. As I pointed out just now, in the meetings of the Bills Committee I did once say that the old classification system should be retained due to the confusion over the speed limits of 50 km/h and 70 km/h. This was my position at that time, but then, following discussions within the parliamentary group of the Democratic Party, we are now worried that this may impart a wrong message, making people think that there can be different penalties for different roads with different speed limits. And, as I also pointed out when I spoke just now, we are worried that the spirit behind the amendments proposed by the two Members may not be in line with the original intent of the Bill. Therefore, I hope that Miss CHOY So-yuk can stop criticizing us for doing nothing at all. We should consider very seriously whether road safety legislation should be tight rather than loose. Should we not join hands to force the Government to conduct a genuinely effective review, and to allay motorists' anxiety that they may become the victims of "speed traps"? Thank you, Madam Chairman.

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

**MR EDWARD HO** (in Cantonese): Madam Chairman, I did not intend to speak, but since Miss CHOY So-yuk mentioned the Liberal Party in her remarks, I am compelled to say a few words in response. First, let me make it clear that we do support the amendment moved by Mrs Miriam LAU today, and I also wish to say that the Liberal Party is strongly united. We have always appreciated the work done by Mrs Miriam LAU for the sector she represents, and we rarely disagree to her proposals. This is the only point I wish to clarify.

**CHAIRMAN** (in Cantonese): Mr Howard YOUNG, do you wish to speak now?

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, since I have raised my hand and pressed the button, I may as well also say a few words. I also did not intend to speak, but I now wish to do so because Miss CHOY So-yuk mentioned the Liberal Party. She is a member of the Hong Kong Progressive Alliance, but sometimes, she also sides with the Democratic Alliance for the Betterment of Hong Kong. Does she now also want to participate in the affairs of the Liberal Party? Is this the reason why she finds it necessary to urge the Liberal Party to support Mrs Miriam LAU's amendment? The Liberal Party does adopt an exemption system, but under this system, exemption will be granted only when a Member belonging to a functional constituency cannot adopt the same position as the Party. As far as the matter under discussion is concerned, as Members can all see, Members belonging to the Liberal Party have all sacrificed their lunch hour and stayed behind to support Mrs Miriam LAU. So, we certainly do not need anyone belonging to any other political party to remind us of the need for unity — unless he or she has applied for membership of our Party without my knowledge.

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

(No Member responded)

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam Chairman, I wish to thank Members for speaking so enthusiastically on this amendment. I wish to add a few points. While I have expressed the views of the Government on Mr LAU Kong-wah's amendment just now, I wish to add a few points here.

First, I wish to clarify that the amendments proposed by the Government are not directed against professional drivers. Surely we are not targeting at professional drivers. In fact, road users include a diversity of parties. They can be drivers, pedestrians, passengers, and so on. Although professional drivers obviously account for a large proportion of road users, the purpose of our amendment is to enhance road safety. As Mrs Miriam LAU said just now, professional drivers are most concerned about road safety. If their safety is prejudiced by reckless and irresponsible acts of other road users, that would be of their utmost concern. We fully appreciate their concern, and it is also their hope that road safety can be enhanced. In fact, law-abiding drivers have no reason at all to feel worried for our proposal is only directed against those who

genuinely committed the offence of excessive speeding. By excessive speeding, we mean driving in excess of the speed limit by 30 km/h. Any person who drives in excess of the speed limit by 30 km/h cannot possibly be inadvertent. Whether or not he is innocent is another question, but surely he cannot be inadvertent. He surely knows that he is driving at a very fast speed and in excess of the speed limit by 30 km/h.

I wish to reiterate here an undertaking made by the Government in the Bills Committee, that we will continue to keep the speed limits on all roads in Hong Kong under review. We will continue to look into the possibility of further simplifying and rationalizing the speed limits. However, I wish to emphasize that the process involves thousands of roads built at different times in the past century or so. The work standards, environment and practical needs back then may be different from those nowadays. In fact, we cannot possibly carry out alterations on all roads in the urban area to meet a new standard across the board in one go. This is unrealistic and impossible for the objective conditions do not permit so. But in the design of new roads, we already stated that we will endeavour to meet a higher standard of road safety and subsequently allow a faster speed on roads while ensuring safety at the same time. At present, a speed limit of 50 km/h is maintained for new roads in urban area. For roads in the peripheral areas outside the urban area or those close to expressways, the standard speed limit is set at 80 km/h, whereas that for other standard expressways is set at 100 km/h. The 110 km/h limit for the Lantau Link is a sheer exception. We have explained in detail that this limit of 110 km/h will not be a new design standard unless locations with suitable geographical features are found for equally long and straight expressways to be built in future. This is absolutely exceptional. Therefore, if Members hold that the speed limits on roads can be divided into five tiers, they should actually cross out the last tier so there can be four tiers at most. But in our view, we maintain that the existing system is a three-tier system.

Certainly, we will further review the speed limits on roads. The questions of speeding traps and marginal speeding raised by Members just now will certainly be covered in the review. In respect of law enforcement, the police already explained in the Bills Committee that they have not set up traps purposely to facilitate policy implementation. The police already emphasized that they have not done so. However, if Members still consider that the arrangements at some places will give this wrong impression, I trust that the police will be most willing to review the locations or positions concerned.

Furthermore, I wish to respond to Mrs Miriam LAU who opined earlier that the Government has taken a conservative attitude towards speed limits. I entirely agree with her on this point. It is a matter that involves human life, and such a matter must be handled with prudence and care. If Mrs Miriam LAU takes the view that the Government is conservative in this regard, I think we will feel no qualms about it. In fact, there is every reason for us to be conservative. I believe that no one would like to see casualties resulted from traffic accidents. If we take a conservative attitude while striking a balance in all aspects, I think the Government is right in taking this attitude. Yet, we also hope that we can accede to the opinions of drivers in general in respect of the objective conditions or design of roads. But insofar as the review of speed limits is concerned, the Government has to be committed to ensuring the safety of the community as a whole, and this is the responsibility of the Government. Therefore, it is incumbent on us to adopt a more cautious attitude.

Thank you, Madam Chairman.

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, first of all, let me thank Miss CHOY So-yuk for her concern about my relationship with the Liberal Party and Mr Edward HO for his open support for my amendment today. Actually, I wish to tell Miss CHOY via the Chairman that the relationship between the Liberal Party and me has always been very harmonious. All along, the Liberal Party has very much supported my position and that of the sector that I represent. The only exception was the issue concerning the penalty for vehicle emissions. But I must also say that in that particular case, other political parties, too, did not support my position and the position of the sector that I represent. These political parties instead sided with the Liberal Party to support the increase in penalty for vehicle emissions. I just wish to put down on record that my relationship with the Liberal Party has been very harmonious. I hope that besides the motion I moved a moment ago .....

**MISS CHOY SO-YUK** (in Cantonese): A point of order. I urged Members to support the amendment. But does this mean that the relationship among members of a certain political party should be discussed here?



**CHAIRMAN** (in Cantonese): Miss CHOY So-yuk, I rule that your point is not substantiated. Let me explain briefly. In your remarks, you asked the Liberal Party to support the amendment also. That is why I think that the explanation now offered by Mrs Miriam LAU can be considered reasonable. She may continue.

Mrs Miriam LAU, but this does not mean that you can dwell on the relationship among members of your party. However, you may explain why you find it necessary to do so.

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, I think I have already said enough about this point. So, I now wish to come back to the issue we are supposed to be discussing, that is, my amendment. The Secretary said that it was appropriate for the Government to adopt a conservative attitude towards this matter. I do not oppose so much to this. In other words, I think that if there are still have many doubts about the road safety implications, we should aim at stringency instead of latitude, because if we relax the rules when there are still many doubts, such relaxation may well result in many accidents. This is the last thing we wish to see. However, if an excessively conservative attitude is adopted, that is, if the Government still clings to an over-conservative attitude when there is a need to relax the speed limits for some roads, then these roads may well be rendered unsafe to drivers.

As far as I can remember, the idea of conducting a comprehensive review on speed limits was actually initiated by former Chief Superintendent Mr P.H. LAI some two years ago during a meeting attended by him, representatives of the transport sector and me. Chief Superintendent LAI was really enlightened, for he was able to realize that low speeds did not necessarily mean safety. Instead, he said, a vehicle moving at an extremely low speed might cause dangers, as many other drivers exasperated by such a low speed would try to "overtake" or "pull" into another lane, thus causing the dangers no one would wish to see. He said that a friend of his had been involved in a traffic accident, and this brought home to him that the Government should really take an unprecedented move, that is, conduct a comprehensive review on whether or not the speed limits for our roads should be relaxed. The idea of a comprehensive review was initiated by Chief Superintendent LAI, and it is now put into practice. What is a bit

disappointing, however, is that after reviewing the speed limits for several dozen roads, the Government has decided that relaxation of speed limits should be introduced for just 10 roads or so. We demand the Government to review again whether the standards should really be so stringent. This is because too much stringency will lead to the opposite result of causing dangers on our roads. I very much agree to the comments made by Chief Superintendent LAI then.

We have talked about lots of road traffic problems, "speed traps" and so on, and many people have actually experienced all these personally. However, we must note that there are indeed many drivers who often drive far in excess of the speed limit; they may drive at a speed of 130 km/h, or 140 km/h, or even faster, while knowing clearly that the speed limit is just 100 km/h. We agree entirely that these drivers must be prosecuted and penalized. But I also want to point out that the existing penalty of five driving-offence points is already very heavy, and the Government must step up its publicity and education on the problems and damage that may be caused by speeding. Another point is that even if a driver commits speeding with intention in total disregard for the safety of other drivers, the Government can still invoke other laws to penalize him. For example, if someone drives at a speed of 140 km/h along the North Lantau Expressway, posing dangers to other drivers, they can be prosecuted for dangerous driving. If a driver drives far in excess of the speed limit, posing threats to the safety of other motorists or pedestrians, the Government can actually prosecute him for dangerous driving. It is not necessary to wait until an accident has occurred before staging a prosecution. Therefore, I only wish to point out that the Government must conduct more publicity on the harm of speeding, and enforcement actions must be stepped up. But it must at the same time refrain from setting up "speed traps" as much as possible. In this way, I believe that motorists will certainly feel that the policy of the Government is reasonable. And, very naturally, I do hope that the review on speed limits can give outcomes that can convince the public that the speed limits in Hong Kong are reasonable and they are thus happy to observe them. Thank you, Madam President.

**CHAIRMAN** (in Cantonese): Miss CHOY So-yuk, do you wish to speak again?

(Miss CHOY So-yuk indicated that she did not wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

Mrs Miriam LAU rose to claim a division.

**CHAIRMAN** (in Cantonese): Mrs Miriam LAU has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr Edward HO, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK and Dr TANG Siu-tong voted in favour of the motion.

Mr Michael HO, Dr Raymond HO, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr Philip WONG and Mr LAW Chi-kwong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Andrew WONG, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr HO Sai-chu, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted for the motion.

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Dr YEUNG Sum, Mr Andrew CHENG and Mr SZETO Wah voted against the motion.

Mr NG Leung-sing abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 23 were present, 16 were in favour of the motion and seven against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 15 were in favour of the motion, nine against it and one abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Clauses 4 and 6 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.

### **ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2000**

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

Road Traffic Legislation (Amendment) Bill 2000

has passed through Committee. While the Bill introduced by us is the most reasonable and practicable proposal to deter law-breaking drivers who exceeded the speed limit by 30 km/h or more, we appreciate the arguments of Members and respect their decision. The Government will continue to monitor the behaviour and statistics of speeding in future. We will propose a further review of the penalties for the consideration of the relevant Panel of the Legislative Council where necessary.

I move that the Road Traffic Legislation (Amendment) Bill 2000 be read the Third time and do pass. Thank you, Madam President.

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

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

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

### **EMPLOYMENT (AMENDMENT) BILL 2000**

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

**PRESIDENT** (in Cantonese): Mr LEE Kai-ming, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's report.

**MR LEE KAI-MING** (in Cantonese): Madam President, as Chairman of the Bills Committee on Employment (Amendment) Bill 2000, I wish to report on the main deliberations of the Bills Committee.

Members generally welcome the proposed amendments to section 9 of the Ordinance to make it clear that an employer cannot dismiss an employee summarily under this section on the ground of his taking part in a strike. A few Members, however, point out that the amendments proposed in the Bill are made in order to comply with Article 27 of the Basic Law, rather than clarifying the existing provisions of the Ordinance.

In the Administration's view, section 9 of the Ordinance is not inconsistent with Article 27 of the Basic Law as there is no provision in section 9 stipulating that an employer can dismiss an employee without notice or payment in lieu on the ground that the employee has participated in a strike. If an employer dismisses an employee without notice or payment in lieu by reason of the employee taking part in a strike, the dismissal may be considered unlawful.

A Member points out that an employee taking part in a strike is not afforded protection under section 21B of the Ordinance which deals with protection against anti-union discrimination.

The Administration has explained that as taking part in a strike will not of its nature be an activity undertaken outside working hours or with the consent of the employer, "strike" is not intended to be covered under section 21B of the Ordinance as a form of trade union activities. The Administration has further advised that if an employee is found to have been unreasonably and unlawfully dismissed, the Labour Tribunal may make an award of compensation of up to \$150,000.

A Member has proposed that amendments be made to sections 9 and 32N of the Ordinance to specify that where an employee takes part in a strike and the employer terminates his contract by reason of his taking part in the strike, the Court or the Labour Tribunal may make an order for reinstatement or make an award of terminal payments.

The Administration has explained that reinstatement of employees dismissed for taking part in strikes has wide implications and will need to be examined in detail. In the Administration's view, the amendments to sections 9 and 32N of the Ordinance proposed by the Member are outside the scope of the Bill.

Some Members have accepted the Administration's view and do not consider that the inclusion of the right to reinstatement in the Bill is appropriate. They are of the view that the issue should be dealt with separately outside the context of the Bill.

Madam President, the Bills Committee supports the proposals in the Bill. Thank you, Madam President.

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

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, following the remarks made by the Federation of Trade Unions (FTU) that the existing Employment Ordinance has failed to fully implement the Basic Law in relation to the right of an employee to strike, the Government has proposed amendments, clarifying that section 9 of the Employment Ordinance is not applicable to the case of an employee going on strike, that is, an employer cannot dismiss an employee summarily without notice by reason of the employee taking part in a strike.

The FTU welcomes the amendments proposed by the Government, but we consider the Government's amendments incomplete. I have sought to move Committee stage amendments, but the Administration has pointed out in reply that my amendments are outside the scope of the Government's amendments to the Bill. Madam President, I respect the same ruling that you have made. However, I hope the Government can review the relevant provisions again after the Bill has been passed, with a view to further establishing the right of an employee to strike.

Madam President, why did I say that the Government's amendments are incomplete? It is because the Bill only stipulates that an employer cannot dismiss an employee on the ground provided in section 9, it is however possible



for an employer to have made the mistake of dismissing the employee going on strike summarily on the ground of his taking part in a strike in violation of this provision. There are many ordinances relating to employment in Hong Kong. We often enforce the minimum protection under the Employment Ordinance. We do not take into account an employer's unscrupulous acts, but we think in a positive way. However, despite an employer's full knowledge of these provisions in the Ordinance, he will still do something wrong. For example, the Employment Ordinance prescribes that an employer cannot dismiss a female employee during her pregnancy, but some employers, with full knowledge of this law, will still do so. Obviously, those employers have violated the provisions relating to a female employee's pregnancy under the Employment Ordinance. Such dismissals will deal a great blow to the female employees both physically and mentally. I assisted in many cases involving employers' wrong decisions in the past. Hence, we must examine if this Ordinance clearly defines how legal remedies can be made.

We think that a reasonable inference can be summarized as follows. First, an employee mistakenly dismissed can receive pecuniary compensation; second, more importantly, the mistakenly dismissed employee should have the right to reinstatement. If not, will the right of an employee to strike be given full protection in the end? I hope the Government can reconsider my opinion in the next Legislative Session. I would like to stress that I do not hope that an employer will say to his employees in the future that they are dismissed by reason of taking part in a strike and that the employer will only offer pecuniary compensation. If the employees tell the employer that they have the right to strike, then the employer should allow them to be reinstated.

Madam President, I mean no disrespect for your ruling, but I must insist on this. I hope the President will understand me. I also hope that the Government will understand what I mean. I do hope that the Government will put forward proposals that can really protect the right of an employee to strike in the next Legislative Session. If the Government does not propose an amendment relating to reinstatement, I will even express regret at it. I understand the Government's point of view that it might be necessary to draft a bill on employees' right to strike by that time, which will involve the evening strike or advance strike mentioned by me before, but this is something at a different level, which we will certainly put forward again for discussion in the future.

The amendments that I have just mentioned are actually a supplement to the Government's amendments. If an employer violates the law because of misunderstanding, how can the Government reinstate an employee? The Government has not done any work in this respect. I hope the Government can listen to our comments in this debate and then propose amendments on its own initiative next time.

The FTU supports the relevant provisions of the amendments today because I made the relevant proposal long ago and Mr CHAN Wing-chan, my colleague, will elaborate on this part later. Thank you, Madam President.

**MR CHAN WING-CHAN** (in Cantonese): Madam President, the Employment (Amendment) Bill 2000 has eventually come out in response to thousands of calls. Previously, numerous workers were very worried about section 9 of the Employment Ordinance. Section 9 of the Employment Ordinance prescribes that if an employee disobeys an employer's reasonable and lawful order, he can be dismissed summarily. As to whether a worker who takes part in a strike will be dismissed by an employer who invokes section 9 in relation to the disobedience to an employer's reasonable and lawful order, the Employment Ordinance has not made a clear definition. Thus the concerns and worries of the general working population have not been addressed.

Workers engaging in trade union activities have long been worried about this, but after Hong Kong's reunification with the Motherland and the establishment of the Hong Kong Special Administrative Region, we have the Basic Law in force. In fact, the Basic Law confers on Hong Kong residents the right to join a trade union and go on strike. Article 27 in Chapter 3 of the Basic Law states, "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike." In the current Legislative Session, many bills on the adaptation of laws have been tabled at the Legislative Council for amendment and scrutiny, with the exception of the Employment Ordinance. If certain provisions such as sections 31(h), 31(x) and 32(h) of the Employment Ordinance which are inconsistent with the spirit of the Basic Law are deleted, especially when amendment is made to section 9 of the Employment Ordinance, consistence can then be achieved with the Basic Law which confers on Hong Kong residents the right and freedom to take part in a strike.

In view of the above reasons, I put forward a motion and a question in January 1999 respectively on Hong Kong residents' right and freedom to strike. In order to resolve the above problems, the Government should make amendment to the existing Employment Ordinance by incorporating a provision prescribing that an employer has no right to invoke section 9 of the Employment Ordinance by reason of an employee's taking part in a strike, that is, "dismissing an employee without notice or payment in lieu". Such an amendment can make section 9 of the Employment Ordinance clearer and prevent unscrupulous employers from using the grey area in the provision to threaten employees and crack down on strikers. For this reason, Madam President, I myself, the FTU and the DAB welcome the above amendment.

In addition, I would also like to commend the Secretary for Education and Manpower. In conformity with public opinion and in compliance with the spirit and provisions of the Basic Law, he has tabled the Employment Ordinance at the Legislative Council for amendment. This is a realistic and desirable approach. I appreciate the Government's approach very much this time around. When will there be any clearer provision or stipulation on strike for the protection of the right of numerous workers? This will be left to Members of the next Legislative Council. With these remarks, Madam President, I support this Bill. Thank you.

**MR ANDREW CHENG** (in Cantonese): Madam President, the Democratic Party all along supports that workers should enjoy the right to strike because whether in the International Labour Conventions, the United Nations' International Covenant on Economic, Social and Cultural Rights or even the Basic Law, it is stipulated that an employee has the right and freedom to organize and take part in strike activities. Going on strike is a basic human right of workers and it has been well recognized internationally as well as in the Basic Law, so we can hardly sidestep this question.

The Democratic Party pointed out on a number of past occasions that the existing legislation fails to give adequate protection to workers because currently there is still no legislation clearly conferring the right to strike on an employee. A genuine right to strike should at least protect an employee to the effect that his taking part in strike activities does not count as absenteeism, that an employer

cannot terminate an employee's contract of employment unilaterally and that an employee cannot be dismissed for this reason. However, at present, there is leeway left in the Employment Ordinance for an employer to dismiss some "disobedient" employees without making compensation. Through the efforts made by the Democratic Party and a lot of Honourable colleagues, the Government has eventually agreed to amend the law, stipulating that an employer shall not treat an employee's taking part in a strike as the case under section 9 of the Employment Ordinance where dismissal without notice may be considered lawful.

In this connection, the Democratic Party considers that the Government has taken the first step in the right direction. It is a pity that the Government's amendments are not comprehensive enough, for merely amending the Employment Ordinance is inadequate. Such issues as the right to collective bargaining and the right to reinstatement are the crux of the matter in the freedom to strike and workers' right because collective bargaining is a mechanism for assisting workers to form a representative body and to communicate with the management, and during the period of industrial action, the relevant trade unions can also assist other staff to negotiate effectively with the management. Once the employees taking part in a strike are dismissed by the boss, they should also have the right to reinstatement so that the job of the employees will not be threatened by their taking part in industrial action. Hence, to fully protect an employee's right to strike, the Government should enact an effective and comprehensive law on strike and provide explicit protection for an employee's right to strike.

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

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I often ask, "What does a worker get actually?" Frankly speaking, we all know they get nothing at all actually. The Department of Justice has advised that the provisions in Article 27 of the Basic Law should never appear in section 9. However, the trade unions of course expect the Government to clearly stipulate the relevant provisions. Although I am in support of so doing, this does not mean that we consider the amendments today adequate. We are discussing the provisions of implementing Article 27 of the Basic Law relating to the right to strike. Even

though amendments are made today, members of the public will be discussing this all along. The amendments cannot really implement the right to strike. The Secretary often says that the present handling of the matter is unlikely to be in contravention of the labour legislation, but non-contravention does not imply implementation. We therefore think and also hope that the Government will take into account the fact that Article 27 of the Basic Law has not yet been implemented even after the amendments this time around. For this reason, the Government will still continue to contravene Articles 27 and 39 of the Basic Law. Let us talk about Article 27 first. The Article clearly defines the right to strike. If there is a right to strike but without the right to reinstatement, and when an employer is allowed to dismiss an employee going on strike by making pecuniary compensation, to say in an offensive way, it is tantamount to "buying out" a worker. It is not a genuine right to strike.

A genuine right to strike must protect the rice bowl of the strikers for it to serve as a right to strike. Hence, without the right to reinstatement, this does not mean that the right to strike has been implemented.

I am aware that the Hong Kong Confederation of Trade Unions (HKCTU) and the FTU have been claiming that it is necessary to make amendments. But when Miss CHAN Yuen-han tried to propose amendments, the President made a ruling. I am not criticizing the President's ruling; I just want to say that the Government is very cruel. I have queried at meetings of the Bills Committee whether the Government could prevent Members from proposing amendments. So the Government has set out the so-called object in a very narrow way. Its is "for the avoidance of doubt, an employee taking part in a strike is not a lawful ground for an employer to terminate his contract of employment without notice or payment in lieu." This object is really narrow for the Government has made clarification only. If the Government really wants Members to hold discussions, it should set the object of the Bill as implementation of Article 27 of the Basic Law. If it is intended to implement Article 27 of the Basic Law, we can then propose amendments to incorporate more items. But the Government is very wise in protecting its executive-led initiative and designing such a narrow scope. There is no way in which the President can help us, thus putting her in a state of injustice indeed.

Madam President, I feel the Bill violates Article 39 of the Basic Law as well. Article 39 of the Basic Law refers to two very important international conventions. First, the International Labour Conventions. Hong Kong has

signed the International Labour Conventions No. 87 and No. 98 and the right to strike is also mentioned in the International Covenant on Economic, Social and Cultural Rights. Notwithstanding that the right to strike is not specified in black and white in the International Labour Convention No. 87, the authoritative ruling of all conventions indicates that the provision includes the right to strike. The content specifies that a trade union member who has been dismissed by reason of organizing or taking part in a strike should enjoy the right to reinstatement. The International Labour Convention No. 87 clearly states that a verdict has confirmed that an employee should have the right to reinstatement.

What a ridiculous provision section 21(b) of the Employment Ordinance is. A trade union can engage in activities and an employee can also take part in the activities of the trade union, but if an employee is dismissed by reason of taking part in strike activities, he may have the right to reinstatement in the future, but there is no such right at the moment. An employee can take part in union activities but cannot take part in strike activities. Under the Employment Ordinance, a strike is not deemed to be a union activity. I find this provision very ridiculous because strike is one of the functions of a trade union. A trade union does not like to organize strikes very much, but a trade union is bound to carry out negotiation. Negotiation requires power and the last resort is strike.

If a trade union cannot enjoy anti-discrimination protection even in organizing strikes, it will be very ridiculous indeed. This is entirely in contravention of Article 39 of the Basic Law. I therefore hope that the Government will propose real amendments expeditiously in the future to provide for the right to strike. Even if the Government is unwilling to propose this amendment, we will try our best to coerce the Government into doing so. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, just now several Members have said that they are glad that the Government can table this Bill at the Legislative Council this time around because this is part of the result that many groups have been constantly striving to achieve over the years. However, I hold a different opinion. On the face of it, we should welcome the Government's move because improvements have been made, but in practice, should we feel so glad about it? I do not feel glad in the least. Why not? Most importantly, we have expected to be offered protection in strikes. What is meant by protection? Madam President, under the existing legislation, there is

no protection regarding strikes apart from giving notice. We are all aware that the notice period is usually seven days and it will be fine as long as seven days' notice is given. As the Honourable LEE Cheuk-yan has said, a worker can be told to leave immediately without giving seven days' notice but with payment in lieu. When a worker has been told to leave, what is the point of going on strike and in what way? What sort of protection is there? Apparently, it sounds pleasing to the ear. We used to say that a worker had the right to strike while the boss had the right to dismiss a worker as well. But I consider the legislation meaningless. Apparently, everything is included, but actually, there is nothing of real substance. In practice, how do we go on strike? Can anyone who wants to strike possibly go on strike? Actually, he cannot go on strike. Even though this Bill is passed, how do we go on strike? What is the point when the boss can tell a worker to leave immediately by simply giving seven days' pay? It is of no use indeed. Hence, I do not feel glad at all because apparently the amendment seems to be able to appease us, but the appeasement means nothing. It cannot give us any real power in practice. I think we have not won any progress at all.

Let us look at the history. Many bosses will pay in lieu of notice to ask a worker to leave. What protection is there? There is no protection at all. So if we still talk about the Bill of Rights, the International Convention on Human Rights and the Basic Law, there is simply no connection between them. This time, the Government can make its argument sound plausible by saying that it has not breached the Basic Law or the International Convention on Human Rights. The Government has a lot of excuses as a matter of course. I do not think this is right. Although I am not trying to find fault with the Government for the purpose of finding fault with it, but when we talk about the right to strike, where can we find the right to strike? I do not see that there is the right to strike.

Madam President, I know that strike is very often used by workers to express their demands to the management; otherwise, they will have no opportunity to express their demands. If even this form of expression is derived, how can human rights be protected? How can the Basic Law be implemented? How can the International Convention on Human Rights be implemented? I feel these are all lies, so even though I am not going to oppose this Bill, I will not give my full support to it either. It is because, just as I have said, with this Bill, we have actually achieved nothing.

Madam President, just now many Honourable colleagues repeatedly indicated their hope that the Government will re-enact legislation on strikes, but I think this is purely a "hope" that means nothing. The Government will not do so. The Government will not say later that in the long term, it will consider enacting legislation on strike. I suppose that the Government will not do so. Hence, I will not pin my hopes on the Government, but I would rather rely on the workers and myself. If we really want a law on strike, we will see how far people power goes. If people power is inadequate, it is certain that the Government will not make any response. I therefore reiterate that I will not pin my hopes on the Government at all, but I would rather rely on the efforts of my organization and the workers. If we really think that it is necessary to have legislation on strike to protect ourselves, we should make more efforts and unite together. We cannot expect the Government to do anything.

Madam President, I so submit. Thank you.

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

(No Member responded)

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, first of all, I wish to thank Members for supporting the Employment (Amendment) Bill 2000. I also wish to thank the Bills Committee chaired by the Honourable LEE Kai-ming for accepting our proposals after scrutinizing the Bill.

Earlier on many Members expressed their concern on labour matters. I wish to reiterate that the Government has conducted detailed studies on providing in the Employment Ordinance for the right to reinstatement for employees who are unreasonably and unlawfully dismissed. The Labour Advisory Board (LAB) and the Legislative Council Panel on Manpower are generally supportive of the proposal. We plan to introduce a bill to this effect in the next Legislative Session, and Members' views will be fully taken into consideration as in the past.

Some Members mentioned the need to legislate on the right to strike. All I can say here is that this is a highly complex issue that requires detailed study and discussion among the Government, Members as well as employers and



employees. However, in response to Mr LEE Cheuk-yan, I wish to make it clear that we do not consider the existing Employment Ordinance a violation of the Basic Law, and this position is consistent with the legal opinion of the Department of Justice.

Madam President, the Employment (Amendment) Bill 2000 helps avoid unnecessary misunderstanding between employers and employees, and this is in the interest of both employers and employees. Therefore, I very much hope that Members will support this Bill to enable the early implementation of the proposals in the Bill.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Employment (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)

Mr CHAN Wing-chan rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHAN Wing-chan 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, the result will now be displayed.

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

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

THE PRESIDENT announced that there were 43 Members present and 42 were in favour of the motion. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

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

Council went into Committee.

### **Committee Stage**

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

### **EMPLOYMENT (AMENDMENT) BILL 2000**

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

**CLERK** (in Cantonese): Clauses 1 to 5.

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bill**

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

### **EMPLOYMENT (AMENDMENT) BILL 2000**

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

Employment (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 Employment (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): Employment (Amendment) Bill 2000.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Employees' Compensation (Amendment) (No. 2) Bill 2000.

### **EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 2000**

#### **Resumption of debate on Second Reading which was moved on 1 March 2000**

**PRESIDENT** (in Cantonese): Mr Kenneth TING, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's report.

**MR KENNETH TING** (in Cantonese): Madam President, as Chairman of the Bills Committee on the Employees' Compensation (Amendment) (No. 2) Bill 2000, I now table the Committee's report.

The Bill mainly seeks to improve the settlement mechanism of fatal compensation claims. I would like to summarize the report on the deliberations of the Bills Committee.

According to the proposals in the Bill, the Commissioner for Labour can determine the compensation payable to the dependants in respect of uncontested cases; compensation for death is made payable to family members instead of dependants of a deceased employee; an employer is required to make interim payment to the spouse of the deceased employee pending completion of the compensation assessment made by the Commissioner for Labour; and an employer is required to pay funeral and medical attendance expenses of a deceased employee.

The Bills Committee supports the proposals as described in the Bill in relation to improvement of the settlement mechanism of fatal compensation claims.

Some Members are of the view that the current maximum amount of \$16,000 for funeral and medical attendance expenses payable by the employer is too low. They therefore propose to increase the amount to \$50,000. The Administration has consulted the Labour Advisory Board (LAB) in this connection.

The LAB has divided views on the proposal of increasing the maximum amount of funeral and medical attendance expenses to \$50,000. However, the LAB has finally reached a consensus that the maximum amount should be set at \$35,000.

Although some members of the Bills Committee have expressed strong reservations about this amount, the majority of the members agree that the maximum amount of funeral and medical attendance expenses payable by the employer in all fatal compensation cases be set at \$35,000. The Administration will introduce Committee stage amendments in this connection.

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

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

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, according to the data provided by the Labour Department, the number of people who die as a result of accidents arising out of and in the course of employment averages over 250 per year. Very often, the victims are the breadwinners. Upon their death, not only are their family members grief-stricken, but they also fall into deep financial difficulties.

The existing Employees' Compensation Ordinance provides that upon the death of a worker, to claim compensation from the employer, the family members of the deceased will have to apply to the Court which will then make a determination. Applicants have to meet the legal requirements of "dependency" before they can be awarded compensation. The total amount of compensation will also be adjusted in proportion to the degree of dependency of the applicants on the deceased employee during his lifetime. In the past, the FTU and its subsidiaries used to have many arguments with employers over the "dependency" of the dependants and very often the Court had to make the determination. The process has inflicted suffering on the family members and the labour side has to bear extra expenses. Worse still is that it is really going too far to create barriers for the surviving family members with the assessment on the dependants' degree of dependency. The bereaved family has already encountered great difficulties, yet the Government has to ask whether they are the dependants. Family members are not considered dependants and they are even required to adduce evidence to prove the degree of dependency. Their next of kin having died at work, they will actually suffer more if they are required to do so. For this reason, the FTU has always regarded this as an excessive and bitter demand. I wish to stress that when a worker has already lost his life at work, why are his family members further subject to these limitations? When we deal with these cases, we often ask why these limitations are imposed. As a group of union workers, we have been criticizing these provisions with all our fellow workers all along.

The Government has to resolve the problem that has previously been our point of contention and therefore proposes the amendment today in the hope of plugging the loophole. We welcome this move. The amendment makes compensation payable to family members instead of dependants without regard to the degree of dependency. I consider this a correct approach.

However, the Government has failed to tackle another problem, which is the ceiling of \$16,000 for funeral expenses, a point that we have been criticizing all along. Frankly speaking, in the past, we considered this amount inadequate to cover expenses incurred in the holding of funeral rites by the victims' family members. Very often, we have to bargain with the employer. If we meet an understanding employer, there may be room for discussion. However, we have encountered difficulties in this respect. I recall an accident that occurred last year on a site where workers of a French construction company were killed in the explosion of acetylene gas cylinders. We said at that time, "Does the Government understand the custom of our community in holding funerals?" Does it know that how the Chinese arrange these things? Maybe the Government does not quite understand it. That explains why it continues to adopt the ceiling of \$16,000 in proposing this Bill. Notwithstanding the amendments made to the dependants and the degree of dependency by the Government, the problem is that there has been no change in the figure. We do not agree with the Government's approach. We have proposed to increase the ceiling of \$16,000 to \$50,000, but the Government has rejected it. According to information that we received earlier on, the Government had indicated that it would consider the proposal, it might be that subsequently at the LAB, representatives of the management indicated disagreement and the Government rejected the proposal accordingly. Frankly speaking, as far as Chinese funeral rites are concerned, is the amount of \$50,000 a big or small sum? From an objective point of view, this amount is not large at all. After a round of debate, we did not want to drag things on. At last, we met each other halfway at the amount of \$35,000. Frankly speaking, we do not fully accept this amount, but since we do not want to further delay the matter on the dependants and the degree of dependency as I have mentioned before, we have to accept that the ceiling of \$16,000 would be raised to \$35,000 in spite of our disagreement. Compared to \$16,000, \$35,000 is a relatively reasonable figure. This is however not a large sum from an objective point of view, and this amount is inadequate in resolving problems. This amount is adequate to meet normal expenses rather than expenses on extravagant or luxurious funeral packages.

Madam President, in view of the above reasons, I do not want to delay further the matter, so the FTU and the DAB support the Employees' Compensation (Amendment) (No. 2) Bill 2000.

Thank you, Madam President.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, as regards the amendment to the Employees' Compensation Ordinance in relation to the part on replacing dependants with family members, Miss CHAN Yuen-han has just expressed her views, I am not going to repeat them. But I only wish to talk about the issue of funeral expenses.

In the process of discussing these aspects of the Employees' Compensation Ordinance, I felt rather sad because we were discussing the issue of funeral expenses of people killed at work. We all know that death at work is a sudden incident, which is different from dying of a disease, because dying of a disease is within expectation, or at least we know the stage of development of the disease and how dangerous it is. But death at work entirely comes as a surprise and catches one unprepared. It therefore has a very great impact on the family members of the deceased. Up till now, no funeral expenses will be granted for death at work. We often have to rush from place to place with the family members begging for help. When nothing has been achieved, we even have to carry a coffin to the doorstep of the employer's office asking him to pay the funeral expenses. On average, it takes at least two visits before payment of the funeral expenses can be secured. In a worse situation, it may take up to eight or 10 visits or more to get payment of the funeral expenses or even no funeral expenses will be paid at all.

Initially, the law provides that the ceiling of funeral expenses shall be \$16,000. Actually, the Government has failed to take into account several aspects. In general, the family members will regard their next of kin's death as unnatural death and so they will hope that the deceased will be buried intact. In addition, for the same reason, they will go through certain religious ceremonies to mourn the death of the deceased and to console the surviving family members in order to put their mind at rest. Looking back at the cases that we assisted in the application for funeral expenses in the past, \$75,000 would be awarded in general and the least paid amount would be \$30,000. The Chairman of the Committee has just mentioned that some colleagues have proposed that \$50,000 should be paid to relieve the family members of the pressure and burden. Unfortunately, the LAB considered this amount unacceptable after discussion and therefore changed the amount to \$35,000. One of the reasons is that it entails a substantial adjustment in insurance premium.

We have repeatedly held discussions and debates over the Employees' Compensation Ordinance in the past. Both the employer and the employee



agree that there should be improvements in this area. Owing to an increase in insurance premium, these improvements cannot be put into practice and it is even impossible to amend the Ordinance. I hope that the Government can conscientiously consider whether the previous method should be continued or a central compensation system should be set up to replace the existing system.

Lastly, the amendment has still failed to resolve a problem because \$35,000 can hardly cover the funeral expenses in full. It is a pity that the family members still have to rush from place to place. I hope that we can give consideration to the situation and feelings of those people who have encountered tragedies.

Thank you, Madam President.

**MR ANDREW CHENG** (in Cantonese): Madam President, the Democratic Party supports the Bill which seeks to improve the settlement mechanism of fatal compensation claims and simplify the process in which the family members of an employee killed at work can receive compensation. According to the current process, where a person dies as a result of an accident arising out of and in the course of employment, his dependants must make an application to the Court which will determine who the dependants are; their dependence; and their share of the compensation. The completion of the legal process usually takes one to two years, hence the family members of the deceased will have to wait a lengthy period before they can receive compensation which is uncontested. Simplifying the process will help to relieve a bereaved family of troubles and financial difficulties and will also help to reduce unnecessary legal costs.

However, as regards the Government's proposal to increase the current ceiling of funeral and medical attendance expenses from \$16,000 to \$35,000, the Democratic Party considers the revision inadequate. In fact, when the Bills Committee initially scrutinized this Bill, the Administration also agreed that it was acceptable to raise the ceiling of the expenses from \$16,000 to \$50,000. But then since no consensus could be reached with the LAB, so in the end a concession was made to only revise the ceiling of funeral and medical attendance expenses to \$35,000. Some Members who are representatives of the industrial and commercial sectors think that the increase of the ceiling from \$16,000 to \$50,000 would be too much and would cause financial hardship to employers. But actually, if an accident occurs causing death, the expenses will be covered by

insurance. Whether the ceiling is increased to \$35,000 or \$50,000, it will have limited impact on the insurance premium to be borne by the employer on the whole. It might be a difference of 0.1 or 0.2 percentage point. Why does the employer bother so much about the funeral expenses? The funeral and medical attendance expenses of \$35,000 are actually inadequate for the surviving family members to hold a decent funeral for the deceased. The Democratic Party and Members who have spoken on behalf of the trade union unanimously urge the Government to review the relevant provisions again expeditiously and increase the ceiling of funeral and medical attendance expenses to \$50,000.

Madam President, I so submit.

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

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, just now the Honourable LAU Chin-shek spoke on behalf of the Hong Kong Confederation of Trade Unions (HKCTU). I wish to add something. I feel very indignant at the mere increase of the ceiling of funeral expenses from \$16,000 to \$35,000. I believe the Secretary should know that I have initially advised the Secretary on behalf of the HKCTU that the ceiling of \$16,000 is basically unreasonable and the Government has no reason to propose the funeral expenses of \$16,000 which is so small a sum. The Secretary subsequently indicated that there could still be discussion after making the proposal of \$16,000. The amount of \$50,000 that we have proposed is a rather reasonable level, but unfortunately, the representatives of the management on the LAB oppose the increase of the ceiling to \$50,000. I feel that the community is really cold-blooded.

Today, I will not go on talking about the unscrupulous employers, but the established system is really an unscrupulous one. Under this system, the ceiling of funeral expenses can possibly be \$35,000 only. Of course, it was much more unreasonable in the past, so it can be said that there has been improvement. As not a single penny would be given in the past, improvement has been made now. Is the community really so cold-blooded? If one says that the difference between \$35,000 and \$50,000 is not actually great, then why is the reasonable improvement vetoed at the last moment? Do we still have to keep going, as described by Mr LAU Chin-shek, by knocking at the door of the construction company or the employer together with the family members of the deceased at

the time of grieving to beg for funeral expenses? Actually, the most urgent question at the moment can be resolved in a simple way. Do we really need to get into such a plight? I remember that 20 years ago, there was a banner which read like this (I will never forget it), "Feel sorry for the helpless widows and orphans with no more tears to shed (悲孤寡無援，流乾眼淚)". Do we really need to get into such a plight?

Another point I wish to add is that apart from my dissatisfaction with the amount provided for funeral expenses, I hope that the Government will review the matter of financial relief again. Currently the financial relief is half a month's pay, but it will be deducted from the compensation in eight, six or four years' time (on the basis of age). How can these genuine helpless widows and orphans make their living in the future? What should they do the compensation is exhausted? The financial relief will have to be deducted from the compensation in the next eight years, is it too mean? Can they be provided some genuine financial relief? If not, at least a review should be made on the requirement of deduction from the compensation in four, six or eight years' time and then make some improvements. However, maybe my request is like "casting pearls before swine", but I hope that the Government can have a bit of conscience. Thank you, Madam President.

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

(No Member responded)

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I am glad to see the resumption of the Second Reading debate on the Employees' Compensation (Amendment) (No. 2) Bill 2000 before the end of the current Legislative Session. In this connection, I am grateful to the Chairman of the Bills Committee, the Honourable Kenneth TING, as well as other members of the Bills Committee for their efforts, without which the scrutiny of the Bill would not have been completed so expeditiously.

At meetings of the Bills Committee, some Members suggested that the maximum amount of funeral and medical attendance expenses currently payable by employers be increased. We have consulted the Labour Advisory Board (LAB), and a majority of members of the LAB agreed to increase the maximum

amount of funeral and medical attendance expenses payable by employers from the existing \$16,000 to \$35,000. I will move a Committee stage amendment to this effect later. In the meantime, I will also propose a number of technical amendments. After the gazettal of the Bill, the Accident Insurance Association informed the Government that they had reassessed the impact on the cost of employees' compensation insurance arising from the proposals to improve the settlement of fatal compensation claims. Results showed that the proposal requiring the employer to make compensation in full will lead to an increase of about 3.49% in the compensation insurance cost in each work-related fatal case. The Bills Committee noted the impact of the Bill on insurance cost.

To enable family members of employees who died at work to obtain reasonable compensation as early as possible, I hope Members will support the Bill together with the Committee stage amendments that I will move later on to facilitate the early implementation of the new measures.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Employees' Compensation (Amendment) (No. 2) Bill 2000 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Employees' Compensation (Amendment) (No. 2) Bill 2000.

Council went into Committee.

**Committee Stage**

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

**EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 2000**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Employees' Compensation (Amendment) (No. 2) Bill 2000.

**CLERK** (in Cantonese): Clauses 1 to 5, 7 to 12, 14, 16 to 25 and 27 to 43.

**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 6, 13, 15 and 26.

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

The amendments mainly seek to amend the Sixth Schedule of the Employees' Compensation Ordinance to increase the maximum amount of funeral and medical attendance expenses payable by employers to employees in

respect of a fatal accident from the existing \$16,000 to \$35,000. According to the estimation of the Accident Insurance Association, this amendment, if passed, will lead to an increase of 0.41 % in the employees' compensation insurance cost. Other amendments serve to improve the wording of the clauses or clarify our legislative intent.

These amendments have been discussed by the Bills Committee and are supported by members of the Bills Committee.

Thank you, Madam Chairman.

*Proposed amendments*

**Clause 6 (see Annex VI)**

**Clause 13 (see Annex VI)**

**Clause 15 (see Annex VI)**

**Clause 26 (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 Education and Manpower 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 6, 13, 15 and 26 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): New clause 14A Remedies independently of Ordinance against employer.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move that new clause 14A, as set out in the paper circularized to Members, be read the Second time.

This amendment mainly serves to clarify our legislative intent. It has been endorsed by members of the Bills Committee. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 14A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): New clause 14A.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move that new clause 14A be added to the Bill.

*Proposed addition*

**New clause 14A (see Annex VI)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 14A 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.

### **EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 2000**

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

Employees' Compensation (Amendment) (No. 2) 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 Employees' Compensation (Amendment) (No. 2) Bill 2000 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Employees' Compensation (Amendment) (No. 2) Bill 2000.

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

**PRESIDENT** (in Cantonese): This Council now resumes the Second Reading debate on the Adaptation of Laws (No. 2) Bill 1999.

### **ADAPTATION OF LAWS (NO. 2) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 10 February 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 2) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 2) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 2) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 2) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 2, 4, 10 and 12.

**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, 3, 5 to 9 and 11.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move the amendments to Schedules 1, 5 to 9 and 11 and deletion of Schedule 3, as set out in the paper circularized to Members.

Section 7 of Schedule 1 has to do with a non-immunity provision. The original proposal of the Government is to replace references to "Crown" in non-immunity provisions by "State". But in scrutinizing the Adaptation of Laws (No. 16) Bill 1999 which is under the charge of the Health and Welfare Bureau, some Members considered it more appropriate to adapt the term to "Government". The Government agreed with this proposal of Members in principle, but the Adaptation of Laws Programme requires that each provision should, as far as possible, be to the same legal effect after its adaptation as before.

The use of "Government" in non-immunity provisions of ordinances enacted before the reunification does not carry the same legal effect as using "Crown" originally. For this reason, the Government proposed to withdraw the adaptation proposals to non-immunity provisions so as to reintroduce legislative amendments in the next Legislative Session to adapt the term "Crown" by

"Government" in the relevant provisions. This proposed amendment has been endorsed by the Bills Committee. Therefore, I proposed the deletion of section 7 of Schedule 1 for the same reason.

Schedule 3 originally aims to effect adaptations to the Lingnan College Ordinance but such adaptations are no longer necessary given that the Ordinance was repealed after the tabling of the Bill at the Legislative Council. We, therefore, proposed the deletion of this obsolete Schedule.

Moreover, amendments are proposed to section 4 of Schedule 5, section 4 of Schedule 6, section 3 of Schedule 7, section 3 of Schedule 8, section 3 of Schedule 9 and section 3 of Schedule 11 to replace "the rights of the Central People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws" by "the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws". The purpose of these amendments is to achieve consistency with the terminology in item 10 of Annex 3 of the Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in Accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. Similar amendments were discussed by the Bills Committee on the Adaptation of Laws Bill 1998 and supported by members of the Bills Committee.

I hope Members will support these eight amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Schedule 1 (see Annex VII)**

**Schedule 3 (see Annex VII)**

**Schedule 5 (see Annex VII)**

**Schedule 6 (see Annex VII)**

**Schedule 7 (see Annex VII)**

**Schedule 8 (see Annex VII)**

**Schedule 9 (see Annex VII)**

**Schedule 11 (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 Education and Manpower be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): As the amendment to Schedule 3, which deals with deletion, has been passed, Schedule 3 is deleted from the Bill.

**CLERK** (in Cantonese): Schedules 1, 5 to 9 and 11 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.

### **ADAPTATION OF LAWS (NO. 2) BILL 1999**

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

Adaptation of Laws (No. 2) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 2) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 2) Bill 1999.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 19) Bill 1999.

### **ADAPTATION OF LAWS (NO. 19) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 7 July 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 19) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)



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

**CLERK** (in Cantonese): Adaptation of Laws (No. 19) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 19) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 19) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 2 to 6 and 9.

**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, 7 and 8.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move that Schedules 1, 7 and 8 be amended, as set out in the paper circularized to Members.

The original amendment to sections 5 and 6 of Schedule 1 is to replace "Governor" by "the Chief Executive and any public officers with delegated function, duty or power under section 5(2A) may after consultation with the Executive Council". This complicated amendment seeks to specify that the Chief Executive in making subsidiary legislation should have to consult with the Executive Council according to paragraph 2 of Article 56 of the Basic Law. Similar amendments were discussed by the Bills Committee on Adaptation of Laws (No. 2) Bill 1998 and supported by Members.

We propose to adopt a simpler and direct method. References to "Governor" will be replaced by "Chief Executive" and in making subsidiary legislation, the relevant provisions in the subsidiary legislation will spell out that the Chief Executive has already consulted the Executive Council.

Section 9(a) in Schedule 7 and section 7(a) in Schedule 8 are "non-immunity provisions". For the same reasons given by me when I moved the amendments to the Adaptation of Laws (No. 2) Bill 1999, I move that the two provisions be deleted.

I hope Members will support the four amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Schedule 1 (see Annex VIII)**

**Schedule 7 (see Annex VIII)**

**Schedule 8 (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 Education and Manpower 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, 7 and 8 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.

### **ADAPTATION OF LAWS (NO. 19) BILL 1999**

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

Adaptation of Laws (No. 19) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 19) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 19) Bill 1999.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 32) Bill 1999.

### **ADAPTATION OF LAWS (NO. 32) BILL 1999**

### **Resumption of debate on Second Reading which was moved on 14 July 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 32) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 32) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 32) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 32) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 21.

**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 22.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move that Schedule 22 be amended, as set out in the paper circularized to Members.

The amendment proposes to delete section 15 from Schedule 22. The provision is a "non-immunity provision". The reason for the amendment is the same as that I gave in moving the Committee stage amendment to the Adaptation of Laws (No. 2) Bill 1999. I hope Members can support the amendment. Thank you, Madam Chairman.

*Proposed amendment*

**Schedule 22 (see Annex IX)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Education and Manpower 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 22 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.

### **ADAPTATION OF LAWS (NO. 32) BILL 1999**

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

Adaptation of Laws (No. 32) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 32) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 32) Bill 1999.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 33) Bill 1999.

### **ADAPTATION OF LAWS (NO. 33) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 14 July 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 33) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 33) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 33) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 33) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 6.

**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 7 to 10.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move that Schedules 7 to 10 be amended, as set out in the paper circularized to Members.

Section 1 in Schedule 7, section 9 in Schedule 8, section 9 in Schedule 9 and section 11 in Schedule 10 are " non-immunity provisions". I propose deleting the provisions according to the way we deal with similar provisions under the Adaptation of Laws (No. 2) Bill 1999. Section 2(b) in Schedule 10 involves adaptation amendments to the word "Governor". For the reasons I put forward in moving Committee stage amendments to the Adaptation of Laws (No. 19) Bill 1999, I propose that references to "Governor" be adapted to "Chief Executive". I hope Members will support the five amendments mentioned above. Thank you, Madam Chairman.

*Proposed amendments*

**Schedule 7 (see Annex X)**

**Schedule 8 (see Annex X)**

**Schedule 9 (see Annex X)**

**Schedule 10 (see Annex X)**

**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 Education and Manpower 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 7 to 10 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.

### **ADAPTATION OF LAWS (NO. 33) BILL 1999**

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

Adaptation of Laws (No. 33) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 33) Bill 1999 be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose 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): Adaptation of Laws (No. 33) Bill 1999.

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

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

### **DUTIABLE COMMODITIES (AMENDMENT) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 17 November 1999**

**PRESIDENT** (in Cantonese): Mr James TO, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's report.

**MR JAMES TO** (in Cantonese): Madam President, as Chairman of the Bills Committee on the Dutiable Commodities (Amendment) Bill 1999, I wish to table the report and report to Members on the main deliberations of the Bills Committee.

The Bill seeks to amend the Dutiable Commodities Ordinance for the following purposes:

- (1) to strengthen the enforcement efforts by extending the scope of presumptions;
- (2) to increase the penalty for offences relating to use of illicit fuel in vehicles or pleasure vessels so as to enhance the deterrent effect; and
- (3) to relax control on home brewing.

The Bills Committee notes that the current presumptions in the Dutiable Commodities Ordinance have failed to combat the illegal trading activities of selling fuel in takeaway cans to drivers. Hence, the Administration proposes to extend the scope of presumptions in section 40(c), specifying that if a person is found to be selling, supplying, buying, receiving or otherwise dealing in light diesel oil or petrol outside licensed premises, the Customs and Excise Department (C & ED) can institute a prosecution by invoking this presumption. The Bills Committee unanimously endorses this proposal to strengthen the Government's enforcement efforts.

Another presumption proposed by the Administration prescribes that if the fuel in the fuel tank of a vehicle has a sulphur content higher than the specified standard, then it should be deemed as a dutiable commodity. Members have reservations about this and suggest that the Government should consult the transport trade because members are concerned that if the fuel found in the fuel tank of a vehicle has a sulphur content higher than the specified standard, the driver who may have no knowledge about the source of the vehicular fuel in question will be exposed to the risk of criminal liability. The Administration accepts members' views, but as consultation takes time, in order not to hamper the enactment of the other parts of the legislation in the current Legislative Session, the Bills Committee has agreed to the Government's deletion of the proposed presumption and reintroduction of the presumption provision expeditiously in the next Legislative Session only after consultation with the trade.

The Bills Committee considers that the penalty for offences relating to illicit fuel should carry sufficient deterrent effect because these offences not only lead to revenue loss but also cause environmental pollution and fire hazards. The Bills committee is therefore in support of the proposal in the Bill to increase the maximum penalty for offences in relation to marked oil and detreated oil to a fine of \$1 million and imprisonment for two years.

To enhance the deterrent effect, members have proposed to set a mandatory minimum penalty level, but it is not acceptable to the Administration, which considers that this will undermine the autonomy of the Court. The Administration has however proposed new penalty provisions, providing that if a person has been repeatedly convicted of carrying or using illicit fuel with the use of a vehicle, his driving licence will be suspended for a period of not less than six months. The provisions will also provide that the Court can, for special reasons,



order that the person concerned be disqualified for a shorter period. If the last previous conviction took place more than five years ago, the offence in question would be regarded as if it were the first offence. The Bills Committee accepts the additional penalty provisions.

The Bills Committee supports the Government's proposal to exempt home brewing of liquors, which is not manufactured by way of distillation not for the purpose of sale, from licensing and duty. It is of the view that as long as those home-brewed liquors are marked legibly the words "Home brewed, Not for Sale" or words to the same effect, it will be adequate, that is, it will not be considered illegal.

In addition, the Administration has also made certain technical amendments to the Dutiable Commodities Ordinance, one of which is related to section 6(1)(i). Upon the request of the Committee, the Administration has agreed to specify that regulations made under the new section 6(1)(i) will be subject to positive vetting by the Legislative Council.

Madam President, the Bills Committee supports the resumption of the Second Reading debate on the Bill and endorses the Committee stage amendments moved by the Administration.

I so submit.

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

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

**MISS EMILY LAU** (in Cantonese): Mr Deputy, I rise to speak in support of the Second Reading of the Bill. I mainly wish to speak on the issue of air pollution because the Honourable James TO has just presented our views on behalf of the Bills Committee.

The Legislative Council multi-party coalition for clean air has put forward various proposals, and this is one of the proposals, so we are very concerned about it. Several Members have joined this Bills Committee in full support of

the Government's enforcement actions in combating the supply or use of illicit fuel and the increase of the penalty level. We hope to convey to the public the message that the enforcement and executive authorities have agreed to this act. We even hope that the enforcement officers can tackle these problems speedily and vigorously in future. Mr Deputy, I believe that you are most aware of the great damage caused to the community of Hong Kong by air pollution, so we strongly support this Bill.

Just now Mr James TO mentioned that the Secretary for the Treasury would propose to delete a presumption later on. Essentially, we are in support of this presumption. However, at that time I was asking whether the trade had been consulted in the process of scrutiny and whether the trade was fully prepared for it. Suppose a vehicle is intercepted and found to contain fuel with a sulphur content higher than the specified standard and it is immediately presumed that the driver must be held responsible, the driver may however say that he did not fill up the fuel tank. So we think that it is necessary to clarify the situation with the trade and encourage the trade to set up a system. Under a "hand over to the next shift" situation, everything will be expressly clear so that the driver will not find himself treated unjustly. Mr Deputy, I think this is something that ought to be done.

The Government indicated that it would be implemented at a later time because of time constraints. We agreed to this. However, today I would like to express clearly to the Secretary for the Treasury that we hope that it can be implemented as soon as possible. I do not know how many Members will return to the Legislative Council in October. Mr Deputy, I hope that both you and I will be equally lucky, but I hope the Government will then be able to propose amendments expeditiously and to work on this matter. This will keep the Secretary for the Treasury busy within the next couple of months because she will have to consult the trade expeditiously. I believe the trade will not oppose it in principle. They just hope to set up a system. When a driver is on duty, he must know what evidence he has to adduce in his own defence when he is caught on the spot. I think this ought to be done because if we enact legislation, we will need to make regulations specifically for the purpose of preventing anyone from using illicit fuel. I hope the Secretary for the Treasury will do everything in her power.

In addition, I wish to raise another point. Mr Deputy, air pollution is mainly in the charge of the Secretary for the Environment and Food, but it is

handled by the Secretary for the Treasury at the present time. Someone has told me that the C & ED actually does not deal with air pollution because it is not within their ambit. In fact, the environmental protection and sustainable development we are discussing now will involve many areas of policy. Perhaps at a later time when the Secretary for the Treasury gives her reply, she can say that in her capacity as the Secretary for the Treasury, she is also responsible for handling matters of sustainable development. Departments under her control, whether the C & ED or the other departments, are in charge of more than one task and responsible for both environmental protection and conservation. I hope the Secretary for the Treasury can respond to this later on because some members of the public consider that we are wasting our breath in our current discussion. The task is not handled by a specified Policy Bureau or department. However, I believe that it is agreed throughout the entire Government that clean air is fairly important, so each department should assume responsibility. The Secretary for the Treasury should definitely understand that today so many Members have expressed their interest in the question purely out of their concern for environmental protection. Hence, I hope the Secretary will admit that both the Finance Bureau and the C & ED are responsible for handling matters of sustainable development.

Finally, Mr Deputy, I wish to talk about the issue of exemption, which is not raised in the Bill. Currently, those vehicles that head for the Mainland from Hong Kong and then return here from the Mainland are exempted. Notwithstanding limitation on the size of the fuel tank and the volume of fuel carried, generally speaking, these vehicles are exempted. I learn from some data that currently there are 30 000 vehicles entering Hong Kong from the Mainland every day. Mr Deputy, this is an extremely serious problem. Although the Bill today cannot tackle this problem, I still hope that the Government can deal with it expeditiously; otherwise, even though the problem in Hong Kong is resolved, these vehicles will still bring fuel with a high sulphur content into Hong Kong every day causing air pollution again so that we will not be able to achieve our target. I believe that this is not only the responsibility of the Secretary for the Treasury, but the other Secretaries should also take action expeditiously to see if they can discuss with their counterparts in Guangdong Province, especially in Shenzhen, with a view to reaching a common standard in terms of fuel and air pollution index and reaching an agreement in law enforcement to jointly ameliorate air pollution of the two places.

With these remarks, I support the Second Reading of the Bill.

**MRS MIRIAM LAU** (in Cantonese): Mr Deputy, I have said many times and today I have to repeat once again that the transport trade does not support the use of illicit fuel. A year ago, the Millenium Green Efforts Preparatory Committee composed of 66 groups in the transport trade also expressed to the Government their views in writing, one of which was to request the Government to crack down on illicit marked oil earnestly.

Today this Bill proposes a presumption that if the fuel tank of a vehicle is found to contain diesel with a sulphur content higher than the specified standard, then the driver possesses or uses illicit fuel. It has long been a professional convention or custom in the transport trade, in particular, the taxi industry, that the driver in the previous shift has to fill up the fuel tank for the driver in the next shift or the car owner has to fill up the fuel tank for the driver or vice versa. Various situations will arise. If the presumption is prescribed in the Bill, the existing custom or practice will possibly give rise to unfair situations.

I have inquired the Finance Bureau through the Legislative Council Secretariat whether miscarriage of justice will occur in connection with this issue, that is, the case where the driver in the previous shift has filled up the fuel tank and the driver in the next shift is later arrested by reason of the fuel tank containing fuel with a high sulphur content or marked oil. In fact, Customs officers have had such experiences and these cases have occurred previously. However, after investigation or checking with the driver of the previous shift, if the driver of the previous shift is willing to admit that the illicit fuel or marked oil has been bought by him, the driver without knowledge of it will then be spared the prosecution.

Nevertheless, the Government's answer to my question is that the driver without knowledge will not necessarily be prosecuted, which means that it is still possible that he will be prosecuted or miscarriage of justice will possibly arise. Hence, I feel that it is necessary to have further discussions with the trade to see if assistance can be given to the trade in setting up a system on its own, such as the requirement to keep some receipts as evidence. I have received a complaint that can serve as an example. A car owner let his vehicle to a driver, but three days later, the vehicle could not be let out. Subsequently the fuel tank was found to have marked oil. In this case, will the receipt issued three days ago be adequate to exempt the innocent car owner from criminal liability?

I hope the Administration, in particular the C & ED, can have a detailed discussion with the trade so as to set up a system acceptable to all parties, so as to ensure that those car owners or drivers who are willing to abide by the law and purchase lawful fuel will not be prosecuted. If those who really purchase or sell marked oil can be subjected to heavy penalty, the transport trade will give their support.

THE PRESIDENT resumed the Chair.

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

(No Member responded)

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, I would first like to thank the Chairman, the Honourable James TO, and members of the Bills Committee for their efficient and thorough examination of, as well as support for, the Bill.

Since illicit fuel not only affects public revenue but also increases air pollution and fire hazards, the Bills Committee strongly supports the main objective of the Bill, which is to strengthen enforcement efforts against the supply and use of illicit fuel. While requesting the Government to impose penalties with greater deterrent effect for the relevant offences, the Bills Committee has also stressed that any additional measures to tackle the problem should not unduly hinder or affect the normal operation of the legitimate transport trade. The Administration has taken on board all these views, which are a matter of principle, and will implement the consensus reached with the Bills Committee in this respect through the Committee stage amendments I am going to introduce later on.

Under the existing Dutiable Commodities Ordinance, the supply and use of duty-not-paid fuel, or illicit fuel as it is commonly called, is an offence. The Bill does not seek to create any new offence. Its main objective is to enable the Customs and Excise Department to take more effective enforcement and prosecution actions against offences involving the supply and use of illicit fuel.

To this end, the Bill proposes to add two presumption provisions to the Dutiable Commodities Ordinance. The first proposed presumption sets out that light diesel oil and motor spirit sold, supplied, bought, received, or otherwise dealt in at any location not licensed for the storage of diesel oils or petrol under the Dangerous Goods (General) Regulations shall be presumed to be dutiable. In other words, light diesel oil and motor spirit traded in unlicensed premises will be presumed to be dutiable and the person in question is required to provide evidence proving that the fuels concerned are duty-paid goods.

The proposed presumption seeks to facilitate enforcement and prosecution actions by Customs officers in combating the sale of illicit fuel at unlicensed supply stations that does not involve the direct transfer of fuel into the fuel tank of a vehicle on the spot, such as the sale of illicit fuel by takeaway cans.

The proposed presumption is necessary because the sale of illicit fuel *per se* currently falls outside the scope of the existing presumption provisions in the Ordinance. Under the present Ordinance, Customs officers can invoke the presumption provisions only when a person is caught transferring fuel to or from the fuel tank of a vehicle. Since the transfer of fuel to or from the fuel tank of a vehicle may not necessarily take place at a supply station, Customs officers cannot invoke the presumption to support the prosecutions instituted against illicit fuel supply stations.

The proposed second presumption provision stipulates that light diesel oil found in the fuel tank of a motor vehicle with a sulphur content in excess of the maximum level prescribed under the Air Pollution Control (Motor Vehicle Fuel) Regulations, currently at 0.05% by weight, is presumed to be dutiable. This proposal means that a driver has to prove whether or not the diesel oil in his fuel tank is duty-paid if its sulphur content is found to be higher than 0.05%.

We believe it is imperative to introduce the proposed presumption to assist Customs officers to take enforcement action against the use of duty-not-paid diesel oil and detreated oil. The main reason is that although these two kinds of fuel are no different in appearance from duty-paid fuel, they do have an obvious feature: a sulphur content higher than that of legal diesel fuels.

The logic of this presumption is based on the fact that the sale of light diesel oil with a sulphur content higher than 0.05% for vehicular use is prohibited in Hong Kong, whereas illicit fuels generally have a higher sulphur

content. It follows that light diesel oil used by vehicles with a sulphur content higher than 0.05 % is very likely to be illicit fuel.

Members of the Bills Committee generally consider it necessary to introduce the two presumptions proposed in the Bill to enhance the effectiveness of Customs officers' enforcement and prosecution efforts. However, given that the dutiability of fuel in the fuel tanks of vehicles is involved in the second presumption, they have expressed particular concern over the impact of the second presumption on professional drivers. Their concern is that professional drivers working on shifts may have no knowledge about the source of the fuel in their fuel tanks if the fuel was filled by the driver on the previous shift. It would be unfair to them if they should be charged for an offence committed by someone else.

The Bills Committee has therefore asked the Administration to consult the transport trade on the presumption and to work out with the trade a record-keeping system whereby drivers can demonstrate the extent of their knowledge about the source of the illicit fuel, before submitting the presumption provision to the Council for consideration.

As I pointed out at the beginning of my speech, the proposed presumption does not by itself establish a new offence for using illicit fuel. With or without the presumption, it is already an offence for a person to use illicit fuel. What the presumption does is to facilitate the proving of an offence by shifting the onus of proof to the suspect. In other words, if the fuel found in his vehicle has a sulphur content higher than 0.05 %, the suspect is required to prove that duty has been paid in respect of such fuel. However, the suspect may also prove whether or not he knows the fuel in question is illicit, and whether he is involved in the case. This does not contravene the proposed presumption.

A professional driver caught using illicit fuel, for example, may claim that the fuel was filled by the driver on the previous shift and that he has no reason to suspect that the fuel is duty-not-paid. In that case, Customs officers will conduct further investigations to verify his claim. This is also the current approach of the Customs and Excise Department to handling situations where the drivers caught claim innocence. Depending on the results of the investigations, the driver caught may not necessarily be prosecuted. Moreover, the Court will consider the various factors concerned before deciding whether or not the

relevant driver should be convicted. We do not, therefore, believe that the introduction of the presumption will lead to unfair prosecution and conviction.

Notwithstanding this, we agree with Members that the transport trade should be consulted on the proposed presumption, and that a proper record-keeping system should be worked out with the trade before the presumption is included in legislation. As such consultation takes time, it is impossible to complete the exercise in time for the legislation to be enacted before the end of the current Legislative Session. We, therefore, propose to defer the introduction of the provision on the proposed presumption relating to the dutiability of fuel based on its sulphur content, pending the completion of consultation with the trade. To this end, I shall introduce a Committee stage amendment later on to delete the presumption from the Bill.

I should like to emphasize and put on record that the deletion does not mean that we are abandoning the proposed presumption. Madam President, the Customs and Excise Department has discussed and agreed with the Transport Department on the arrangement for the consultation exercise, and will start meeting with representatives of the relevant trades to consult them on the proposed presumption in the coming month. We very much hope that the presumption provision can be re-introduced in the next Legislative Session upon completion of the consultation with the trade.

Another important Committee stage amendment I will move today seeks to add a penalty provision to empower the Court to disqualify a person who has been repeatedly convicted of illicit fuel offences from holding his driving licence. This proposal is made in response to the concern expressed by members over the existing penalties for offences relating to the supply and use of illicit fuel. Although the Bill has already proposed to increase the maximum penalty for offences relating to marked oil and detreated oil from \$200,000 to \$1 million to bring it in line with the maximum penalty for offences relating to dutiable oil, members are still concerned about the deterrent effect of the amended penalty because the actual level of fines imposed by the Court tend to be lower than the statutory maximum.

I shall elaborate more on the disqualification proposal at the Committee stage. In a gist, our proposal is that if a person is convicted of a specified offence relating to illicit fuel for the second time and that a vehicle was used in the commission of the offence, he shall be disqualified from holding a driving



licence for six months. If the person has been convicted for three or more times, he shall be disqualified from holding a driving licence for a period of not less than six months. In either case, if the Court is satisfied that there are special reasons, it may order that the person be disqualified for a period shorter than six months or that he not be disqualified at all. The Bills Committee has already indicated its support for the amendment.

It was mentioned by some Members just now that the various Policy Bureaux and government departments should bear in mind and put into practice the concept of sustainable development. The Government could not agree more. In this connection, a cross-bureau inter-departmental working group on air quality improvement has been established under the leadership of the Secretary for the Environment and Food to tackle the air pollution problem. While representatives of the Finance Bureau are already included among the members of the working group, the Commissioner of Customs and Excise will also be invited to join the working group where necessary.

Madam President, the amendments I have mentioned so far all relate to our objective of cracking down on the supply and use of illicit fuel. But the Bill also contains amendments seeking to achieve other objectives. First, it seeks to relax the control over home-brewed alcoholic liquors by exempting them from both duty payment and licensing control, provided that they comply with certain conditions. This is to bring our legislation on home brewing more into line with international practice.

Secondly, the Bill also seeks to improve the structure of certain provisions of the existing Ordinance. The Bills Committee is in support of the relevant proposals of the Bill. On the other hand, members have also made some comments on the amendments as well as other related technical details. In this regard, I will move a number of Committee stage amendments later on to reflect the consensus we have reached with the Bills Committee. These Committee stage amendments are also supported by the Bills Committee.

With these remarks, I hope Members would support the Dutiable Commodities (Amendment) Bill 1999 and the amendments which I will introduce later on at the Committee stage. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Dutiable Commodities (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **DUTIABLE COMMODITIES (AMENDMENT) BILL 1999**

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

**CLERK** (in Cantonese): Clauses 1, 5, 6, 8 and 10.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2, 3, 4, 7 and 9.

**SECRETARY FOR THE TREASURY** (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 should like to begin with the amendment to clause 2. Clause 2 of the Bill originally seeks to streamline the legislative procedures relating to duty exemption proposals. Currently, the categories of goods that can be exempted from duty by regulations made by the Chief Executive in Council are clearly prescribed under section 6(1)(i) of the Dutiable Commodities Ordinance. The same provision also appears in the Dutiable Commodities Regulations, which is regulation 12(1) of the Ordinance's subsidiary legislation. If the Government intends to increase or reduce the categories of goods that can be exempted from duty, it has to go through two legislative procedures.

To begin with, we need to submit a bill to amend section 6(1)(i) of the Ordinance; then upon passage of the bill, we would need to enact a new regulation or amend regulation 12(1) of the Dutiable Commodities Regulations before the relevant proposals could be implemented. Insofar as duty exemption is concerned, we consider the existing legislative procedures to be overly complicated. For this reason, we have proposed under clause 2 of the Bill to amend section 6(1)(i) of the Dutiable Commodities Ordinance to confer a general power on the Chief Executive in Council to make regulations for exempting any

category of goods from duties imposed. Upon passage of the Bill, if the Government should wish to amend the scope of exemption in the future, it would not need to introduce any amendments to the Ordinance. Instead, the Government could achieve the purpose simply by making regulations. Under our original proposal, the relevant regulations made would still require the Legislative Council's approval by way of negative vetting.

The Bills Committee agrees that the legislative procedures relating to duty exemption proposals should be streamlined, so that exemption proposals can be put into effect without making any amendments to the principal ordinance. However, Members are also of the view that regulations made in respect of such proposals should be subject to positive vetting by way of resolution to enable the Legislative Council to scrutinize the relevant regulations in a more effective manner. We consider the Committee's counter-proposal acceptable, since it can also achieve our objective, which is to streamline the relevant legislative procedures. In response to the Bills Committee's request, we therefore propose to amend clause 2 of the Bill by adding a provision under section 6(4) of the Dutiable Commodities Ordinance to specify that regulations made by the Chief Executive in Council in relation to duty exemption proposals shall be approved by the Legislative Council by way of resolution.

Madam Chairman, we propose to amend clause 3 of the Bill, the objective of which is to exempt home-brewed alcoholic liquors from licensing control and duty payment. The proposed amendment is a technical one. It seeks to amend section 17(4) of the Dutiable Commodities Ordinance to enable home-made spirits to be exempted from licensing control and duty payment like home-brewed alcoholic liquors.

We also propose to amend clause 4 of the Bill by deleting the provision on the proposed presumption relating to the dutiability of fuel based on its sulphur content, pending the completion of consultation with the trade. During the resumed Second Reading debate earlier, I have already explained in detail the rationale for deleting the proposed presumption provision. I should like to reiterate here that we are not abandoning the proposed presumption. We very much hope that, after the consultation with the trade, the deleted presumption provision could be expeditiously introduced to the Council in the next Legislative Session.

We propose to amend clauses 7 and 9 of the Bill for two purposes. Clauses 7 and 9 of the Bill seeks to require containers of home-brewed alcoholic liquors to be labelled with the words "Home Brewed, Not for Sale", as well as to specify the size of the words. The purpose of the requirement is to assist Customs officers to identify home-brewed alcoholic liquors, with a view to preventing people from selling home-brewed alcoholic liquors for profit.

The Bills Committee considers the labelling requirement too stringent, and that members of the public who brew liquors genuinely for personal use might inadvertently breach the requirement out of sheer carelessness. The Bills Committee therefore suggests and we agree that the relevant requirement should be relaxed. We propose to amend clauses 7 and 9 of the Bill by deleting the provision on the size of the words on the one hand and relaxing the restriction on the exact wording to be used on the other. Subject to the passage of the amendment, to comply with the requirement under the provisions concerned, people brewing liquors at home will only have to mark legibly on the containers of home-brewed alcoholic liquors the words "Home Brewed, Not for Sale" or words to the same effect. Apart from that, pamphlets will also be produced by the Customs and Excise Department to inform the public of the relevant requirements.

As regards the other amendment proposed to clause 9 of the Bill, it is a technical amendment which declares that a notice published in the Gazette by the Commissioner of Customs and Excise under regulation 12 of the Dutiable Commodities Regulations to determine the quantity of duty-free goods that can be imported or bought in the arrival area by an entrant is subsidiary legislation.

The aforementioned amendments are supported by the Bills Committee. I hereby urge Honourable Members to support them.

*Proposed amendments*

**Clause 2 (see Annex XI)**

**Clause 3 (see Annex XI)**

**Clause 4 (see Annex XI)**

**Clause 7 (see Annex XI)**

**Clause 9 (see Annex XI)**

**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 the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2, 3, 4, 7 and 9 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): New clause 5A

Section added.

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam Chairman, I move that new clause 5A, as set out in the paper circularized to Members, be read the Second time.

The object of the new clause is to provide for an additional penalty for offences involving the supply and use of illicit fuels. We propose that if a person commits any offences relating to use of illicit fuels, including marked oil, detreated oil and duty-not-paid fuel oil, in motor vehicles, or if a person uses a vehicle in the course of commission of the illicit fuel-related offences, the Court may order the person to be disqualified from holding a driving licence if the person concerned has more than one conviction of any relevant offences.

Under the proposed provision, the Court shall order a person to be disqualified from holding a driving licence for a period of six months on a second conviction of any relevant offence, or for a period of not less than six months if the person has two or more previous convictions of any relevant offences. The clause further provides that in any of the aforementioned cases the Court may, for special reasons, order that the offender be disqualified for a period shorter than six months, or that the person not be disqualified. This arrangement is to retain the discretion of the Court to determine the level of sentence in the light of all the relevant aspects of a particular case. In addition, the proposed new clause also stipulates that the Court may deal with an offence as a first offence if a period of five years has elapsed since the person's last conviction of any relevant offence.

Madam Chairman, I should like to explain briefly the Government's rationale for introducing this amendment. As I have pointed out during the resumed Second Reading debate, the object of our proposed penalty provision is to enhance the deterrent effect of the penalties relating to the supply and use of illicit fuel, and to address Members' demands in this respect. At present, the maximum penalty for offences relating to the use or supply of duty-not-paid fuel is a fine of \$1 million or imprisonment for two years, while the maximum penalty for offences relating to marked oil or detreated oil is a fine of \$200,000 and imprisonment for two years. With regard to offences relating to marked oil and detreated oil, the Bill has proposed increasing the maximum penalty to a fine of \$1 million to measure up to the relevant penalty level for offences relating to duty-not-paid fuels.

The Bills Committee is of the view that increasing the maximum level of fine alone is not sufficient to enhance the deterrent effect of the relevant penalty. This is because the actual level of fine imposed by the Court, as shown in past statistics, tended to be considerably lower than the statutory maximum. In 1999, for example, the level of fine imposed by the Court in respect of offences relating to the use of illicit fuel ranged from \$800 to \$2,000, while no imprisonment has been imposed. As regards offences relating to the supply of illicit fuel, the level of fine imposed ranged from \$2,000 to \$120,000, while the terms of imprisonment imposed ranged from 14 days to 12 months. As such, the Bills Committee has suggested the Government considering setting a mandatory minimum penalty level for illicit fuel-related offences, or, in other words, prescribing the minimum level of fine that the Court may mete out in this respect. However, a mandatory minimum penalty will make it impossible for the Court to impose any fine less than the statutory minimum, thereby limiting the sentencing discretion of the Court and impacting on the independence of the Judiciary. For these reasons, even though we agree with the Bills Committee that the deterrent effect of the relevant penalty provisions should be enhanced, we cannot accept this proposal.

More importantly, we consider that to those people who have been repeatedly convicted of carrying illicit fuel with the use of a vehicle, in particular professional drivers, an order of disqualification has a greater deterrent effect than a minimum fine. That is why we put forward the proposal to disqualify an offender from holding a driving licence.

According to the original proposal we put forward to the Bills Committee, an offender with one previous conviction of any relevant offences shall be disqualified from holding a driving licence for a period of not less than six months. However, some members have expressed the concern that the proposed penalty might be too harsh for offenders who has one previous conviction, since an offender who has one previous conviction may theoretically be disqualified from holding a driving licence for a rather long period of time or even be disqualified for life. These members hold that the period of disqualification for offenders with one previous conviction should be capped. To address the concern of the Bills Committee, we now propose to amend the penalty provision to stipulate that the Court shall order an offender who has one previous conviction of any relevant offence to be disqualified from holding a driving licence for a maximum period of six months, rather than for a period of not less than six months. As regards offenders who have two or more previous



convictions, they shall be disqualified from holding a driving licence for a period of not less than six months.

Madam Chairman, the proposed new clause has been accepted by the Bills Committee. I hereby urge Honourable Members to support it.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 5A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): New clause 5A.

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam Chairman, I move that new clause 5A be added to the Bill.

*Proposed addition*

**New clause 5A (see Annex XI)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 5A 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.

### **DUTIABLE COMMODITIES (AMENDMENT) BILL 1999**

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

Dutiable Commodities (Amendment) Bill 1999

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

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Dutiable Commodities (Amendment) Bill 1999.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Securities and Futures Legislation (Provision of False Information) Bill 2000.

### **SECURITIES AND FUTURES LEGISLATION (PROVISION OF FALSE INFORMATION) BILL 2000**

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

**PRESIDENT** (in Cantonese): Mr Ronald ARCULLI, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's report.

**MR RONALD ARCULLI:** Madam President, I rise to speak on behalf of the Bills Committee on Securities and Futures Legislation (Provision of False Information) Bill 2000 of which I was elected Chairman.

The object of the Bill is to amend several Ordinances relating to the regulation of securities and futures markets to introduce offence provisions in relation to the provision of false information to the relevant regulatory bodies. The proposed offence provisions will apply to Statutory Reporting, that is, information given pursuant to a provision of an ordinance; and General Reporting, that is, information given in circumstances other than Statutory Reporting. The Bill also prescribes penalties for the newly created offences.

The Bills Committee has held four meetings with the Administration and has received oral representations of the market bodies and professional organizations concerned at two of the meetings. We studied in detail the relevant provisions of comparable legislation in the United States, the United Kingdom, Australia, Canada and Singapore. The Bills Committee is in support of criminalizing those who deliberately provide or make available to the regulators untrue or misleading information. The Bills Committee also supports the proposed offences to cover Statutory Reporting. Nevertheless, the Bills Committee shares the concern of the depositions and examines in particular the scope of the circumstances that constitute a criminal offence.

The inclusion of the General Reporting offence provision in the Bill has been a controversial issue in the Bills Committee. The Bills Committee notes that the proposed offences will apply to provision of information not pursuant to a statutory obligation such as information provided in compliance with Takeovers and Mergers Code, Listing Rules and other non-statutory codes. Some of our members are of the view that since the Administration has decided not to give these rules and codes the force of law so as to allow them more flexibility to track market development, it is inappropriate to introduce criminal sanctions in respect of disclosures of information made pursuant to these rules and codes. Other members, however, accept the Administration's explanation that despite the non-statutory nature of the existing codes and rules, the regulators have to rely on information provided to them to discharge their public duties effectively. It is, therefore, appropriate to include the General Reporting offence provision in the Bill.

Another major concern of the industry is the coverage of oral information under the General Reporting offence provision. The Bills Committee concurs with the market bodies that the proposed offences will discourage market participants from volunteering information to the regulators. In the light of the views of the market and the Bills Committee, the Administration has agreed to move Committee stage amendments to trim down the scope of the Bill by excluding provision of oral information from the General Reporting offences. To further address the market concern over information being provided on informal occasions, the Administration has also agreed to move amendments to add a requirement in respect of the General Reporting offences that a written warning be given to the person concerned reminding him of the criminal liability under the proposed provisions before information is provided by him.

As regards the circumstances that will constitute a criminal offence, the Bills Committee notes the practical problems that the industry might have when complying with the proposed provisions. Under the Bill, an offence is committed when a person provides any information that he knows, among other things, to be incomplete in a material particular. The Bills Committee understands that information provided to regulators often takes the form of a summary of extensive and complex data and is often provided at short notice. A person should not be exposed to the risk of criminal liability, because the regulators do not consider that the summary was sufficiently detailed or the person did not complete a full investigation of the facts before the information was provided. In this respect, the Administration has agreed to move amendments to delete the use of the terms "complete" and "incomplete" in the Bill.

Under the Bill, it would also be an offence if a person giving the information to a regulator did not believe that such information to be true, complete and accurate in every material particular. The Bills Committee notes that such a test for liability is inconsistent with international practice and is unusual in Hong Kong Ordinances. It would impose an unreasonable burden on anyone who is responsible for providing to a regulator information supplied by third parties, or relating to matters outside his immediate personal knowledge. The Bills Committee has suggested to the Administration the use of the term "wilful" in the Bill. As a compromise, the Administration has agreed to move amendments to the effect that a person commits an offence if he is reckless as to whether the information he provides is false or misleading in a material particular.

As regards the conditions for securing a conviction of the General Reporting offences, the Administration has agreed to move amendments to impose more stringent provisions to the effect that the prosecution must satisfy the Court that the information provided is connected with the performance of a function by the regulator in question under the relevant ordinances, and the regulator has reasonably relied on the information or the defendant intended that it rely on the information.

Madam President, the industry has also raised concern about the wide application of the offences to any person. In this respect, the Bills Committee has accepted the Administration's explanation that the legislation would not be effective if the offences only apply to specific categories of people because evasion would be easy.

Madam President, subject to the amendments made by the Secretary for Financial Services, the Bills Committee supports the Second Reading of the Bill. I would also like, Madam President, to take this opportunity to thank the Administration and also members of the industry and professional bodies. This Bill is very short. There are about two to three pages. I always have an instinctive concern that it might be oversimplified, and my fears were justified when we have to go into long discussion and details. I also wish to thank my colleagues, my fellow Legislative Council colleagues on the Bills Committee, because their input was also quite valuable in helping us arrive at what I hope to be, although I personally have some reservations about some parts of the Bill, which I hope to be something that is workable and that will go towards promoting and keeping Hong Kong in the forefront as an international financial centre.

Thank you, Madam President.

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

**MR FUNG CHI-KIN** (in Cantonese): Madam President, I am a member of the Bills Committee and I have participated in the relevant discussions. I would like to thank the Chairman, Mr Ronald ARCULLI, who explained many details of the deliberations on the Bill just now.

As a member of the industry, I fully support the principle of the Bill, that is, no one should be allowed to provide false information to the regulatory bodies or the market. I believe no one will question this. However, when we saw the simple Bill, I was very surprised. During the discussions, Mr Ronald ARCULLI put forward many synthesized views. Personally, I have learned a lot during this course of deliberations on the Bill. After such lengthy discussions, I am sure the Government understands very well the industry's concerns. It is not that we deliberately give false information to escape punishment by the Court. Very often, in discussing business, especially in the securities and futures market, a lot of sensitive and confidential information is involved. At the discussion stage, certain information is neither true nor false. It is not a question of true or false. For instance, when negotiating contracts, some confidential information may be disclosed. If this constitutes an offence of spreading false information or not telling the truth, it will put a very great mental burden on members of the industry and affect the conduct of normal business activities in the market. This is the principal concern of the industry.

After repeated discussions, the Government has decided to introduce appropriate amendments. Actually, we are still not too satisfied with the Bill, especially when we note that many large international securities companies have expressed concern or doubt. This shows that in the process of internationalization, we must still pay attention to different sides. One should not combine different things from different markets, calling this internationalization. In this respect, I am of the view that we have to constantly review this in future.

As members of the industry, we consider the Bill to be acceptable. Thank you, Madam President.

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

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, I rise to speak in support of this Bill. Hong Kong needs to reform constantly and to internationalize our regulatory rules. Over the past year, in particular, many so-called technology stocks have cropped up in Hong Kong. Very often, these technology stocks are based on the hope of future profit or some future profitable projects. Thus, the disclosure of information by the relevant companies is very

important. Under these circumstances, I consider it timely for the Government to tighten or strengthen such regulation. Actually, the Government is drafting an omnibus bill that will include provisions on this area. I did wonder why we need to hastily pass these provisions first. I believe it has to do with the current situation.

As Mr Ronald ARCULLI said, the Bill is very short. However, we have surprisingly spent more time on deliberating on the Bill than usual. I believe this is because it involves the criminalization of certain acts, as Mr ARCULLI said. When it comes to the criminalization of certain acts, it will arouse fear. Thus, we had to discuss it carefully. The Government also spent a lot of time on the Bill. Apart from discussing with us, it also held more direct talks with the industry.

I would like to take this opportunity to say that over the past year, members of the industry and the securities sector seemed to have come more and more often to the Legislation Council to express their views. Should the Government not consider gathering the views of the relevant bodies through normal channels or by setting up additional channels (especially when certain legislation is about to be made)? This could preclude situations in future where, when the Government wishes to amend the law, both sides fail to reach an agreement at the Legislative Council, thus resulting in a deadlock. Once or twice, when the Government wanted us to make a stand, we did not think the time was ripe yet. As a result, we had to ask the Government to talk to the industry again. Thus, I wonder whether the Government could set up additional consultative bodies to gather the views of the relevant parties. This especially applies to the drafting of this Bill. If both sides fail to reach an agreement, it is a waste of time for Government officials to come to the Legislative Council for discussion. Of course, I do not wish these consultative committees or bodies to obstruct the Government's major amendments to the existing regulatory laws or to slow down the pace of such amendments.

I wish to stress one point and perhaps Mr Albert HO will also talk about this later. The Democratic Party very much hopes that in the present or future securities market, the intermediaries or the regulated bodies will be required to disclose more information to enable investors to make reasonable decisions. It is a more modern approach to have a regulatory framework based on disclosure. When the Government raises the penalty on this, it will send the market a message and make members of the market realize that every piece of information they disclose is very important. It will also make small investors realize that they are ultimately responsible for their own investments.



Madam President, I hope that after the Bill is passed today, the Government will carefully monitor the implementation of the Ordinance. If there is a need to amend or review it, it could be done in the future omnibus bill. Although several meetings have been held to discuss it, I do not think all the problems are completely solved. However, under the circumstances, we find the Bill acceptable. With these remarks, I support the Bill.

**MR ALBERT HO** (in Cantonese): Madam President, while deliberating on the Bill, we certainly understood that the policy must be implemented. It is part of the 30-point reform programme proposed by the Financial Secretary. As our securities market becomes internationalized and is brought on a par with many overseas markets, many enterprises and securities transactions emphasize more and more a mode of operation based on information disclosure or a disclosure-oriented mode of operation. As a result, the regulatory bodies can make use of such disclosed information to exercise its power to ensure the implementation of the various pieces of legislation in the market and even those rules that are not statutory. Thus, disclosure is extremely important. Due to the importance of disclosure, it is equally important to ensure that the information disclosed is accurate as far as possible and not misleading or deceptive.

Of course, in deliberating on the Bill, we had to remind ourselves constantly that while giving adequate powers to the regulatory bodies, we must not make our system or policy deviate from similar existing systems and policies implemented by international markets. In other words, we must not give the regulatory bodies excessive or unreasonable powers, so that they will unnecessarily interfere with the operation of many operators, for this would give the impression that we were stifling the development of the market.

Thus, in the course of the deliberations on the Bill, we studied the regulatory approaches of some advanced countries, such as the United Kingdom, the United States, Australia and Canada, and carefully noted the views of various market bodies. After listening to their views, we raised various questions with the Government. As Mr FUNG Chi-kin said just now, the industry did not object to the principle and spirit of the Bill. It is just that they found its scope too wide and the wording of some provisions not clear enough. Thus, they feared that if large companies got into trouble, the relevant persons might have to

communicate with the Securities and Futures Commission (SFC) accompanied by a team of lawyers, and all communications would be in the form of letters sent by the solicitors. Is this a good thing? The mutual exchanges and communications would be hindered by such formalities. We also do not wish to see some careless remarks made on informal occasions turned into evidence for criminal prosecution in future.

After consulting the industry, we accepted their views, especially on non-statutory General Reporting. We agreed to ask the Government to trim down the scope of the provision so that it will only apply to documents. In addition, if the relevant regulatory body has to rely on such documents, it must give a warning to the person making such reporting that he will be prosecuted if false information is given. Furthermore, the regulatory body must have reasonably relied on the information given to make a decision before it can be used as a basis for prosecution.

There are of course other amendments, which Mr ARCULLI already explained in his report in detail. In my view, subject to the amendments to be proposed by the Government later on, the overall scope of the Bill will be trimmed down and the offence provisions will be clearer. While the industry does not exactly applaud the Bill wholeheartedly, most members of the industry find the Bill acceptable, as Mr FUNG Chi-kin said.

Another point I wish to talk about is that if we pass the Bill, compliance with some non-statutory rules, as Mr ARCULLI repeatedly mentioned, such as the Takeover and Mergers Code and codes of practice, might be tinted with criminality. If someone discloses information pursuant to the codes and the information is inaccurate, he may be held criminally liable. Does this change the nature of these codes? Colleagues were divided on this question. I certainly understand Mr ARCULLI's concern. But since our market is to be based on information disclosure in future, it is very important for companies, enterprises and intermediaries to comply with those codes. In order to ensure fairness and a high degree of transparency in the operation of the market, we have a good reason to require the relevant front-line market operators, intermediaries and operators to fulfil a legal obligation of providing accurate information. At least, the relevant information must not be false or misleading. Of course, it is clearly laid down in the law that if a person is prosecuted for committing an offence, it must be proved that he has a sufficient criminal intent.

This is made clear in the Bill. In my view, it is very important to the overall operation of the market. I accept the Government's explanation that without such provisions, the implementation, enforcement and effectiveness of these important codes may be seriously affected.

Thus, on the whole, we support the Government's amendments and the passage of the entire Bill. The Government will review the whole regulatory framework of the securities sector and submit an omnibus bill to the next Legislative Council. We will then study the whole issue comprehensively. The provisions under discussion today will also be part of that bill. We will still have a chance to review them.

I must reiterate, and as the Democratic Party has repeatedly stated in the Legislative Council, that apart from regulation of the market, the greatest problem now is corporate governance. Hong Kong laws in this respect are extremely backward. Our company law needs to be reformed and such reform is lacking. It is a great pity that such a proposal has been put off for years. An acceptable proposal for comprehensive reform has not been submitted so far. Apart from the omnibus bill on securities and finance, I hope the white bill or official bill on the law reform on corporate governance can be submitted to the Legislation Council for discussion soon. We think it is very important to the completeness of the regulatory framework.

With these remarks, I support the passage of the Bill. Thank you.

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

(No Member responded)

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, both the local financial markets and the international regulatory systems are relying increasingly on information disclosure as a safeguard of investor interests. In order to promote market transparency and to enhance the effectiveness of the regulatory systems, it is important that the Securities and Futures Commission (SFC) and the other front-line market operators, including exchanges, clearing houses and recognized exchange controllers, can have the capabilities of ensuring accurate reporting.

Under the existing law, in a limited number of cases the statutory requirement to provide information carries an offence provision making the provision of false or misleading information a criminal offence. Other than the offence provisions of these specified situations, there are no general offence provisions making the provision of false or misleading information to the SFC and the other front-line market operators a criminal offence.

Although the Administration could refer the matters concerned to the appropriate law enforcement agency where there are grounds to suspect that an offence under the general criminal law (such as conspiring to defraud the SFC) might have been committed, in many such instances, the provision of false or misleading information alone is not sufficient to constitute an offence of conspiracy to defraud. For this reason, we must make it a criminal offence to provide false or misleading information to the aforementioned institutions.

Under the proposal put forward in the Bill, the offences committed by giving false or misleading information are divided into two tiers according to the basis on which the information is provided. Firstly, Statutory Reporting. This is the provision of information to the SFC or any of the front-line market operators pursuant to a provision of an ordinance. Secondly, General Reporting. This refers to the provision of information to the SFC or any of the front-line market operators in any other circumstances, provided that the information so given relates to the performance of a regulatory function of the SFC or the front-line market operator in question.

In formulating the Bill, the Administration has studied in detail the relevant provisions of comparable legislation in other major international financial markets, including the United States, the United Kingdom and Australia, with a view to ensuring that the proposed regulatory system is in line with the regulatory practices of these countries. The Bills Committee has altogether held four meetings to scrutinize in detail the proposals and provisions of the Bill; besides, it has also invited views from market bodies and professional organizations concerned. We are very grateful to Mr Ronald ARCULLI, Chairman of the Bills Committee, and the other members of the Committee, including Mr FUNG Chi-kin, Mr SIN Chung-kai and Mr Albert HO, for the invaluable views they have raised in respect of the provisions of the Bill.

I am very pleased to note that the Bills Committee is generally in support of criminalizing those who deliberately provide false or misleading information

to the market regulatory body and any of the front-line market operators. On the other hand, I am also aware of the concern expressed by both the Bills Committee and the industry over the wide scope of the General Reporting offences, which may cause many persons acting in good faith to inadvertently breach the law and be prosecuted.

The Bills Committee has discussed the issue for many times and received representations from market bodies and professional organizations concerned. Having regard to the views of the Bills Committee and deputations, and upon consultation with the SFC and the Department of Justice, the Government has proposed to amend some of the provisions of the Bill to render them more precise.

I will explain in detail the relevant amendments to Honourable Members later on. We believe that the amended Bill will help to give the market a clear message: the provision of false or misleading report to the SFC or the other front-line market operators is liable to criminal penalty and will not be tolerated.

The Bill should help ensure that the SFC and the other front-line market operators will be provided with complete and reliable information, thereby enabling them to perform their regulatory function in an effective manner on the one hand, and further improving the quality of information disclosure of the market on the other. That way, investor interests could be protected more effectively to contribute towards the healthy development of the securities and futures markets in Hong Kong.

Just now Mr Ronald ARCULLI and Mr Albert HO inquired whether the proposed arrangement could be taken as a measure to give non-statutory codes (such as Listing Rules and Takeovers and Mergers Code) the force of law. As the Government has explained for many times to the Bills Committee and the industry, the Bill does not effect any changes to the legal basis of any of these non-statutory codes or rules. If any person should choose to provide the SFC or any of the front-line market operators with any information prescribed under the relevant codes, the disclosure of information in this respect would be regarded as "General Reporting" and be subject to the provisions concerned. Notwithstanding all these, the codes or rules *per se* would still remain non-statutory. While it might constitute a civil case if a person refuses to comply with such rules and codes, so doing will not constitute any criminal offence.

Furthermore, I should also like to respond to the view raised by Mr SIN Chung-kai that there should be more communication between the market and the Government or the market and the regulatory body. We fully agree with the Honourable Member on this. Just now Members have also referred to the omnibus bill of the Securities and Futures Ordinance. In this connection, we also hope to have more communication with the industry in these coming two months during the summer recess of the Legislative Council. I believe we can do it without waiting for the formation of a Bills Committee under the Council. However, it takes two parties to communicate; we cannot achieve anything on our own. As such, I hope very much that members of the industry will exchange views with us, with the SFC and with the various relevant regulatory bodies to help us understand each other's stand better.

Madam President, I hereby urge Members to support the Second Reading of the Bill and the amendments proposed to it by the Government later on.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Securities and Futures Legislation (Provision of False Information) 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): Securities and Futures Legislation (Provision of False Information) Bill 2000.

Council went into Committee.

**Committee Stage**

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

**SECURITIES AND FUTURES LEGISLATION (PROVISION OF FALSE INFORMATION) BILL 2000**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Securities and Futures Legislation (Provision of False Information) Bill 2000.

**CLERK** (in Cantonese): Clauses 4, 6 and 9.

**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, 2, 3, 5, 7, 8 and 10.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam Chairman, I move the amendments to clauses 1, 2, 3, 5, 7, 8 and 10, as set out in the paper circularized to Members. The amendments to the aforementioned clauses seek to specify more clearly the circumstances under which the provision

of false or misleading information will be included in the scope of regulation, and to ensure that only those people who deliberately seeks to mislead the Securities and Futures Commission (SFC) or the other front-line market operators will be considered as having breached the relevant provisions.

Under the original Bill, a person commits an offence if he provides any information to the SFC and the other front-line market operators in the following two circumstances. First, he knows that the information concerned is false, misleading or incomplete in a material particular; or second, he does not believe the information concerned to be true, accurate, and complete in every material particular. The offence provision is applicable to the disclosure of information to regulatory bodies or any of the front-line market operators in both Statutory Reporting situations and General Reporting situations.

The industry is of the view that there is actually no objective standard to determine the completeness of a piece of information, it is therefore not appropriate to criminalize the provision of incomplete information. Besides, members of the industry also point out that as information provided to regulators often takes the form of a summary, they would be exposed to the risk of criminal liability if the summary provided should be considered incomplete. In addition, there is also a view that since the term "misleading information" already includes misleading arising from references or omissions, it is therefore unnecessary to include in the provision the word "incomplete". Having consulted the Department of Justice, we accept the view of the industry and agree to delete the word "incomplete" from the Bill as proposed by them.

In response to another view raised by the industry, we also propose to trim down the scope of circumstances constituting an offence by deleting the original wording "does not believe the information to be true, accurate and complete in every material particular" and substituting "is reckless as to whether the information is false or misleading in a material particular." We take note of the industry concern for the possibility that the persons responsible for disclosing information to the regulatory bodies may not fully believe the information received from a third party to be true and accurate, and thus propose to introduce the said amendments to reduce the risk to which members of the industry are exposed when disclosing the information concerned.



A rather controversial part of the Bill is the scope of the General Reporting offences. In this connection, the industry is particularly concerned about whether or not provision of oral information comes under the scope of General Reporting offences. Members of the industry are worried that matters referred in their conversations with representatives of the SFC and the other front-line market operators may also be regarded as information disclosed and thus be subject to regulation as well. They hold that this will add to the psychological burden of market participants and discourage them from maintaining normal communication with the regulatory bodies or the market operators. To address the industry concern, we propose to limit the scope of General Reporting offences to cover records or other documents only. The meaning of "record or other documents" will be the same as that in section 2 of the Securities and Futures Commission Ordinance, including normal records and documents, cassette tapes, video tapes and electronic documents but not oral representation.

To further address the industry concern over information provided on informal occasions, we will move an amendment to the Bill to require the SFC and the other front-line market operators to give a prior warning in writing to any person who comes to disclose information, reminding him of the potential criminal liability under the proposed provisions he may risk in providing false or misleading information. We believe the two amendments mentioned above should be able to dispel the fears of the industry over the possibility of committing an offence inadvertently. Upon amendment, an offence is committed only when a person deliberately or recklessly provides false or misleading records or documents after receiving the written warning. On the other hand, the prosecution is also required to prove that the documents provided are connected with the performance of a function by the regulator in question and the regulator in question has reasonably relied on the records or documents provided, or that the defendant intended that the regulator in question rely on the information, to secure a conviction. As such, I believe the interests of the industry are being fully protected.

Lastly, Madam Chairman, we propose to amend clause 1(2) of the Bill to specify that if passed by the Council, the Bill shall come into operation on 17 July of the year. As regards the remaining amendments, they are all technical in nature and will not affect the specific provisions of the Bill. The principal object of the amendments is to give the Bill provisions greater clarity, and to address some problems that may arise in enforcement. They are generally supported by both the industry and the Bills Committee.

With these amendments, we believe the Bill should be able to strike an appropriate balance between the need to ensure the accuracy and reliability of information provided and the need to maintain the efficient operation of the markets. Further still, it will improve the quality of disclosure in the markets and more effectively protect the interests of investors.

With these remarks, Madam Chairman, I urge Honourable Members to support the motion.

*Proposed amendments*

**Clause 1 (see Annex XII)**

**Clause 2 (see Annex XII)**

**Clause 3 (see Annex XII)**

**Clause 5 (see Annex XII)**

**Clause 7 (see Annex XII)**

**Clause 8 (see Annex XII)**

**Clause 10 (see Annex XII)**

**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 Financial Services 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, 2, 3, 5, 7, 8 and 10 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.

**SECURITIES AND FUTURES LEGISLATION (PROVISION OF FALSE INFORMATION) BILL 2000**

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

Securities and Futures Legislation (Provision of False Information) 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 Securities and Futures Legislation (Provision of False Information) 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): Securities and Futures Legislation (Provision of False Information) Bill 2000.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese) We will resume the Second Reading debate on the Adaptation of Laws (No. 16) Bill 1998.

**ADAPTATION OF LAWS (NO. 16) BILL 1998****Resumption of debate on Second Reading which was moved on 6 January 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 16) Bill 1998 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): Adaptation of Laws (No. 16) Bill 1998.

Council went into Committee.

**Committee Stage**

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

**ADAPTATION OF LAWS (NO. 16) BILL 1998**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 16) Bill 1998.

**CLERK** (in Cantonese): Clauses 1 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 2.

**SECRETARY FOR HOME AFFAIRS:** Madam Chairman, I move to amend clause 2 as set out in the paper circularized to Members so that the amended provision will come into effect on 1 January to tie in with the commencement of the Provision of Municipal Services (Reorganization) Ordinance.

Thank you.

*Proposed amendment*

**Clause 2 (see Annex XIII)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for 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): Clause 2 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1, 2, 5, 8, 9, 10 and 13.

**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 3, 4, 6, 7, 11, 12 and 14.

**SECRETARY FOR HOME AFFAIRS:** Madam Chairman, I move to amend Schedules 3, 4, 6, 7, 11, 12 and 14 as set out in papers circularized to Members.

Schedule 3 adapts the Public Health and Municipal Services Ordinance and its subsidiary legislation. Some of the adaptation proposals in the Schedule are no longer necessary or appropriate as the relevant provisions had been repealed or amended by the Provision of Municipal Services (Reorganization) Ordinance. Amendments are proposed to Schedule 3 to reflect the changes.

I move to amend section 2 of Schedule 4, section 2(b) of Schedule 11 and section 1(b) of Schedule 14 in line with the Government's agreement to adapt all references of "Governor" to "Chief Executive".

I move to amend section 11 of Schedule 6 and section 7 of Schedule 12. The amendments to the two saving provisions are proposed to achieve consistency in wording with the text of Item 10 of Annex 3 of the Decision of the Standing Committee of the National People's Congress on Treatment of Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.



I move to delete section 10 of Schedule 7 and section 11(a) of Schedule 14. The sections seek to adapt two non-immunity provisions. As a proposed change from "Crown" to "Government" is beyond the scope of the Adaptation of Laws Programme, we propose to take out the relevant non-immunity provisions and introduce such legislative amendments in a separate legislative exercise in the coming Session in the year 2000-01.

*Proposed amendments*

**Schedule 3 (see Annex XIII)**

**Schedule 4 (see Annex XIII)**

**Schedule 6 (see Annex XIII)**

**Schedule 7 (see Annex XIII)**

**Schedule 11 (see Annex XIII)**

**Schedule 12 (see Annex XIII)**

**Schedule 14 (see Annex XIII)**

**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): Schedules 3, 4, 6, 7, 11, 12 and 14 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.

### **ADAPTATION OF LAWS (NO. 16) BILL 1998**

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

Adaptation of Laws (No. 16) Bill 1998

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 Adaptation of Laws (No. 16) Bill 1998 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): Adaptation of Laws (No. 16) Bill 1998.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 16) Bill 1999.

### **ADAPTATION OF LAWS (NO. 16) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 16 June 1999**

**PRESIDENT** (in Cantonese): Miss Margaret NG, Chairman of the Bills Committee on the above bill, will now address the Council on the Committee's report.

**MISS MARGARET NG:** Madam President, as Chairman of the Bills Committee on Adaptation of Laws (No. 16) Bill 1999, I wish to report on the main deliberations of the Bills Committee.

The Bill seeks to adapt 13 Ordinances and their subsidiary legislation relating to hospitals, clinics, mental health and other health-related matters to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region (SAR) of the People's Republic of China.

Members note that most of the amendments proposed in the Bill are straightforward adaptations. However, they consider the proposed adaptation of the word "Crown" to "State" in section 18 of the Hong Kong Council on Smoking and Health Ordinance and in section 19 of the Prince Philip Dental Hospital Ordinance inappropriate in the context of the respective provisions.

The two provisions are similar in nature. They stipulate that the statutory body concerned is not the servant or agent of the Crown and does not enjoy any status, immunity or privilege of the Crown. Members note that the Hospital Authority Ordinance has the same provision but the term used is "Government", and not "State".

Members note that during the colonial days, the term "Crown" used in Ordinances carried two different meanings, namely, "in right of Her Majesty's Government" and "in right of the Hong Kong Government". In the Adaptation of Laws Programme, the former should be adapted to "State" while the latter should be adapted to "Government". Members share the view that the adaptation of "Crown" to "State" or "Government" should depend upon the nature of the bodies and the context of the provisions concerned.

Members consider that "Government" is the more appropriate term in the context of the two provisions. There is no question that the two bodies concerned could be regarded as part of the State under the categories listed in the definition of "State" in the Interpretation and General Clauses Ordinance, other than the category of the Government of the SAR.

The Administration considers that adapting "Crown" to "Government" in these situations is beyond the ambit of the Adaptation of Laws Programme. To take forward members' suggestion, the Administration proposes to take out the adaptation proposals of the two immunity provisions from the Bill. It will

introduce legislative amendments to revise "Crown" to "Government" in a separate exercise in the next Legislative Session.

The Bills Committee accepts the proposed approach and supports the Committee stage amendments to be moved by the Administration.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, I move that the Second Reading debate of the Adaptation of Laws (No. 16) Bill 1999 be resumed.

I would like to thank Miss Margaret NG, the Chairman of the Bills Committee, and members of the Committee for their careful study of the Adaptation of Laws (No. 16) Bill 1999 and their invaluable advice.

The Adaptation of Laws (No. 16) Bill 1999 adapts 13 Ordinances and their subsidiary legislation to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China. These 13 Ordinances regulate hospitals, clinics, mental health and other health-related matters such as antibiotics, pharmacy and poisons, smoking and prevention of diseases. The amendments proposed in the Bill comprise mainly terminological changes, for example, references to "Governor" are replaced by "Chief Executive".

Madam President, I hope Members will support the resumption of the Second Reading of this Bill.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 16) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 16) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 16) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 16) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 9 and 12.

**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 10, 11 and 13.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, I move the amendments to Schedules 10, 11 and 13, as set out in the paper circularized to Members.

Section 1 of Schedule 10 of the Bill seeks to adapt a provision in the Smoking (Public Health) Ordinance which, however, has been repealed by another piece of legislation with effect from 16 July 1999. As a result, the adaptation proposal in section 1 of Schedule 10 is no longer necessary and the section should therefore be repealed. Consequential textual amendment is made to section 2 of Schedule 10 accordingly.

Section 6 of Schedule 11 and section 8 of Schedule 13 seek to adapt "Crown" to "State" in two non-immunity provisions. The purpose of these two provisions is to put beyond doubt that the two relevant organizations are not servants or agents of the Crown and cannot enjoy the privileges of the Crown. The Bills Committee noted that the term "Government" has been used in similar provisions in other Ordinances. Members therefore advised that it was more appropriate to revise "Crown" to "Government" because there was no question that the two organizations could be regarded as part of the "State".

We appreciate the views of the Bills Committee. However, adapting "Crown" to "Government" in this exercise is inappropriate because it is outside the scope of the Adaptation of Laws Programme.

We propose to revise the term "Crown" in the two provisions to "Government" by a separate legislative exercise in the 2000-01 legislative session. In the meantime, we propose to repeal from this Bill the adaptation proposals of the two non-immunity provisions in Schedules 11 and 13.

This amendment is the result of the consensus reached between the Administration and the Bills Committee after detailed discussion. I hope Members will support and pass the amendment.

Thank you, Madam President.

*Proposed amendments*

**Schedule 10 (see Annex XIV)**

**Schedule 11 (see Annex XIV)**

**Schedule 13 (see Annex XIV)**

**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 Health and Welfare 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 10, 11 and 13 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.

**ADAPTATION OF LAWS (NO. 16) BILL 1999**

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

Adaptation of Laws (No. 16) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 16) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 16) Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 34) Bill 1999.

**ADAPTATION OF LAWS (NO. 34) BILL 1999****Resumption of debate on Second Reading which was moved on 14 July 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 34) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 34) Bill 1999.

Council went into Committee.

**Committee Stage**

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

**ADAPTATION OF LAWS (NO. 34) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 34) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 7 and 9 to 12.

**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 8.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, I move the amendments to Schedule 8, as set out in the paper circularized to Members.

As the Bills Committee on Adaptation of Laws (No. 9) Bill 1999 failed to reach any conclusions on the proposed adaptation of "Crown" in some provisions, to avoid affecting the progress of other bills with similar proposed amendments, we have agreed to delete the adaptation of "Crown" in the saving clause in the Hongkong and Kowloon Wharf and Godown Company Limited By-laws and to propose adaptations to the future Legislative Council after studying the relevant provision. The relevant amendment seeks to delete section 2 of Schedule 8 and make consequential amendments to the heading and subheading, in order to withdraw the proposed adaptation of the reference to the "Crown" to the "State" in the saving clause of By-law 12 of the Hongkong and Kowloon Wharf and Godown Company Limited By-laws. Thank you, Madam President.

*Proposed amendment*

**Schedule 8 (see Annex XV)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Economic Services 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 8 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.

**ADAPTATION OF LAWS (NO. 34) BILL 1999**

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

Adaptation of Laws (No. 34) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 34) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 34) Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 11) Bill 1998.

**ADAPTATION OF LAWS (NO. 11) BILL 1998****Resumption of debate on Second Reading which was moved on 6 January 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 11) Bill 1998 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): Adaptation of Laws (No. 11) Bill 1998.

Council went into Committee.

**Committee Stage**

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



**ADAPTATION OF LAWS (NO. 11) BILL 1998**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 11) Bill 1998.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 2 to 9.

**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 1.

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

Under Article 56 para 2 of the Basic Law, the Chief Executive shall consult the Executive Council before making subsidiary legislation. In light of this provision of the Basic Law, our original proposal was that where there is mention of the Governor being empowered by any section of the principal ordinance to make subsidiary legislation, all references to "Governor" should be replaced by "Chief Executive in Council". However, this amendment may give rise to disputes which are difficult to be resolved for it may not be possible to clearly define whether or not some documents are subsidiary legislation. For this reason, we propose that all references to "Governor" be adapted as "Chief Executive". But when the Chief Executive exercises his power to make subsidiary legislation, it should be explicitly stated in the title of the subsidiary legislation that the subsidiary legislation is made by the Chief Executive in consultation with the Executive Council in compliance with Article 56 para 2 of the Basic Law. The Bills Committees on Adaptation of Laws Bill 1998 and Adaptation of Laws (No. 2) Bill 1998 agreed to this approach of adaptation. Hence section 1(c) of Schedule 1 has to be amended to replace all references to "Governor" by "Chief Executive" rather than "Chief Executive in Council".

The object of section 10(a) of Schedule 1 is to change "Crown" to "State" in a "non-immunity provision". According to the approach agreed upon by the Bills Committee of the Adaptation of Laws (No. 16) Bill 1999, we will propose an amendment bill separately in the 2000-01 Legislative Session to effect the adaptation of "Crown" to "Government" in a "non-immunity provision". Thus we now withdraw section 10(a) of Schedule 1 in the Bill.

Madam Chairman, I beg to move. Thank you.

*Proposed amendment*

**Schedule 1 (see Annex XVI)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for 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 1 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.

### **ADAPTATION OF LAWS (NO. 11) BILL 1998**

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

Adaptation of Laws (No. 11) Bill 1998

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 11) Bill 1998 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): Adaptation of Laws (No. 11) Bill 1998.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Urban Renewal Authority Bill.

### **URBAN RENEWAL AUTHORITY BILL**

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

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

**MR EDWARD HO** (in Cantonese): Madam President, in my capacity as the Chairman of the Bills Committee on Urban Renewal Authority Bill, I now report to Honourable Members the matters discussed in the course of the scrutiny of the Bill.

The object of the Urban Renewal Authority Bill is to establish a new statutory authority to replace the existing Land Development Corporation (LDC) for the purpose of undertaking urban renewal. Members of this Council appreciated the far-reaching impacts of urban renewal. Therefore, as early as in October last year when the Administration published the Urban Renewal Authority Bill in the form of a White Bill for public consultation, a Subcommittee was formed to study the White Bill.

In the course of the deliberation on the Urban Renewal Authority Bill, we discussed in great detail the policy areas of the Bill, the organizational structure of the Urban Renewal Authority (URA), financial arrangements, planning procedures in respect of redevelopment, and modes of implementation in future.

It is most welcome that the Government, taking an open attitude, has accepted the proposals of the Bills Committee members in many areas, and will move relevant Committee stage amendments accordingly later on. Other than these amendments, the Government has also made 28 undertakings to the Bills Committee. To put these undertakings on record and at the unanimous request of members, I will make reference to these undertakings in my speech to facilitate follow-up actions in future.

To begin with, the Bills Committee supports the formulation of a new urban renewal strategy by the Administration to resolve the problem of urban decay. Yet, the entire renewal strategy must be people-oriented and only in this way can it achieve the desired results. We are very happy that this principle will be explicitly established in the urban renewal strategy to be announced by the Administration later.

We agree with the purposes of the URA as provided for in the Bill to, among other things, undertake urban renewal, rehabilitate buildings and preserve valuable buildings. However, members generally expressed concern over the provision that empowers the Chief Executive to assign any other duties to the URA by order. In this connection, the Administration repeatedly assured us that should the Chief Executive need to exercise this power in future, the duties as assigned to the URA would definitely be related to urban renewal, and the order would be tabled at this Council in the form of subsidiary legislation.

As the URA will have extensive powers, much time was spent on studying the ideal structure of the URA Board. We are very happy that the Government accepted our views by adopting the non-executive chairman model instead of the executive-chairman model and increasing the number of non-executive directors. The Administration also undertook to appoint directors from different walks of life, including Members of this Council, to ensure that the URA Board will be representative. As Mr LEE Wing-tat and Mr LEE Cheuk-yan will move Committee stage amendments to the composition of the URA Board and the procedures for appointment of directors, the ultimate composition of the URA Board will rest with the decision of Honourable Members in the votes to be taken later on.

Apart from the composition of the URA Board, the Bills Committee also explored other ways to enhance the public accountability of the URA. In this regard, we have put forward a range of proposals, suggesting that the URA

Board should hold meetings in public periodically to collect public views and report on its work, and that the URA must issue the "Procedure and Practice" on matters such as the handling of pecuniary interests of members of the URA Board, and so on. The Administration has taken on board our suggestions and will propose to the URA that the register of declared interests and the record of directors' attendance at URA Board meetings be uploaded onto the Internet for public inspection. Moreover, an independent audit team will be set up within the URA to audit the accounts of the URA and the audit reports will be submitted to this Council for information.

As regards the financial arrangements, we agree that the long-term objective of the URA is to achieve a fiscal balance. We also support the Administration's plan to provide loans for or even inject capital into the URA where necessary. We note that the URA will, in most cases, implement a redevelopment project with a private developer in the form of a joint venture so as to tap the resources and expertise of the private sector. However, as we understand that some small landowners may be interested in the redevelopment projects, we hold that the URA should provide them with opportunities to participate in these projects provided that they are prepared to share the risks involved. The Administration agreed.

In respect of the planning procedures, we have received views from many organizations that consider it necessary for the URA to conduct a social impact assessment for all proposed redevelopment projects. We are glad that the Administration supports this proposal and will specify the main elements of assessment in the urban renewal strategy to be announced later, and results of the assessment will also be released for public information. To facilitate the affected residents to express their views on the redevelopment programmes, we welcome the Government's proposal to set up in the nine target areas urban renewal social work teams and district advisory committees comprising District Council members and representatives of residents' associations.

Madam President, another aspect of the planning procedures that has given cause for public concern is the absence of an appeal channel for the public to raise objections against a development project. A development project refers to a redevelopment programme that requires no amendment to the project site on the relevant outline zoning plan. The Bill provides that objections should be submitted to the Secretary for Planning and Lands for determination. We expressed dissatisfaction at the lack of input from an independent third party in

the process. Finally, the Government accepted our proposal to put in place a statutory appeal mechanism by moving an amendment to this effect. To avoid exorbitant litigation costs involved in an appeal case, we proposed that the URA should engage a legal practitioner to represent the URA only when the appellant is legally represented in the hearing. The Administration agreed.

Members may agree that compensation and rehousing for the affected parties are the most difficult issues involved in undertaking urban renewal, but they are also issues that must be addressed properly. With regard to compensation, we had in-depth discussion on whether it is fair and reasonable to compensate those affected by URA redevelopment projects based on the existing compensation package for land resumption. Under the existing compensation formula for land resumption, the total compensation for an owner of a domestic property should be enough for the owner to purchase a 10-year old flat comparable to the size of the resumed property in the same locality. Members of the Bills Committee took the view that the owners should be entitled to reasonable compensation for they have no alternative but to give up their private properties. For this reason, members of the Bills Committee unanimously called on the Administration to review the current basis for calculation of compensation. While the Administration has proposed to increase the Home Purchase Allowance by using a replacement flat of eight to 10 years old as the basis of calculation, we cannot accept it for the basis will vary from district to district. The majority of members of the Bills Committee proposed that compensation should be calculated on the basis of a replacement flat of eight years old across the board. The Administration undertook to consider our view and proposed to set up a non-statutory appeals committee to hear appeals on matters relating to the Home Purchase Allowance.

In fact, the Administration should try its best to purchase the properties from the relevant owners by agreement before resorting to mandatory resumption in accordance with the law. If the Administration can provide incentives for owners to sell their flats of their own accord, it can reduce the discontent on the part of the owners as a result of mandatory resumption. The Administration stated that it is willing to consider our views.

From past experiences of land resumption, the greatest controversy lies in the calculation of business loss as a result of land resumption. We are happy that the Administration has pledged to review compensation for non-domestic properties, and planned to take vigorous measures to resolve the controversy



revolving around the calculation of business loss. A possible way under consideration is to fix business loss at a certain percentage of the value of the non-domestic property. To reduce disputes over the valuation of properties, we very much support the Administration's proposal to issue guidelines on valuation of properties later.

Madam President, we have made utmost efforts throughout the scrutiny process to address the rehousing problems of the affected tenants. After rounds of discussion, the Housing Society and the Strategic Planning Committee of the Housing Authority accepted our proposal to reserve 20% of the annual quota of 1 000 public rental flats earmarked for the URA for allocation at the discretion of the URA. We trust this arrangement will be helpful to the URA in rehousing affected tenants in local or nearby districts. It will also allow affected residents choices of public rental flats in different districts.

We agree that proper rehousing is the best solution to the housing problem of residents living in dilapidated conditions, but cash compensation may be a better option in certain circumstances, particularly when the affected parties are not eligible for rehousing in public rental flats but have practical difficulties in accepting interim housing at remote locations. The Administration shared our view and undertook to consider providing temporary rent allowances for tenants during the interim period before appropriate rehousing can be arranged. As for cash compensation, it must not be less than the compensation provided for in the Landlord and Tenant (Consolidation) Ordinance.

Madam President, we understand that many residents are gravely concerned about the 25 redevelopment projects already announced by the LDC but which have not yet started. We earnestly hope that the URA will honour the Administration's undertaking to give priority to these projects and implement them as early as possible to shorten the waiting time of residents.

Lastly, I wish to thank all the organizations and members of the public who have come before the Bills Committee to express their views. Their input has enabled us to consider from different angles the options and measures that should be adopted to address the problem of urban decay. Meanwhile, I wish to take this opportunity to thank officials of the Planning and Lands Bureau for their unrelenting efforts in answering our questions and providing us with the necessary information throughout the scrutiny process. I am grateful to them for taking on board our many proposals so that the future urban renewal

programme can truly improve the quality of living of the people and beautify the environment of Hong Kong.

Madam President, I have made these remarks in my capacity as the Chairman of the Bills Committee.

May I say a few words in a personal capacity? I will start now.

Madam President, just now I spoke in my capacity as the Chairman of the Bills Committee on Urban Renewal Authority Bill. As I was also the Chairman of the Subcommittee formed to study the White Bill and I had actively participated in the scrutiny of the Bill, I support most of the conclusions of the Bills Committee and I do not intend to repeat them here.

I only wish to discuss some of my expectations of the future URA in a personal capacity.

First of all, the principal mission of the URA is to improve and beautify the environment of the old urban areas in Hong Kong, and the methods thus employed will be pivotal to this mission.

I hope that members of the future URA will not concentrate overly on "redevelopment", which means pulling down all premises in the old urban areas and erect new ones.

While the Bill's title in Chinese is 《市區重建局條例草案》, "市區重建局" is rendered as the "Urban Renewal Authority" in English. The words "Urban Renewal" can be translated as "市區更新" which does not necessarily require redevelopment. I remember that I have raised this point for discussion in this Council and also in the former Legislative Council. I believe it would serve society more suitably to use "Renewal" and "更新" rather than "Redevelopment" and "重建".

Regrettably, the Administration has accepted only half of my proposal in adopting the term "Renewal", considering that its equivalent in Chinese, "更新", is inappropriate.

Nomenclature aside, the so-called "redevelopment" is not necessarily required to improve the environment of the old areas. As we all know, excessive demolition and relocation will create great impacts on the many residents and shop owners in the district, no matter how reasonable the compensation is and how well the affected parties are rehoused. This is particularly so to the elderly whose social ties would no longer be maintained, so this will surely be a hard blow to them.

Therefore, rehabilitation of buildings should be one of the major tasks of the future URA. Rehabilitating old buildings can greatly reduce the need for urban redevelopment, thus saving social resources and cushioning the impact on old urban areas. Rehabilitation hinges on preventive repairs and maintenance, and this happens to be the object of another Bill scheduled for this meeting, namely, the Building Management (Amendment) Bill 2000 which seeks to improve building management and maintenance. Moreover, I also note that the Administration has proposed a statutory scheme of preventive maintenance of buildings, and the URA and the Building Authority will share the task of implementing this scheme jointly. This I shall welcome.

Another task of the URA is the preservation of heritage, and the URA can play a rather significant role in it. From the latest information on hand, I know that there are now 67 declared monuments in Hong Kong. But only 38 of the monuments are buildings and many of them are just "pai lau" or "gate houses", not very meaningful integral structures.

Furthermore, the declared monuments in Hong Kong, particularly buildings among which some may be temples, churches, and so on, are mostly owned by the Government. In the private sector, there are in fact many private buildings of historical, archaeological or cultural interest worthy of preservation. However, I think the Government's policy and effort in preserving the overall culture is one big disappointment. I believe we do not wish to be compared to Singapore all the time, but anyone who has been to Singapore will notice that many historical structures are preserved there, including not only buildings but even a whole street. Even in the neighbouring Macao, they also manage to preserve many buildings or the exteriors of buildings. The work of the Hong Kong Government in this regard can be considered a total disappointment to us. I think the URA is presented a very important opportunity because if it could successfully undertake urban renewal in Central where many lands would be resumed, a majority of the buildings or structures could be preserved. In its

paper the Government specified only dozens of buildings — I do not remember the exact number — in the several districts designated for redevelopment. This, I think, is far too less. I hope that in undertaking urban renewal, the URA will not just focus on individual structures, selecting one structure here and another there for preservation. Instead, I hope it can seek to preserve the whole district, the whole street or even the whole terrace as far as possible. This will reduce the impact on society or the community, and also accomplish another task that I consider very important, that is, preserving the inherent culture of Hong Kong and buildings of archaeological interest.

Insofar as the preservation of heritage is concerned, I think there is another way for the Government to play its part. As we know, owners of private properties do not wish to retain their properties because of the high land premium, and the Government is also reluctant to resume them also due to the land premium factor. But in fact, there will not be any loss in the plot ratio of these antiquities. So long as the superstructure of the building is preserved, the unused plot ratio will not be wasted for it can be used in another part of a relevant development. So, the transfer of plot ratio is a possible way that the Government must consider. I also hope that more redevelopment projects can be implemented by way of transferring the plot ratio. With regard to the proceeds so generated, part of them can be used to set up a fund for the purpose of maintaining and even preserving buildings declared monuments in the long run.

Thank you, Madam President.

**MR JAMES TO** (in Cantonese): Madam President, our debate on this piece of urban renewal legislation today probably arouses particularly strong feelings in me because over the past nine years since 1992, I have moved six motion debates on this issue, and in the last of these debates, I still expressed the hope that the Housing Authority (HA) could assist in resettling the affected residents. My strong feelings are also caused by the fact that since 1991 or 1992, many people have been reacting to "urban renewal" with either fear or even outright opposition. In this connection, the redevelopment project for Shamchum Street in Mong Kok has remained most vividly in my memory, for even the Town Planning Board objected to it at that time. All along, the Government has been adopting a lengthy procedure for the mooting of its measures, schemes or even papers on urban renewal. I think we must now advise the Government

sincerely that people all wish to speed up the progress of urban renewal. But I also wish to remind the Government that over the past few years, many people have been required by the relevant laws to examine the electrical installations of their buildings and also to carry out maintenance; they have been required to spend quite a lot of money on their old buildings, in other words. Their way of looking at urban renewal may have changed as a result of all this. Therefore, in view of this, the Government should really reconsider its initial intention of tightening its policy on compensation and rehousing.

Urban renewal actually involves several big issues. First, the composition of the Urban Renewal Authority (URA) is a very significant matter, as the work of the URA will affect the living environment and assets of many people. Moreover, its work in the future will probably affect not only those people living in old urban areas. As rightly pointed out by some "observant" social workers, there may well be a possibility of the URA co-operating with the HA in renewal projects in the future. We can actually notice such a possibility now. For example, the HA may have some prime sites in the urban areas on which public housing estates and industrial buildings are found. Once these buildings are demolished, the HA can actually consider the possibility of co-operating with the URA to redevelop these sites. It can thus be seen that the work of the URA will simply not be confined to private properties. Rather, its work will involve the very complex issue of housing supply and ways of keeping it in balance. That being the case, I must say that there must be a balanced composition for the URA, one which is acceptable to both the residents of old urban areas and the community at large. I am pleased to note that the Government is finally dissuaded from adopting the system of an executive chair, which means that the directorship and the executive branch of the URA will be independent of each other. However, the Government maintains that the directors appointed by the Chief Executive will be the ones who are best able to look after the interests of different strata of society. For this reason, the Democratic Party has moved an amendment, and so has Mr LEE Cheuk-yan. These amendments actually reflect an attitude of distrust. And, such a distrust is real, I must say, because in the past, when people wanted to voice their opinions, whether to the HA or other statutory bodies, they would either find that not many people in these bodies could really appreciate their positions, or that they were not adequately represented on these bodies by, say, residents' organizations, Legislative Council Members, District Council members, social workers or even other organizations. That is why people are not convinced that the existing Land Development Corporation (LDC), or the future URA for that

matter, can actually be regarded as having a balanced composition. So, whether we look at Mr LEE Cheuk-yan's amendment, which asks for the inclusion of four URA members elected from among Legislative Council Members, or the Democratic Party's amendment, which requires the composition of the URA be subject to endorsement by the Legislative Council, we will see that the aim is always to ensure any decision made by members of the URA is balanced.

Second, about the strategy of urban renewal. I hope to see the prompt establishment of some objective standards, so that people can have a clear idea of how dilapidated their buildings are, what kinds of maintenance are required and what they should do to improve their living environment and the hygiene conditions of their buildings. That way, people's anxieties can be allayed. The Government will definitely be money-oriented in its consideration, and some may even suspect that there is collusion between the Government and businessmen, saying that many businessmen have actually "planted many nails" (purchased many flats in old buildings). They are therefore worried that such flats may be given priority as the targets of the URA. I am sure it is very clear that the 12 renewal projects already announced by the LDC will be considered on a priority basis.

Several months ago, some members of the public approached me, expressing the hope that I could organize a march, so that he could urge the URA to redevelop his building on a priority basis. In the end, I refused him, saying that it was strange and rare for anyone to ask the Government to demolish his own flat. Actually, over the past few years, many residents have approached me, asking me to organize processions for them, so that they could ask the Government to enforce resumption, or mandatory resumption if need be, of individual private streets or their own properties. I am sure that the Government should also be able to understand that such requests from people actually reflect their demand for a faster pace of urban renewal. These demands in turn stem from the fact that the situation has been dragging on for more than a decade without any satisfactory progress. For the whole business of urban renewal, it was first marked by extreme Government-businessmen collusion and an over-reliance on financing from property developers, but the situation has changed a little bit, as the Government is now willing to increase its indirect investment ( though it is still unwilling to make direct investment, and it still remains tight-fisted over the offer of compensation). It seems that it will be satisfied as long as a project can more or less break even without incurring too

much losses. But I am of the view that society has changed, and for this reason, I hope that the Government can refrain from adopting an over-conservative strategy on urban renewal. Perhaps, at the beginning, there may be justifications for a little bit of conservatism, but some time later, an intermediate review should be conducted. In any case, it should not take as many as 20 years to complete all the 200 projects.

In the planning process, the Government did take Members' advice on the establishment of an appeals mechanism, that is, an appeals panel. This is good. However, there are still the most important issues of compensation and rehousing. On the question of rehousing, Mr LEE Wing-tat will give some detailed opinions on behalf of us. But in general, I can say that we have achieved considerable progress. As for compensation, there is not yet an ultimate solution. The reason is that the Government has so far insisted on using the building age of eight to 10 years as the basis of calculating allowances, and there is a big difference between this and the building age of five years as recommended by some Members. A moment ago, I said that there had been some progress in respect of non-statutory appeals mechanisms, but I must add that this is only as it should be, because as we can easily imagine, whether we are talking about five years or eight years, if ever there are any disputes about the of flat sizes, there will definitely be a need for an appeals mechanism. If the two parties involved have any disputes about the size of a flat, an appeal will have to be lodged, but if there is no appeal mechanism, the matter will have to be brought before the Court. And, measurement will still have to be taken anyway. Therefore, there is actually a practical need for an appeal mechanism, and if necessary, such a mechanism will also have to deal with size measurement or evaluation of a building by making reference to the price per square foot for buildings of the same age in the same district. The significance of such a mechanism is that it can solve problems smoothly. That is why I think that the establishment of the proposed mechanism should not be regarded as a concession made by the Government. Rather, it should be regarded as a necessary step towards the reasonable implementation of the ordinance.

As for monitoring and supervision, over the past few days, some organizations have approached me, asking me, "After the passage of the legislation, what more monitoring devices can be found in the ordinance besides the appeals mechanism?" I can see several things. However, I think the key lies in the balanced composition of the board of directors. Recently, the Chairman of the HA has resigned. This establishes a precedent of another

monitoring culture outside the law, and this may well serve a more important function.

Lastly, what I want to deal with is ..... Some people may ask Members (Democratic Party Members or others), "The proposed mandatory resumption system will allow no bargaining at all. Immediately after 90 days from the date of gazettal, the Lands Resumption Ordinance can be invoked for the purpose of resumption. The discussions on urban renewal reforms have been going on for nine to 10 years. But what have these discussions given us? Have they given us any additional benefits? Any improvements?" I hope that the Government can listen carefully this advice of mine: If the Government fails to adopt five years as the basis of calculating allowances, if it fails to make such a kind of progress — please note that I am using the word "progress", which many people and Members are reluctant to use, and that the LDC did once use this as the basis (for a project under special circumstances, though) — then, I would have to say that after causing the long years of delay, the Government really owes people an answer. Actually, I can even say that the Government also owes the residents of old urban areas an answer, because the matter has dragged on for more than a decade in these areas, and the Government should have worked out some sound renewal measures for them at a much earlier time. Therefore, I think it is worthwhile to adopt mandatory resumption if this can really give us a compensation scheme better than that currently offered by the LDC, such as the adoption of five years as the basis of calculating allowances. I also think it is worthwhile to adopt mandatory resumption if it can really give us streamlined and smoother procedures that can save interest payment. If this can be done, that is, if we can really arrive a better scheme, then I think it is worthwhile to do so in terms of certainty and dollar. I hope that the Government can adopt five years as the basis of calculating allowances under the new compensation scheme.

Later on, at the Committee stage, I will move an amendment to clause 1. But we have not yet finished the Second Reading debate on the Bill. If we now let the legislation pass, in the future, we may have to resort to the "negative vetting" procedure to repeal the commencement notice. Actually, under the existing undemocratic voting system, the Government needs only to secure the support of 15 or a majority of Members in any group, it will then be able to make these parts of the legislation effective. This means that it is all unknown to us as to whether the compensation scheme and other related measures to be submitted to the Finance Committee by the Government will be fair enough, as to whether or not the very powerful measure of mandatory resumption will really be able to



benefit people and meet the criterion of fairness. Members have made painstaking efforts over the past year or so to scrutinize this piece of legislation, and the Democratic Party of course does not wish to defer the whole matter until the next Legislative Session, and it also wishes to see the speedy implementation of urban renewal projects. That is why we do not wish to oppose the Second Reading of the Bill, lest the matter may drag on for a further year, or even two, because in the next Session, there will be new Members, and they also have the right to ask for a renewed scrutiny of the Bill and to voice their opinions. The situation as such, I have put forward a compromise. I suggest that we should first pass the legislation, and then monitor the Government on its preparations, and see whether it is prepared to submit to the Finance Committee around September and October a compensation scheme and other related measures that can meet the aspirations of the public. We should check whether the Government is going to adopt a middle-of-the-road approach. If the Government fails to do all this, then we should have reservations about the full-scale implementation of the legislation. The final decision is of course bound to be a very painful one. We started to ask the Government to review its strategy of urban renewal as early as 1991 and 1992, and we have made a lot of efforts. The Government has now finally agreed to abandon its proposal of self-financed urban renewal projects, and there are also very substantial improvements in rehousing arrangements. If the whole thing is allowed to fall through just because of a dispute about whether five years or eight years should be adopted as the basis of calculation, and if the whole thing is thus delayed for several more years, then the Democratic Party (and other Members and the public at large) will certainly be disappointed. Even if the Bill is passed today, I still hope that the Government can consider very carefully whether it is worthwhile to disappoint the people yet again, to render urban renewal such a remote hope merely because of this problem.

**MISS CHRISTINE LOH:** I am sorry, Madam President, I rise to speak against the resumption of Second Reading of this Bill. The reason for my opposition is that I do not believe that the Administration's urban renewal strategy is going to work. Indeed, it remains unclear exactly what the strategy is.

I am sure the Administration thinks that it has a strategy. The Administration may say that clause 5 of the Bill spells out the "purposes" of the Urban Renewal Authority (URA), and that officials went into greater detail in a document on 4 May to the Bills Committee. Clause 5 and the document spell

out a series of desired outcomes, such as improving the standard of housing, replacing old and dilapidated areas, utilizing land better, preventing decay, preserving sites with special interest, and preserving social networks. With respect, none of that constitutes a policy.

There is no policy document that makes plain the planning and directing of urban renewal in future. Indeed, Members can see from the Report of the Bills Committee that the Administration's intention is to finalize the urban renewal strategy after consultation with the URA. What that means is that the Administration wants to first build the hardware, and then discuss with the hardware how to develop the software to run it. Madam President, I am not sure that this is the right approach.

If the Administration does not yet have a clear strategy, would the setting up of the URA in itself create the strategy? Obviously, not. I think it safe to say that the URA is unlikely to be fundamentally different from the Land Development Corporation.

The composition of the URA Board will be much like those of other public bodies. There will be a good smattering of civil servants. There will be a group of so-called community representatives. There will be a non-executive chair and a managing director. If it is like other typical boards, can we really expect the URA Board to be able to come up with a comprehensive strategy any time soon? I doubt it. The strategy will come from the Administration, who up until this moment cannot articulate one. Whilst I am hearten that there will be another round of public consultation, I see no rush in putting the cart before the horse by setting up the URA now.

So, what is the rush? I see the rush as another typical reaction from the Administration to show the public that it is "doing something". Urban renewal has not been a success. There has been pressure for years to "do something". The Administration's response is typical when it is under pressure. It proposes to create hardware or add procedures, rather than standing back and trying to understand why things have not worked. If the Administration understands what it should be doing, we would have the strategy clearly stated today.

Let me try to state what I think are some of the underlying problems. In a nutshell, the Bill is the wrong answer to the wrong question. The URA is being set up to solve the problem of poorly built and poorly maintained individual buildings. The URA is supposed to target buildings that are dropping bits of concrete on passers-by. While it is supposed to achieve better utilization of land in dilapidated areas, there is no strategy on how to do that. Yes, it may be able to preserve historical and cultural sites, but that is far from facilitating urban renewal.

Having looked at the problem long and hard, the URA will be no more than a cosmetic attempt to patch up the physical manifestations of market failure. Just why have these buildings and areas never been regenerated? Why has Hong Kong not been able to recycle these buildings that have become economically obsolete? Why are other cities able to do so? In my private discussions with officials responsible for taking this Bill through this Council, it is clear that they are not sure why urban renewal has not worked. The excellent officials taking the URA Bill through this Council has not been asked to solve these problems, only to take the Bill through. So, they have directed their attention to technical issues rather than fundamental ones.

They do have the set answer for why urban renewal has failed in Hong Kong for so long. The tired answer trotted out is that ownership is fragmented. If so, the Lands Resumption Ordinance should go a long way to solving the problem. Clause 24 of the Bill will strengthen compulsory land resumption further. Are they all that we need?

The enactment of the Bill may solve the immediate problem of demolishing some 200 buildings which are falling apart, but it will not make market failure right again. I am now convinced that the Administration needs to first identify why the market has not worked. A government report published in 1993 by the Special Committee on Compensation and Betterment offered some insights. It noted Hong Kong's contradictory system of planning control through zoning and restrictive covenants. It suggested the removal of restrictive development covenants in leases and lease modification payments. That means the Administration has to think about how to tax the uplift in land value resulting from the grant of new planning permission. However, no one in the Administration seems to have heeded the conclusions of that report. No one has taken a serious look at what to do. I really do not understand why that is so, since the conclusions of the report are quite clear. I have spoken about this to

the officers-in-charge but whilst they have read the report, they are not directed to do anything about it. It belongs to other officials, but I understand that there are no officials in the whole Government who are charged with thinking through the whole issue comprehensively.

So, Madam President, I would also like to suggest two other measures:

Firstly, a legal mechanism to facilitate redevelopment by existing owners even when all owners are not able to be traced or prove title. We are told repeatedly that this is one of the hurdles preventing urban regeneration. My suggestion requires a review of the problem of lost and defective titles, which I believe have never been carried out in Hong Kong either.

Secondly, to ensure that property owners have full rights to their enjoyment of their interest in land, the security of tenure provisions in the Landlord and Tenant (Consolidation) Ordinance needs to be removed. I know that some of my colleagues may disagree with me. Some may believe that security of tenure helps tenants. I ask them also to consider how this actually inhibits maintenance and redevelopment. Security of tenure is a disincentive to continuous investment in a property, and it makes it very hard to redevelop. The social dis-benefits outweigh the benefits. Since the Administration is going to require proper management of buildings, which up until now it has not, I think it only fair to lift the security of tenure provisions from the law.

I believe that these various measures will help free the market up. If we still need a URA, then it will be one which will only play a facilitation role. There should be little need to develop on its own or in association with private developers. I foresee that once the market works better, a URA may only need to take over what I describe as "basket cases". In any event, a public body has no role in being an equity risk partner in development. Why can it not just sell newly assembled land to the private sector? Why take equity risks? I am told by the officials in charge that this is what this Council wants. So, what if the development loses money? It is not the job of public institutions to take market risks.

Madam President, I hope that I would leave behind a record of why I oppose the Urban Renewal Authority Bill. I am sure that the Bill will go through today. I am sorry to have taken so much time, but I want the Administration to know exactly why I remain uncomfortable with the Bill. I

have thought about supporting it and then continue to argue for policy change. However, I fear that may be futile and I would rather leave behind a clear record of my concerns.

Let me just make a final summary. I urge the Administration to adopt a market approach over a central planning approach. I urge them to think before they leap. I fear that the URA as conceived by them will turn out to be another unwieldy Housing Authority type of monster. I urge them to formulate a clear policy before creating the hardware needed. Whatever hardware they then need, its role should be to enable land assembly and facilitating the processing of planning permissions for redevelopment.

What I will do is that I would vote for those amendments that I think will make the Bill better. Even though I oppose the Second Reading of the Bill, I am sure that the Bill will go through, so it makes sense for me to improve the Bill as much as possible.

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

**MR GARY CHENG** (in Cantonese): Mr Deputy, I think the establishment of the Urban Renewal Authority (URA) signifies a new urban renewal concept of the Government. We agree with it in many areas but I do not wish to repeat them since a number of Members have already mentioned them just now. As Mr Edward HO said earlier, all sectors of the community should have a full understanding of this new concept and be adequately prepared for it. Urban renewal no longer means pulling down old buildings only. Members of the Democratic Alliance for the Betterment of Hong Kong (DAB) support the Second Reading of the Urban Renewal Authority Bill on several principles. Firstly, we believe that this product of the new policy can absorb and learn from the experience of the former Land Development Corporation, thus increasing the efficiency and effectiveness of renewal projects, be it in terms of the time schedule or other arrangements. Secondly, given the Government's commitment to urban renewal — I think this is also the most important reason why we support the Bill — renewal endeavours in future will be more conducive to the overall territory-wide planning and arrangement, and also to the overall assessment of the social environment. Thirdly, the establishment of the URA or the Government's commitment made in the light of policy changes can

minimize commercial influence or the effects of the economic and social conditions in the process. Fourthly, with proper arrangements — I mean if Members' views or those of members of the Bills Committee are accepted — we believe that the living conditions of residents affected by redevelopment will be greatly improved.

To the affected residents, compensation and rehousing are obviously their greatest concern for these are directly related to their interests, whether we are talking about the concept, urban renewal or town planning. From the publication of the White Bill to deliberations by the Bills Committee, we have had meetings in this Council and we have listened to public views in local communities, trying to understand the views of both the affected and unaffected residents. Surveys were also conducted by the DAB and results showed divergent public views on how urban renewal can be implemented properly, the acceptability of the Urban Renewal Authority Bill, the acceptability of the compensation and rehousing arrangements, and so on. Some hold that compensation should be accepted first in order to settle the matter as soon as possible and they do not wish to engage in never-ending negotiations and bargaining. However, some think that they should not let go of this opportunity and they must fight for the best possible package. So, there are these two views among members of the public. Irrespective of their respective arguments, the DAB considers that our common wish is to see urban renewal being implemented on the premise that the affected residents are well taken care of. We, therefore, agree that the URA should be set up and come into operation as early as possible. Yet, I call on the Government to make better arrangements for compensation and rehousing. Although the Bills Committee has debated on these arrangements for a long time, compensation and rehousing remain the only area on which no consensus has been reached. While the Bill currently undergoing the Second Reading procedure may not necessarily incorporate all the compensation and rehousing arrangements, I understand that implementation problems are bound to arise in future as long as no consensus is reached, or as long as the views of the public and Members are not accepted. For this reason, while the DAB supports the Second Reading of the Bill today, we will continue to pay close attention to matters pertaining to compensation and rehousing. We will endeavour to work for this cause and we hope we can come up with an optimal package. With these remarks, Mr Deputy, I support the Second Reading of the Bill.

**DR YEUNG SUM** (in Cantonese): Mr Deputy, I think this Urban Renewal Authority Bill represents a landmark in the redevelopment of old districts in Hong Kong.

The Democratic Party has all along disapproved of the operation of the Land Development Corporation (LDC) which operates on commercial principles excessively. Just now Miss Christine LOH said that she did not wish to see market principles being planned by the Administration. The Democratic Party prefers neither a market-oriented nor government-led mode of operation. Instead, we prefer a mixed approach whereby we can rely on market forces in some areas but the role of the Government is still necessary.

The LDC operates purely with a market-oriented approach and this has led to a myriad of problems. Mr Deputy, the LDC must always find ways to attract developers who will participate in urban renewal only if the project is profitable. So, in times of economic downturn or when redevelopment projects become less profitable, it is unlikely for developers to participate in urban renewal from the angle of community interest. So far, only a very small number of redevelopment projects have been carried out successfully by the LDC in old districts on the Hong Kong island and in Kowloon. For this reason, the Democratic Party has been urging the Government over the years to review again the *modus operandi* of the LDC which operates on commercial principles.

Now that the Government is planning seriously to set up the Urban Renewal Authority (URA). But regrettably, it refused to accede to the request of the Democratic Party to directly inject capital into the URA. The Government has only agreed to exempt developers from paying the land premia, relax the plot ratio, or provide loans for them in times of difficulties, but refused the proposal of direct capital injection.

Why does the Democratic Party ask for direct equity injection by the Government into the URA? The reason is that many districts may only have a low value for development and developers may not be willing to redevelop those districts purely from the development point of view. Nor will they be interested in developing the relatively small or remote districts, but those districts may already be old and dilapidated. So, if it operates purely from the developers' point of view, the adoption of such measures as waiving land premia, relaxing the plot ratio, or even providing loans for developers facing difficulties will not be as effective as the Government undertaking to inject capital into the URA. We find this very disappointing.

Mr Deputy, compensation has been the greatest hurdle in the overall operation of the LDC. The Democratic Party maintains that the compensation for owners affected by redevelopment should be enough for them to buy a replacement flat of one to five years old in the same district. After many rounds of discussions, it is regrettable that the Government broadly hinted that it would only make compensation enough for a replacement flat of eight to 10 years. We are greatly disappointed with this arrangement. It is true to say that urban renewal will benefit the community in that there will be green areas, community facilities, and so on, but the original residents will be making the greatest sacrifice. At present, Mr Deputy, those who moved to the developed areas from other districts can benefit the most from redevelopment, but the compensation for the original residents cannot bring any improvement to their living environment. The case is that newcomers are able to enjoy the fruits of redevelopment to the detriment of local residents. I think the Government should draw on the experience of the LDC and make compensation enough for a replacement flat of one to five years to enable the affected residents to buy a flat in the same district. This will speed up the urban renewal programme and help avoid delays. While the Government has come up with a solution by prescribing a 90-day period and invoking the Lands Resumption Ordinance, we still consider it inappropriate to resolve the problem by administrative means. We hold that the Government should, as far as possible, offer a better package as an incentive to owners to give consent to redevelopment. To provide owners with compensation enough to purchase a flat of five years old is far better than making compensation just enough for a 10-year-old replacement flat. I hope that the Government can listen carefully to the position of the Democratic Party.

With regard to tenanted flats, Mr LEE Wing-tat will move amendments on behalf of the Democratic Party to, among other things, enable the affected owners, whether they have one or two tenanted flats, to obtain a compensation equivalent to 50% of the Home Purchase Allowance for each flat. This will provide better protection for owners in terms of compensation.

Mr Deputy, regarding local rehousing, as many residents of the old districts are elderly people, and even though they can have a better living environment after resettling in a new district, they will be uprooted and lose all the social ties that they have previously built up with their community should they move to other districts. They will be made to undergo changes and be put in a completely new environment. Therefore, we hope that local rehousing can be arranged as far as possible in order to provide the elderly with a new living



environment in the same district, thereby enabling them to maintain their social ties with the original community.

While commercial tenants are entitled to compensation for redevelopment, they may face difficulties during the transitional period. Through the amendments to be moved by Mr LEE Wing-tat later on, the Democratic Party proposes that arrangements be made to provide a bridging loan for commercial tenants to tide them over the difficulties. We also share the view expressed by Mr Edward HO just now, that is, the cultural heritage of a district should be preserved. The Central and Western District Council recently proposed that the original façade of some old buildings should be preserved. I think that the same applies to other districts. The history of a place is very important. Hong Kong has long attached too much importance on economic benefits and forgotten its history and culture. History and culture can be tools to enhance the cultural awareness of the people and even foster their sense of national identification. We should not emphasize only on sustaining economic development, to the neglect of the importance of preserving our historical and cultural heritage. In this regard, we support Mr Edward HO's proposal.

As Mr James TO said just now, while we are still unsatisfied with this Bill in many areas, the Democratic Party will support the Second Reading of the Bill. On the question of compensation, as the Government will have to seek the approval of the Finance Committee for funds in future, we will fight for a better compensation package for the public then.

Thank you, Mr Deputy.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr Deputy, insofar as urban renewal is concerned, we have heard from many residents that the compensation and rehousing arrangements are riddled with problems. In fact, compensation and rehousing are not the keynotes of the Urban Renewal Authority Bill that we discuss today. The Bill is completely silent on compensation and rehousing which are actually policy issues. Despite the many concessions made by the Government in principle, the residents are still unsatisfied with the relevant arrangements. In the course of the scrutiny of the Bill, we kept on reflecting to

the Government the problems concerning compensation and rehousing and had discussions on them, but the nature of the Bill has made it difficult for us to further achieve anything.

In fact, if we take a close look at the Bill, we will know that the Bill simply deals with the establishment of the Urban Renewal Authority (URA). I think the question of why the Bill is introduced is most worthy of our discussion. When scrutinizing the Bill and discussing it with the Government, I always said that the Government was like robbing owners of their land. It appears that the Bill will empower the Government to go on with the looting. Mr Deputy, this is how I feel. In fact, the reason for the Government introducing this Bill is to replace the former Land Development Corporation (LDC) with the URA. Why does it have to replace the LDC? It is mainly because of the slow progress of the LDC in resuming flats and the time-consuming procedure for land acquisition. The Government considered the work of the LDC ineffective so it planned to set up the URA. While the URA has an "imperial sword", that is, the Lands Resumption Ordinance, the Government still considered it inadequate and conferred greater powers on the URA to make it even more powerful or to expand its powers indefinitely. As a result, just as Mr Stephen FISHER, the Deputy Secretary, has said, the URA can resume whatever land it wants without having to go through a protracted process. What is more, the URA will offer a "non-negotiable price", and if the owners failed to give in on the date for resumption as scheduled, the URA can immediately invoke the Lands Resumption Ordinance and ignore the views of the residents. Residents who feel aggrieved will have to lodge their cases with the Lands Tribunal.

Mr Deputy, I think this approach is utterly questionable. The Government has always emphasized that the spirit of the Bill is "people-oriented". But how can this be "people-oriented" by any standard? By "people-oriented", so to speak, I think it means respect for the wishes of the affected residents in the relevant districts before making arrangements. But much to our regret, the Bill is not introduced on this basis. On the contrary, it prevents the wishes of the residents from being respected and evades negotiations with owners, only thinking to settle problems expeditiously by administrative means. This point alone already demonstrated a departure from the spirit of "people-oriented".

Moreover, to be "people-oriented", it is most important to respect the inherent potentials of a community *vis-à-vis* its future development. It is a pity that the Bill has no regard for this. The Bill is silent on the renewal strategy of

the Government. Do we have any idea about the Government's strategy? The Government has told us nothing. It has only asked this Council to pass the Bill first, and the renewal strategy will be worked out afterwards. I think this does not reflect any respect and care for the affected residents.

If the Bill is enacted today, I think it can, in principle, take care of some residents only. Some residents are living in dilapidated districts and buildings. As the owners of their flats do not bother to make any improvement, they are living in grossly deplorable conditions. They hope that the URA can be established as early as possible to resolve their problems. However, can the establishment of the URA be a solution to all problems? Mr Deputy, I have misgivings about it. Even if the URA is established, will those districts previously designated for redevelopment be accorded top priority and hence redevelopment works will commence right away? We do not know. It is possible that a district previously given the first priority would eventually turn out to be the 10th on the list with no one having any idea about when the works would commence.

I hope that the Government will not only aim at pressing Members to pass the Bill as soon as possible. Instead, it should put forward an overall renewal strategy for our reference, and this will prove to be more useful and constructive. Otherwise, I am afraid that we will not be getting anywhere with this Bill. Even if the Bill is passed today and the URA is established, many problems will still hang in the air. This, coupled with the absence of a clear and specific policy, will only produce complications and undesirable results.

I very much agree with the concept that Mr Edward HO spoke of just now. He raised the question of whether we must resort to redevelopment when dealing with the problems of old districts and whether it is possible to "rejuvenate" the old districts. The Bill is silent on how the concept can be implemented and promoted, and fails to cast light on it. I am worried that the Bill, if passed today, would be unfair to the affected residents. As I said just now, compensation and rehousing matters are not the keynotes of the Bill. This Bill mainly serves to confer greater powers on the URA and provide for the administrative procedures to enable resumption of land by the URA for redevelopment, and this is the broad direction of the Bill. If I do not understand it wrongly, I think this is putting the cart before the horse.

What lies before us today is a massive community redevelopment programme. If we do not consider it with great care and learn from the problems encountered by the LDC, but simply aiming at tackling the problem of slow progress in the resumption of flats and land, I think the redevelopment process will certainly remain problem-plagued in future. The Government has merely addressed the tardy and ineffective process of resuming flats and land by the LDC and proposed on this premise an overhaul of the organizational structure of the LDC, and this, I think, is somewhat inappropriate.

Mr Deputy, if it is the hope of the Government that the residents will genuinely accept the Urban Renewal Authority Bill, I think it must provide more detailed information to facilitate our understanding of its proposal; or the Government must make more concessions in respect of rehousing and compensation so that the residents are able to cope with the urban renewal process truly underpinned by the spirit of "people-oriented".

Just now a Member mentioned that under the current proposal of the Government, the compensation payable to affected residents should be enough for them to buy a flat of eight to 10 years old in the same district. We have been telling the Government that this is a far cry from the expectation of the general public. Indeed many Members have also stated that a replacement flat of five years old is acceptable. But the Government, to our regret, maintained its position. Just now a Member urged the Government to consider the case at its discretion. I also hope that the Government will reconsider it. But I think all we can do ultimately is to keep on expressing our hopes only as the Government will not accede to our request anyway. If it is willing to do so, our proposal should have been accepted. From my observation, the Government has maintained a very tough stance and I am somewhat discontented with its attitude. In fact, a replacement flat of eight to 10 years old is even worse than the compensation previously offered by the LDC. So, I find it difficult to accept the Government's proposal.

Mr Deputy, we all know that many Members of the Legislative Council have expressed concern over the "Wah Kai incident", which, I think, is a good example for illustration. From this incident, we can see that many factory owners or tenants who have to move out of the industrial building found that apart from the amount of compensation, there are many problems remaining unresolved in important aspects, such as the date of removal and other relevant arrangements. But regrettably, we have not seen any report from the

Government on an overall review of the "Wah Kai incident" to tell us what exactly the problems are and what areas warrant our studies. The Government has failed to do so, and I think this is a fault on the part of the Government. The "Wah Kai incident" has aroused the concern of so many Members, but it appears that the Government has not taken account of the problems that might arise before resuming the site of the industrial building. The Government only proceeded in accordance with the general procedure and this has resulted in the many problems that cannot be resolved today. I hope the Government will recount the experience of the "Wah Kai incident", learn a lesson from it and make improvements. But so far, we have not seen any report from the Government and this, I think, is undesirable indeed.

Mr Deputy, I so submit. Thank you.

**MR LEE WING-TAT** (in Cantonese): Mr Deputy, this Bill should be one of the most important bills examined in this last meeting of the current Session. If you asked my opinion about it, I would say that I actually do not wish to see the hasty passage of the Bill today. This Bill, which contains dozens of pages, involves a wide range of issues. As the Deputy Secretary, Mr Stephen FISHER, may know, the Members concerned attended almost all meetings. We had continuously asked for responses to our questions, but we were not provided with answers to all the questions. In the course of the scrutiny of the Bill, it is most undesirable that we were required to complete our deliberations on the Bill within a very short time.

Basically, I agree with the spirit of the Bill. There are far too many dilapidated buildings in the old districts of Hong Kong. These buildings have many inadequacies in respect of safety, hygiene, and in regional and urban planning. All these problems may actually have been left over from the '40s, '50s or '60s. But as the Land Development Corporation (LDC) is in operation, why do we have to establish the Urban Renewal Authority (URA)? From my observation, this may be due to several reasons. Firstly, the progress of the LDC's redevelopment programme is too slow. It is estimated that the LDC may need 50 years more to complete the renewal or redevelopment of old districts. However, as those buildings of 20 to 30 years old now will need to be redeveloped 50 years later, it is, therefore, a perpetual and perhaps never-ending programme. The Government may say that urban renewal is an ongoing programme, but our concern is that while the current programme and strategy

have been implemented for a long time, those districts that we considered to be badly in need of redevelopment have not been redeveloped yet. Secondly, apart from the slow progress of the programme, the Government has been saying that the assembly of land is time-consuming, or to be exact, costly. There were many cases in which a long time was required to resume land for redevelopment. In some cases, it required a year or two; and in some other cases, it required three to four years. This means that the daily interest payable by the Government or the LDC can be as much as hundreds of thousands or even millions of dollars, which will greatly reduce the commercial or financial viability of the programme as a whole. Thirdly, perhaps it is because of frequent allegations of the Government colluding with the LDC that the Government wanted to establish the URA in a bid to clear its bad name by using a different strategy or approach.

I do not quite trust that the Government set up the URA for the first two reasons. Even if this Bill of the Government is passed, how can it expedite the entire urban renewal programme? Of course, the Secretary or the Chairman of the future URA may say that the URA should be set up as a first step and the work can be gradually carried out thereafter. However, we now have nine projects in progress, and another 25 announced projects for which a timetable has yet to be drawn up, followed by dozens of projects which have not been named yet. For residents of the old districts targeted for redevelopment, I sometimes cannot help but think that while the affected residents are all Hong Kong citizens, tenants of the dilapidated public housing estates will have their problems resolved very soon for their public housing blocks will soon be redeveloped, whereas those who live in private buildings have to suffer a great deal from the long delays. I think this is unfair to them. My view is that after the passage of the Bill, the Government should convince us that it has the confidence and determination to speed up redevelopment and make appropriate arrangements in all aspects, including compensation — a point which Honourable colleagues have often debated.

In the motion debate on the LDC sponsored by Mr James TO, I hurled rather severe criticisms at the Government, saying that it had virtually turned urban renewal into a business with no capital requirement. Apart from injecting hundreds of millions of dollars into the LDC in its first year of operation, the Government has paid no more since then. It is almost impossible for urban renewal to be carried out without any capital injection in any other places of the world. Furthermore, after many years of development, there is less and less

land that can truly be resumed, and less and less land with its plot ratio not yet exhausted and thus being able to generate profits. So, the Government's strategy must be revised, but I feel rather disappointed this time for the Government, in revising its strategy, refused to accept a principle that we uphold. Insofar as this issue is concerned, the Legislative Council has given a hand to the Government. It is because according to the flow chart provided by Deputy Secretary Stephen FISHER, the Government will be able to save one year or even one and a half year in the assembly of land under the new ordinance. Let us think about this: A redevelopment project may require \$1 billion to \$2 billion or even billions of dollars and the daily interest can be as much as \$1 million or \$2 million. The passage of the Bill by colleagues of the Legislative Council will enable the Government to achieve a saving in interest of \$10 million to \$20 million, or \$20 million to \$30 million in respect of each project. Our demand is this: Since we have given the Government a hand to facilitate the assembly of land, why can the Government not give an undertaking to colleagues of the Legislative Council or members of the public that compensation for factories, owners and commercial tenants will be calculated in a more generous manner in future? I think it is unfair that the Government on the one hand asked us to pass the Bill to expedite the resumption process but on the other hand, it is unwilling to relax the limit of compensation. This shows that the Government has failed to strike a balance.

It is certainly not our wish to see a protracted resumption process for the ultimate beneficiary will not be the owners, but the banks which will be able to generate revenue from interest. I agree with Mr James TO who opined earlier that the Government will have an "imperial sword" to effect mandatory resumption, and the enactment of the Bill can significantly reduce the time required for the assembly of land. It is regrettable that the Government, against this backdrop, is still unwilling to use a replacement flat of five years old as the basis for calculating compensation. I wonder if Deputy Secretary Stephen FISHER has done any calculation in this connection. In fact, the programme will still be financially or commercially viable even if compensation is calculated on this basis. Obviously, a small capital injection by the Government may be required. But as I said just now, it is indeed impracticable for the Government to proceed with the urban renewal programme at no cost or without any capital injection. The Secretary may contend that there is capital injection by the Government, only that it is in the form of land grant at zero premium. In that case, is the land so granted sufficient? Is it sufficient for the URA to carry out its tasks?

After the passage of the Bill, the next battlefield of the Government will be the Finance Committee of the Legislative Council where the bicameral voting system is not applicable. If my memory has not failed me, I recall that a majority of the political parties to which members of the Bills Committee belong supported using a replacement flat of five years old as the basis for calculation. If the Government tabled a proposal on the basis of a flat of eight to 10 years old, I hope Members will oppose it, vote against the motion and ask the Government to submit a proposal based on a flat of five years old. I hope the Government will carefully consider this point.

Moreover, I wish to speak on my experience concerning mandatory resumption by the Government. Several colleagues, including Mr LEUNG Yiu-chung, Mr LEE Kai-ming, Mr TAM Yiu-chung and Mr LEE Cheuk-yan, and I have attended many meetings of the committee on the Wah Kai Industrial Centre case. It is an inherent culture of the Government to allow very little flexibility in handling emergencies and crisis. To be honest, and as the Secretary said in response to my question today, the compensation payable to commercial tenants and factory owners is lower than the market value. If that is the case, what can the Government do? The Government said that the law does not allow an excessive increase in the amount of compensation. We then proposed that loans can be granted, but the Government said that the finance scheme for small and medium enterprises (SMEs) is already exhausted.

Sometimes I do not understand the mindset of the Government in its consideration. The Government was willing to provide assistance for the SMEs that were hard hit by the financial turmoil. From a certain viewpoint, the Government was not the prime culprit; at least I do not believe that the financial turmoil was caused by the Government. But in the case of the Wah Kai Industrial Centre, the Government can be said as the cause of this incident, though not directly. Owners of factories in the Wah Kai Industrial Centre or owners whose factory premises will be resumed by the URA in future may face problems concerning loans, negative assets and capital flow. While they may not be engaged in large scale business, they can still earn their salary. They manage to operate their business as a going concern so long as their factory premises are not resumed by the Government. But once their factory premises are resumed, the bank will proceed to call loans, that is, asking them to repay their loans, in which case they have to close down their business immediately. All of us are aware of this situation. The Government is aware of it too. While those entrepreneurs whose predicaments were not directly caused by the



Government can still turn to the \$5 billion Special Finance Scheme for SMEs, and I certainly welcome this arrangement, those who are forced to close down their business as a result of mandatory resumption of land by the Government cannot borrow one single cent. Is this fair and reasonable? From what we observed on every occasion when the Government sought the approval of the Legislative Council for legislative amendments, the Government would take action only if we resorted to legislative means. I, therefore, have proposed quite many amendments today for I do not trust this Government any more. If it is worthy of my trust, the case of the Wah Kai Industrial Centre would not remain unsolved even after six meetings were held. This is why I proposed these amendments.

Regarding the arrangements for tenants, Mr Deputy, I think we have achieved a great success as a result of Honourable colleagues making a concerted effort to put pressure on the Government, although we are not allowed to applaud our accomplishment here. In our discussions, this was one of the areas on which a consensus view was reached among Members who subsequently succeeded in pressing the Government to take our views on board. Each and every colleague took part in putting pressure on the Government and the Government has the capacity to accede to our request. But why did Honourable colleagues fly into a temper and threaten the Government that they might thwart the passage of the Bill? Is the relationship between the executive and the legislature really as bad as that? Is it that the legislature must resort to threatening the Government on each occasion in order to get something done? Now, the affected tenants basically can be allocated with public housing in nearby districts. Public housing will also be allocated on compassionate grounds and for tenants whose income or assets are marginally above the limit. This is an appropriate arrangement.

Another achievement made by the Bills Committee has to do with the appeal mechanism. This is also the result of the concerted efforts made by each and every colleague. The Government did not accept our proposal initially but took it on board after many rounds of meetings. We also pointed out that the Government should not charge any fees against an appellant who lodged a case in good faith and on reasonable grounds because from an objective point of view, the charging of a fee will deter small owners from lodging an appeal due to a lack of means.

Finally, Mr Deputy, I wish to turn to an aspect that has seen less discussion. As Mr Edward HO said just now, the sort of urban renewal as carried out in Hong Kong is rather destructive. We can see that Hong Kong has lost more and more of its traces of history. Each of our buildings and streets will lose their history after making way for new buildings and new developments. Of course, the continuous development and advancement of society require us to provide facilities that meet modern standards or specifications in the design of urban areas, and in such aspects as culture, recreation and sports, and also in respect of open space. Yet, the level of affluence of our society actually allows us to preserve, with the use of public money, some traces of history. I have been to a heritage trail and seen pictures and information about Dr SUN Yat-sen during the time of his domicile in Hong Kong. It is a pity that many of the buildings concerned have been pulled down. It was only in early to mid-1990s that I learned that Dr SUN Yat-sen, Father of China, had lived and worked in many places here in Hong Kong. Those buildings have all been pulled down, so all we can do is to put plaques at the new buildings stating that Dr SUN had lived or worked there, but in fact, most of those buildings no longer exist now. Is it the wish of our community to remove all traces of history yet again? We did not spend much time on this in the Bills Committee, but I hope that the Secretary will take heed of the fact that in a society without history, its people will only feel "rootless". While we have always emphasized the importance of nationalistic education, and so on, the Government should start from places with which we are most familiar, and where we live, where we were brought up and educated, and where we work, in order to cultivate a sense of belonging. Their preservation will benefit our next generation. Thank you, Mr Deputy.

**MR JASPER TSANG** (in Cantonese): Mr Deputy, when we examined the Urban Renewal Bill, we often had mixed feelings. During the time when colleagues of the Legislative Council deliberated on the Bill, I met many property owners and tenants from old districts pending redevelopment to listen to their views. It is my impression that both owners and tenants desperately want the pace of urban renewal to be speeded up. One reason is that their living environment is very poor and rapidly deteriorating. Besides, the Land Development Corporation (LDC) had announced a number of redevelopment projects, which it said would begin very soon. Many property owners from the old districts told me that they had thought their properties would be demolished in six months or a year at the most and therefore dared not let out their properties or carried out large-scale maintenance on them. But their properties are still not

demolished after more than two years. They can neither let them out to collect rent, nor do they want to spend money on renovations. Thus, the conditions of the buildings continue to deteriorate. They have no idea how long they still have to wait. Every time I met those owners, they would ask me when their properties in the old districts would be demolished, this year or early next year. Many tenants in the old districts are also waiting for reasonable rehousing when demolition is carried out, so that they can live in a better environment. Everyone hopes that the relevant work can be carried out soon.

After they have found out that the LDC is not prepared to launch new projects and the old districts where they live will not be redeveloped until after the establishment of the Urban Renewal Authority (URA), they all hope the URA will be set up soon. However, they are also very much concerned because they know that the soon to be established URA will have great powers. It can resume land if it wishes. Thus, they doubt whether they will have the ability to bargain with the URA. If the Government does not undertake to offer them a more reasonable compensation and rehousing package now, how can they be sure that their living environment and living conditions will be better than now? Therefore, while they hope that redevelopment will be carried out soon, they also earnestly demand that a reasonable package be offered first.

As several colleagues mentioned just now, in terms of the compensation package, there is contention over what kind of flats should be used as the basis for calculating the Home Purchase Allowance (HPA) payable to owner-occupiers. Some people who do not understand the matter may say that since the Government has promised to calculate compensation with reference to the price of a 10-year old flat, and has now offered to revise the basis for calculation to a flat of eight to 10 years' old, it is already very favourable to affected owners. The buildings in the old districts may be 30 to 40 years' old. Now, because of clearance, they can have a replacement flat of eight to 10 years' old. What more do these owners want? Do they want brand-new flats? People who think this way do not understand the matter. What if the affected persons cannot get a replacement flat of eight to 10 years' old? If the Government promises that owners can get a replacement flat of eight to 10 years' old of the same size in the same district, everything would be solved and there would be no arguments anymore.

However, this is not the case. Theoretically, the HPA enables owner-occupiers to purchase a flat of eight to 10 years' old of the same size in the same

district. The question is, are there such flats in the same district? No one can be sure that he can purchase such a flat with the HPA. Even if there are such flats, can they afford them? Property owners in the old districts do not know what to do. Their self-occupied flats may be their only property. Now, the Government wants to resume their properties for demolition by offering them a sum of money as compensation. What kind of flat can be purchased in the same district with this sum of money? Are such flats available and are they affordable? According to the basis of calculation, the older the flats, the less compensation the owners will get, and the more insecure they will be. Can the owners say to the URA then that they are unable to purchase a flat of eight to 10 years' old in the same district or in the whole Kowloon area with the HPA? Will the Government give them a flat as compensation? The answer is no. That is why we are arguing about the age of flats. The reason is quite simple. The newer the flats, the more compensation the owners will obtain and the more secure they will be, since they can purchase a newer or smaller flat with this allowance and will have a wider choice.

Why do owners demand the use of a five-year old flat as the basis of calculation? Their argument is quite simple. It was very difficult for the LDC to resume flats. Still, it paid compensation calculated on the basis of the price of a five-year old flat. Now, the URA can wield the "imperial sword" and resume flats anytime it wants. It need not fear that owners may slow down the pace of urban renewal. Why can it not adopt the same basis for the calculation of compensation as that of the LDC or even be more generous than the LDC? Owners make this demand because they are worried. They demand that the basis of calculation be revised from a flat of 10 years' old to a flat of five years' old not out of greed, but because they want to solve the above problem. This would reduce the resistance to redevelopment. This way, people affected by land resumption would not feel aggrieved. After all, the properties belong to the owners.

As for owners who let out their flats, their plight is even worse. People might think they should be able to afford a new replacement flat since they collect rent on their flats. It is not the big property owners who have more than 10 flats in one street whom we wish to protect. Many residents in the old districts are old people. They have no one to depend on and are incapable of working. Their only means of living is their self-occupied dilapidated flat of a few decades' vintage. They occupy only one room and let out the other rooms. They live on the rent collected monthly. According to the Government's

existing policy, in such cases, a 100% HPA will not be granted. The statutory compensation is calculated on the basis of the market value of the flats. Since the flats are a few decades old, they are "trash flats" and the allowance granted will naturally be quite small. How much HPA will be paid if it is a self-occupied flat? If part of the property is let out, only a 50% allowance will be given for the flat less the tenanted part. This means that the compensation amount will not be sufficient for the purchase of a flat of eight to 10 years' old of the same size in the same district. In other words, it would be very difficult for these small property owners to buy an older flat to let out. Many owners have asked whether they could be rehoused in public housing instead of being compensated. This is not possible under the existing regulations. Owners have no right to request rehousing. Even though they only ask for a place to live until they die instead of a property, their wish cannot be fulfilled. At present, after the flats are resumed, they will lose their means of living and may not be able to find a place to live. Thus, their demands are very practical and realistic. The same problem applies to rehousing. The Government says that no one will be rendered homeless because of redevelopment in principle. While this is true, one wonders where the affected persons will be rehoused.

The present rehousing work has been improved. As several colleagues mentioned just now, the terms offered by the Housing Society and the Housing Authority are quite reassuring. However, the many small owners in the old districts are still very worried. Thus, we have rather mixed feelings. On the one hand, we understand that if the URA is not given greater power in land resumption after its establishment, it will face the same obstacles as the LDC did in the past and urban renewal will be slowed down. This is not what we wish to see. On the other hand, after giving the URA the power, how can we ensure that the affected persons will not be worse off because of the redevelopment projects? We cannot but take this into account.

After weighing the views of various sides, we feel that we must take forward the work. If we procrastinate and negative the Urban Renewal Authority Bill, when will the redevelopment of the old districts take place? No one can answer that. If we wait until the Bill is re-submitted to the new Legislative Council for consideration, when will the URA be established? When can residents in the old districts have a new living environment so that their living conditions can be improved? No one knows. As such, we feel that the Bill should be passed. However, we also think that there must be certain mechanisms and guarantees to ensure that owners and tenants in the redevelopment areas will not lose all negotiating and bargaining power when all

powers rest with the soon to be established URA after the passage of the Bill. Otherwise, the "people-oriented" principle may easily become empty words.

Mr Deputy, the Democratic Alliance for the Betterment of Hong Kong supports the resumption of the Second Reading debate on the Bill. However, we will continue to fight for reasonable compensation and rehousing. We hope that the Government will respond to this positively.

**MR LAU CHIN-SHEK** (in Cantonese): Mr Deputy, I believe many colleagues in this Council and the majority of the public will agree that the Bill we debate this time, regarding urban renewal, is the most important one.

Just now, colleagues including Mr James TO have pointed out that insofar as this Bill and the entire urban renewal policy are concerned, agreement has not been reached in many areas. Therefore, I consider it too hasty to pass the entire Bill before the end of this Legislative Session.

The Administration will argue that residents in old urban areas have been waiting long enough and they cannot wait any longer, so the Bill has to be passed without further delay. Besides, it may also argue that the Urban Renewal Authority (URA) has to be set up as soon as possible, so as to give the green light to over a hundred redevelopment projects. However, I have to draw the Government's attention to the fact that there is a prerequisite for owners and tenants in old urban areas to support urban renewal. That is, the redevelopment should be able to genuinely improve their livelihood and living environment. Unfortunately, up to this moment, the majority of residents in old urban areas are still unable to accept the entire renewal, compensation and rehousing proposal.

A large stretch of lands in the district of Kowloon City, To Kwa Wan and Hung Hom is the target of urban redevelopment projects. With regard to redevelopment, I believe some Members have mentioned earlier that residents living in these districts are both excited and nervous. They are excited because their living condition will possibly be improved, just possibly. However, they worry that the possible improvement of their living condition will only turn into degradation of the quality of their livelihood, rather than improvement.

For instance, residents in 13 streets in To Kwa Wan have invited me several times to discuss the renewal issue and have reflected a number of

requests to me. Subsequently, I have helped them to meet Planning and Lands Bureau officials directly and put across their standpoints. With regard to the establishment of the URA, the Government has initiated a number of consultation exercises. However, consultation is one thing, the noticeable limited concession and improvement on the part of the Government is another. This is why so many residents from old urban areas still wish to voice their frustrations.

The Government always argues that it is already a very significant improvement as the compensation for a 20 to 30-year-old flat is sufficient to serve as subsidy for the purchase of an eight to 10-year-old flat. However, just as some Members have mentioned earlier, this is neither a voluntary act of the owners, nor a bargain on a reciprocal basis, as this is a forced resumption by the Government. Therefore, may I ask if this is reasonable?

I believe, to owners of properties in the urban areas covered by the redevelopment programme, it is absolutely necessary to improve the terms of compensation. Otherwise, I believe there will surely be confrontations when subsequent redevelopment projects are actually launched, and apparently, it is the most unwanted thing to society at large.

The rehousing of residents in old urban areas is yet another major concern to me. In particular, many lower-class wage earners and residents in fact do not have the financial capability to move their habitats too far away from their urban workplaces, otherwise their jobs will be in trouble, too. As to the wish of local rehousing requested by the resident organizations, I consider it a basic demand which deserves the Government's acceptance and care.

Mr Deputy, as to the greater aspiration such as the renewal and rejuvenation of urban areas, and the conservation of historical heritage, I believe nobody will say no to that goal. However, more important is that by the time the urban renewal policy is carried out, will it turn into a harassment to the people? The Government must address this. I hope the Government can be more flexible and more patient in its communication with residents of the old urban districts, as it is the key to successful urban renewal.

Thank you, Mr Deputy.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, if we are to pass the Urban Renewal Authority Bill today, it can be said that the Land Development Corporation (LDC) established for more than a decade will rest in eternal peace. However, after face lift, it is turned into an organization with bigger powers and superfluous resources, the Urban Renewal Authority (URA). Why should I say it has bigger powers? It is quite apparent as the sole purpose of the Bill is to confer on the Government an "imperial sword" to carry out land resumption. Whenever the "imperial sword" is drawn, none of the owners of private properties are able to bargain anymore, thus it is also called the issue of "non-negotiable price" compensation.

The controversy has come to light by now to a certain extent. The controversy does not lie in the urban renewal issue, in fact, it starts with the compensation issue of the Wah Kai Industrial Centre (Wah Kai). The greatest frustration of the factory tenants is the fact that they are unable to bargain. Their strongest dissatisfaction is that they are the original owners of the properties, but all of a sudden, the Government invokes the Railways Ordinance for land resumption, thus they are rendered unable to negotiate with the Government at all. Moreover, there are deviations even in the valuation of market values. As they cannot negotiate the market valuation, it is pointless to say bargain. The emergence of so many conflicts is simply because they cannot bargain.

It is very easy for us to understand the sentiments of the factory tenants, because they once have something of their own, but now they are being dispossessed, therefore they will have strong responses. Furthermore, the fact that they are unable to bargain for the price in the course of dispossession will make them more disgruntled as the bargaining mechanism of the free market has completely vanished. Of course, the Administration may argue that owing to the existence of such a mechanism, it therefore makes the land assembly process of the LDC so time-consuming. As a result, the Administration may consider that it is perfectly all right to do that, because the URA has a greater goal to improve the environment of old urban areas. That is a principle that nobody will negative or vote against. In contrast, every one has to render full support. However, I think the objective is right and it has a lofty goal, but the method itself should also be reasonable. Is it reasonable if bargaining is not allowed? Especially when the resumption of all the lands and properties is completed, it will turn into a single property development project. It will give the people an impression that the Government has deprived some petty private property owners of their rights in order to benefit some major property developers.



To put it in the extreme, it seems that the Government is trying to wipe out the bourgeoisie to nourish big capitalists. This is what a tenant told me, and this is how he feels. Perhaps the Government will dispute that, saying it has not done anything like that. However, please think about it, if someone has taken something away from some other people, they will surely resist as they will think that someone has gone too far to dispossess them of their private property rights, and yet they cannot even negotiate the price. All of these are the feelings of the petty owners, and the Government should pay its respect to their feelings, because it has taken away the private property rights which belong to these people originally.

In fact, we consider the issue very difficult to handle, because, just as many Members have mentioned earlier, the biggest problem lies in the fact that the Bill has not mentioned anything about compensation. The Government has only mentioned that according to the policy, the owners may be given compensation equivalent to the purchase price of a eight to 10-year-old flat in the same district. But the problem is that this criterion cannot be revised, despite the fact that many Members have suggested in the Bills Committee that a more reasonable criterion should be five-year-old flats. However, with this Bill, we cannot change, amend, or discuss the criterion, which makes us feel that the entire structure of the Bill is extremely unreasonable.

Now a serious problem has emerged, that is, the Bill empowers the Government with an "imperial sword". Even if we are not quite sure whether the compensation is reasonable, we cannot try to balance it. I think the most important thing right now is the balance between the two sides. On the one hand, as the Government is depriving private ownership, the owners should have their lawful rights; but on the other hand, there are voices in the community at large to urge for prompt improvement of urban areas. How can a balance be struck for these two aspects? I think the only balance the Government can strike is to offer a reasonable price, or to allow the owners to bargain for the price. For example, some people have suggested that the threshold for the bargain should be at least 80%, and the Government can only carry out the land resumption if the negotiation fails. By doing so, the so-called "nailing down flats" problem can be avoided, which means that the possibility of losing a hefty amount of interests as a result of protracted resumption can be avoided. This is to set up a time limit for the bargain. If that is not the wish of the Administration, another balance measure should be adopted, that is, to offer reasonable compensation to the owners. However, the existing principle for

compensation is not reasonable at all, so we consider the reasonable amount of compensation should be equivalent to the purchase price of a five-year-old flat in the same district. However, the Administration insists that the calculation should be based on the formula equivalent to the purchase price of an eight to 10-year-old flat. We have once conceded that the price for an eight-year-old flat is acceptable, but the Government still refused to yield any further.

It would simply be a joke if the Government still insists on the eight to 10-year-old principle in its paper to be submitted to the Finance Committee. I hope the Government can stop making fun of us in that aspect. Although not everyone of us will come back to this Council in the next term, in the wake of the increase of four seats by direct election, I believe the Government will face greater difficulty in the next term than this. As a result, I hope the Government can take on the five-year-old flat principle as the basis for compensation, which is the minimum demand of ours.

Furthermore, some Members have mentioned that in some cases, the premises of the elderly are half self-occupied and half let. Accordingly, the Government deprives them of half of their subsidies of the Home Purchase Allowance. May I ask if it is reasonable? Owners should get their share of compensation even if they possess more than one flat, for after all, the Government is taking away the properties from others. If some people are being dispossessed of their properties, and if these people consider it unfair as the compensations are unreasonable, they may feel extremely frustrated because they are unable to bargain for a deal. I consider the crux of the matter is that if they are unable to bargain for the price, they should be paid an exceptional and reasonable amount of compensation.

What about those owners of negative assets? Maybe they hope that their situation will have a turnaround when the property prices go up again. However, if the Government is to carry out the land resumption, they will have to repay all the balance to the mortgagor. Mr Stephen FISHER, Deputy Secretary for Planning and Lands, has told the Bills Committee that there would be special arrangements for such cases. That is, to grant special loans to them. I hope not much serious conflict will arise in that aspect.

The next major issue is the problem of rehousing. In the past, the LDC has encountered numerous unhappy events in the rehousing of residents, as it was arranged by the Housing Society (HS). The major weakness of the HS is

that flats of the HS are scattered all over the territory, unable to allow local rehousing in many cases. Now the task is transferred to the Housing Authority (HA). Hopefully, local rehousing can be achieved. However, there are restrictions with the HA, including the assets test and the seven-year residency requirement. We have conducted prolonged discussion in the Bills Committee on that issue, and we hope the URA can handle this matter with greater flexibility. As to my standpoint, I have been insisting on the principle that the URA should be fully responsible for the rehousing issue right from the beginning. It is because the HA only plays the role of arranging rehousing matters for the URA, thus the URA should be ultimately responsible for the rehousing of the residents affected, not the HA. Finally, we have come to terms or compromised on the issue and decided that the remaining 20% of units can be handled with flexibility, which means that the URA may act on its own without following the existing rules of the HA.

The discussion was indeed a very unhappy one. I still remember that we have asked whether we have to open a loophole or open a window in the legislation in order to press the Government for some flexibility. Finally, and fortunately, we did not have to open a window or to vote against some clauses to force the Government to ask the HA for more flexibility on the rehousing issue. Eventually, it was decided that the remaining 20% can be handled with flexibility.

In future, one more problem is awaiting to be solved, and that is, the rentals compensation issue. If the HA or HS are unable to allocate a flat to the tenants, they will have to be forced to accept the rentals compensation. However, the Government has imposed restrictions to tenants, that is, if they accept the rentals compensation, they should not be entitled to any public housing welfare in the next three years. This is again very unreasonable, because they could possibly be allocated a public housing unit within one or two years, and this restriction has interrupted their livelihood. Originally, these people intend to get their public housing allocation within two years, and that is why they are reluctant to move to interim housing. Does it mean that the Government intend to force them to move to interim housing now? It would be better not to give them the compensation but let them move in public housing estates within two years. If this method is not adopted, does it really means that the Government wants them to stay in aged buildings and wait for the compensation the second time? These people do not want that, because they want to be allocated a flat. Therefore, I hope the Administration can make some adjustments in order to

prevent confrontations arising from the rehousing issue in the course of resumption.

Finally, I hope colleagues will support my amendment to be proposed later on. As the URA has so much power, many residents and organizations consider the composition of the board of URA extremely crucial, because the influence of the decision of its board will be profound and far reaching. They hope that the board can have some representatives of public opinions. Now that the only system elected by the public is this Council, thus I have to propose the amendment that four members of the board shall be elected from among the Members of this Council. Of course, the election does not mean that they are representing the entire Council, because I just feel that it is a viable way to select the board members. I do not want four Members of this Council to be appointed by the Administration as board members of the URA, for I consider that will show disrespect to other Members. Therefore I hope they can be elected from among Members of this Council. Even if they are elected this way, it does not mean that they are representing the entire Council, albeit they have to brief this Council regularly.

Thank you, Mr Deputy.

**PROF NG CHING-FAI** (in Cantonese): Mr Deputy, urban renewal can give a new look to Hong Kong's skyline through the demolition of a forest of old buildings and the reorganization of an unsatisfactory layout. In so doing, it can create the turning point for the Special Administrative Region in areas like economy and social environment which is hard to come by.

The Urban Renewal Authority (URA) to be set up under the Urban Renewal Authority Bill will replace the Land Development Corporation (LDC). Frankly speaking, the progress of the LDC in land resumption work has been very slow right from the outset, which has slowed down the pace of urban renewal. Therefore, the substitution is necessary.

However, I believe members of the New Century Forum have reservations in areas like the role of the URA and its financial arrangement as elaborated in the Bill. We consider that, firstly, the role of the URA should adhere to work related to the resumption of lands; secondly, its financial arrangement should not focus on self-sufficiency.

First of all, I would like to point out that according to the Bill, the URA is an all-encompassing organization, which includes the planning, resumption, rehousing, development and maintenance. In a word, it is accountable for everything. In addition to the functions of the LDC, it has virtually incorporated some of the functions of the Planning and Lands Bureau, the Lands Department, the Planning Department and the Buildings Department. By doing so, the cumbersome structure of a big institution and corrupt practises just like the Housing Authority (HA) will easily emerge. Currently, the Government is trying to downsize itself to achieve the goal of "small government" by means of contracting out government services and privatization of the Housing Department. However, it will easily sow the seeds of misfortune resembling the HA of today. I hope the Secretary will answer this issue.

Mr Deputy, the sluggish pace of urban renewal is due mainly to the fact that there is no statutory deadline for negotiations between the LDC and property owners in the course of negotiating property rights. As a result, the negotiations have turned into prolonged seesaw battles, wasting a lot of time and jeopardizing the subject matter. As a result, the URA which replaces the LDC should concentrate on its function of land resumption. By doing so, the URA will not turn into a colossus, thus it can converge its efforts in land resumption work, which will eventually speed up the administrative efficiency of urban renewal. As the resumption of land is completed, the URA should hand over the land back to the Government, so that the latter can allocate them to other departments and put part of the land into the market for tender and sale in accordance with the development plans.

Besides converging its efforts in land resumption work, the URA may also assume the function of research. Based on its first hand information of target buildings for redevelopment in the urban districts, the URA is able to identify which building is to be demolished, which can be maintained and kept in good repairs, and which can be preserved due to its specific historic or cultural values. The URA may then forward the result of its study to the Planning Department and relevant departments. The benefit is that it can bring the "one-stop" effect in the macro and integrated planning and development, so that target districts for redevelopment will be able to have new buildings erected with innovative facilities as well as excellent maintenance. Furthermore, we can be able to preserve some assets of the unique historical and cultural values of our society.

The second thing is that the URA should not be self-financed. According to the financial arrangement elaborated in this Bill, the URA should be self-financed. However, we think that this Bill should not be a monolithic bloc. Urban renewal should be an arduous task of the Government as it has a long way to go, thus it should not simply focus on financial issues such as profits and losses. It should be confirmed clearly that the social and economical benefits to be brought about by urban renewal will be considerable. For example, the demolition of dangerous building will defuse a time bomb which threatens the safety of the public. As the living condition is improved, the public will feel healthy and carefree physically and mentally, thus it can help to reduce medical costs. As the traffic networks are improved, the problem of traffic congestion can be solved, thus bringing economic benefit to a society like Hong Kong where every second counts. Therefore, under the premise that the social and economic benefits derived from urban renewal are enough to offset the economic losses incurred in dilapidated urban areas, the Government should not rigidly adhere to requiring the URA to be self-financing.

We are also concerned about the way that the URA co-operates with developers in joint venture development projects. Generally speaking, developers always focus on profits only. They will compete ferociously for profitable redevelopment projects, but they will take no further interest in any unprofitable project. As low-rise old buildings of redevelopment value are getting fewer in number, redevelopment projects cannot be carried out from time to time. Conversely, under the principle of integrated development, it is believed that the lands retrieved by the URA are usually large in size, which are coveted by big developers. If the URA is to co-operate with big developers and share the profits of the redevelopment project, it will certainly provoke similar criticism of "collusion between the Government and business interests" from those people whose properties have been repossessed by the LDC. On the contrary, if the lands repossessed by the URA are handed over to the Government for re-planning and re-sale, the proceeds will belong to the Treasury, and the public will be benefited from that genuinely. In this way, the URA and the urban redevelopment programme will win the public's recognition and acceptance. I hope the Government will take note of that and try its best to make the public feel that every decision it makes is fair and square.

Furthermore, if the URA only plays the role of land resumption, in the course of re-planning the lands which have been repossessed, the Government

will be able to facilitate the participation by small, medium to large developers through the land auction and tender mechanism.

Mr Deputy, I so submit.

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

**MISS EMILY LAU** (in Cantonese): Mr Deputy, I speak in support of the Second Reading of the Bill. I am also a member of the Bills Committee. The Bills Committee has heard a lot of views from the residents in the course of its deliberations.

Mr Deputy, there are no old urban areas in my constituency. But in the course of deliberating on the Bill, residents from other areas came to my office and offered a lot of views on the Bill. I understand that there are some people who are not satisfied with the Bill and they even hope that the Legislative Council will not pass it. However, many residents have also told me that things are very bad in the old urban areas and they do not want such conditions to go on. Therefore, I think that we should support the passage of this Bill. But apart from giving support to it, we should also make the worries of these residents known. I hope that the objectives can be achieved under the leadership of the Secretary. I hope that in the next few years, people will not have the feeling of being deceived, for when after they have given their support to the proposals put forward by the Government, the Government is unable to honour its pledge in the end.

Mr Deputy, the Chief Executive as well as other government officials have kept saying over the past couple of years that they want to turn Hong Kong into a world-class city. But if we look carefully, we will find that in 1999, there are a total of 8 500 buildings with an age of over 30 years. The Government also said that the number would increase by 50% in 10 years. When tourists visit Hong Kong, they will see that there are a lot of beautiful modern buildings in the waterfront of the Victoria Harbour. But there are still many old buildings in Hong Kong, and if they move to other areas, they can easily find a lot of run-down buildings. If they go inside, they will be amazed, shocked and even enraged by the poor living conditions there. They cannot help but ask why in such a place with high living standards, thousands of people are still living in

such places. Some of these places are owned by the Government and the people rent these places. Representatives of the Land Development Corporation (LDC) have once shown me around some of these flats and the living conditions there were disgusting. But the landlord is the Government. Something must be done to these flats. Right now, we have misgivings about the proposals raised by the Secretary. We are not sure whether they are workable. Of course, we hope that they can. We also hope that the Government can do it. That will depend on the close monitoring of the public and that the Government will propose amendments to the Bill when necessary. Just now Mr LEE Cheuk-yan mentioned various issues such as compensation, so I do not wish to speak on these. I believe the Secretary knows very well the aspirations of the residents. I do not think that many of the property owners in Hong Kong are greedy people and they want to seek advantage from the Government. The compulsory resumption made by the Government may be welcome by some of the property owners. It is because their buildings may be in very poor conditions. In any case, since the resumption is compulsory, should they not be given reasonable compensation?

Mr Deputy, I hope that both you and I will be lucky enough to return to this Council after the elections in September and we will wrestle with the Government in the meeting of the Finance Committee in October. I also hope that the Secretary can hear the views of the public because the proposals made by the Government should be acceptable to the people.

Mr Deputy, the Bill as proposed by the Government has some guiding principles and strategies. Some of these do have my support. One is the rezoning of the old urban areas. The other is the design of more effective and more environmentally friendly transportation networks. Others include the provision of more sitting out areas and community facilities, the rehabilitation of rundown buildings and preservation of heritage, and so on. I have asked myself, when this Bill is passed, will the Government be able to achieve all of these objectives? Will the Secretary make an undertaking on them? We are somewhat worried. We know that this is a huge project and in the process of carrying out this project, we may meet a lot of resistance. We saw yesterday that many people take to the streets. Will the same thing happen later? There are times when we have good intentions to carry out something, but if we do not have the power to convince people and to ask them to support and work with us, they may resort to confrontation and even clash with the police. Then what will happen? Therefore, we must secure the support of the people affected before we can launch a policy. All the Government knows is to use some high-handed



measures to crack down on opposition. However, there are people who are not afraid of this and they will insist on opposition. Then it will only cause disturbance in society, and the objective of urban renewal will be dashed.

I hope the Secretary can refer to the case of the Wah Kai Industrial Centre. We had a discussion of the event on Friday, that is, the last day in the current Session of the Council. The Government wants to resume the land of the Wah Kai Industrial Centre site to build a station of the West Rail. But the Government is unable to persuade the owners of the building into giving their support and co-operation. The Deputy Secretary has said that these owners are not greedy people, but under the existing policies, the Government is unable to offer them any assistance. If in the future similar disputes arise in the process of urban renewal, then the Legislative Council will have to hold meetings all the time. If such disputes cannot be resolved, how can urban renewal be carried out? So I would like the Secretary to think seriously on issues such as compensation and prevent the emergence of hostility because that will not help get things done.

Mr Deputy, some deputations have petitioned this Council and requested the stipulation of urban renewal policies in the Bill and that public consultations would be made. I am glad to know that the Secretary will move an amendment to clause 17A to state that views of the public will be sought before the strategy is finalized. I think that is a very important point for there are some members of the public who have said that they are not aware of the strategies formulated by the Government. The public indeed should be given sufficient opportunities to take part in the formulation of these strategies.

Mr Deputy, many Honourable Members have also mentioned the "people-oriented" approach in the Bill. That is something mentioned by almost all of the deputations which came to express their views. Mr Deputy, the Government has made it clear to us that this "people-oriented" approach cannot be written out in legal language. But now the Government has agreed to include a statement of this guiding principle in the strategy. The "people-oriented" notion is in fact very simple and that is the adoption of the interests of the residents as the most paramount consideration, and not the interests of the developers or of those group with vested interests. That point should be made clear by the Secretary in his response, for that is the view expressed by a few dozens of deputations. They all thought that this is of vital importance. Some residents may think that we have not been doing our jobs properly when the "people-oriented" approach is not included in the legislation. But we hope that the compromise that the Secretary proposes will really fulfil their wishes.

On the preservation of heritage, I am very much in support of the views expressed by Mr Edward HO just now. He said that there are more than 60 such buildings of historical and cultural interest. According to the information provided by the Government, there are only 23 such buildings. Mr Deputy, I really do hope that our Government will try its best to preserve these buildings. The impression which Hong Kong gives to people is that many buildings are demolished to make way for new buildings. We do not have a sense of history and we cannot preserve our cultural heritage. Some people are becoming concerned and they come from the tourist sector. For there is nothing which we can offer to attract tourists. When we visit foreign places, we would like to visit historical relics. Will we be interested in visiting brand-new buildings? So I hope the Government will really work hard in this respect and preserve buildings of historical interest.

Mr Deputy, I once heard a joke and I do not know if it is true. We have a museum of history and some of the exhibits there are models of historical buildings in Hong Kong. There are people who are willing to spend at least a million dollars to construct these models. But the actual building in existence is really rundown. No one wants to spend money to repair an actual building, but there are people willing to spend money on some models in a museum. That may well be a reflection of the reality. It will be a joke if that shows our respect for buildings of historical interest.

Mr Deputy, I would like to turn to the Board of Directors of the Urban Renewal Authority (URA). We have already spent a lot of time on this issue and I would not repeat the details mentioned by Honourable colleagues earlier. I welcome the move made by the Government to split the posts of the Chairman and Executive Director of the URA. However, what I want to say is that even if we appoint many Members of this Council to serve on the Board of the URA, the views of all the residents concerned may not be reflected or represented. The best way is, I think, to let residents oversee the operations of the Board themselves. Mr LEE Wing-tat is going to move an amendment later to require that the minutes of the Board meetings be made public. We understand that some of the contents recorded are very sensitive business information, but we still hope that those not of a highly sensitive nature can be made public. I have worries that the amendment to be moved by Mr LEE Wing-tat will not be passed. However, I would certainly support it. In any case, I hope the Secretary will know that if members of the public are allowed to oversee the operations of an

organization, they will not put forward a strong demand to have Members of the Legislative Council to serve as members of the Board of Directors and play this role for them. As a matter of fact, Members of the Legislative Council are very busy people and even if they are members of the Board of Directors, they may not be able to play this vital role. The ideal way is to let the public know the operations of the organization so that if they have any views, they can forward them to the Board of Directors.

Mr Deputy, with regard to remuneration, the Panel has also discussed this item in our meetings. Under the present proposal, the salary of the Executive Director is more than point 8 on the Directorate Pay Scale (D8). The Government is of the view that a salary at D8, that is, \$2,172,600 per annum, is too low. For a salary of some two million dollars a year will not be able to attract suitable candidates from the commercial sector to fill the vacancy. We do not think so, for the salaries of the public have fallen quite substantially already. But the Government says that people from those sectors unaffected by the drop in salaries will not be attracted. I would like to stress here that the salary for the Executive Director will be paid out of public coffers and as a matter of fact, the Secretary for Housing only takes a D8 salary. So when the Executive Director is to be paid at D8, he is certainly not underpaid. We do not want to see the Government making proposals later to give a D10 or D20 salary to the Executive Director of the URA. They are making it a very common thing to pay these persons at five, six or seven million dollars a year. For example, Mr KWONG Ki-chi is paid \$10 million a year, and Mr Joseph YAM Chi-kong is paid \$9 million. Salaries such as these do not sound convincing to many people in Hong Kong.

As for the salary of the Chairman of the LDC, it is \$100,000 per year. If the salary of the chairman of the Board of Directors is pitched at that level, then people would think that the LDC is an organization of a lower level, and especially when the person in that office will have to hold many meetings. At that time the Deputy Secretary said that the post could be pegged at one quarter or one fifth of the salary of D8. We need to consider this, because the person who holds that post will have to handle a lot of things. As Council Members, we would like to see the chairman attend our meetings and answer questions. On this point, we hold views different from that of the Government. The Government is of the view that the chairman should not attend the meetings of the Legislative Council and it says that if the same person will hold the offices of

the chairman and the executive director, then he can attend the meetings of the Legislative Council; but if different persons hold the two offices, then it is not advisable to do so. We would like the chairman to attend Council meetings and answer our questions. Then the public will know that he is the highest decision-maker of the organization and should anything happen, he will be the person responsible. He must know how to answer the questions and he must resign to bear the blame for any blunder. Therefore, I think we should pay him well. The Government cannot expect to appoint people for positions of such supreme importance and not paying them. Times like this have long passed. Some of the directors are paid some \$60,000 a year and that is even poorer remuneration. I think we should pay them salaries, despite the fact that this is a kind of public service. We must pay them a reasonable salary.

As for the issue of rehousing, just now Mr LEE Cheuk-yan has given some valuable advice on that point. I would like to talk about the issue of local rehousing. Many residents like this kind of rehousing arrangement, but there are also some people who would not insist on that. I once went with Mr Stanley FISHER to inspect the Tsuen Wan area and the residents were very happy to learn that they could be rehoused to West Kowloon. They did not want the Government to rehouse them to Tin Shui Wai or Yuen Long. They wanted the Secretary to do as much as he could to rehouse them in the same district. If that was not possible, they would prefer not to be moved to remote areas, for they would have the feeling of being sent there as "pioneers" to open up these areas.

Mr Deputy, in the entire urban renewal process, I hope, as Mr Edward HO has said, those buildings which need to be repaired should be repaired, and those which need to be demolished should be demolished. But the residents should be disturbed as little as possible. Although the Bill is very likely to be passed today, if it does not have the support of the people, there will be frequent oppositions and demonstrations. Then the entire programme of urban renewal will not be implemented smoothly and it will meet strong resistance. I hope the Secretary can give serious thoughts to it.

With these remarks, Mr Deputy, I support the Second Reading of the Bill.

THE PRESIDENT resumed the Chair.

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

(No Member responded)

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I would like to thank members of the Bills Committee, in particular Mr Edward HO, Chairman of the Bills Committee, for their careful scrutiny of the Urban Renewal Authority Bill.

During the scrutiny process, members had discussions on a number of issues of utmost importance to the implementation of the urban renewal programme. In his speech a moment ago, Mr HO has spoken about all these issues and the undertakings made by the Government. Today, on behalf of the Government, I would like to formally give the undertakings as follows.

First, I undertake to state expressly in the Urban Renewal Strategy that a people-oriented approach will be adopted. The policy objective of urban renewal is to improve the quality of life in old urban areas. We have three principles:

- (1) compensation payable to affected landowners must be fair and reasonable;
- (2) affected tenants must be given proper rehousing; and
- (3) there must be benefits to the entire area concerned as a result of replanning and renewal. These benefits should include preserving heritage and enhancing any possible commercial activities in the area.

It is my conviction that these can all be achieved because the Urban Renewal Authority (URA) to be established will enshrine a wider scope of activities than those of the existing Land Development Corporation (LDC). It will certainly achieve the objectives of preserving heritage, transforming heritage into commercial areas and enhancing activities and employment within the areas, just like other big cities or the Eastasian Region. As we adopt a people-oriented approach, we will not act against the wish of the people. We will be achieving a compensation package acceptable to the Legislative Council for submission to the Finance Committee for approval.

The second undertaking concerns the composition of the URA Board. We will ensure the Board can represent the interests of different sectors and persons in the community. We will make recommendations to the Chief Executive to appoint a certain number of Members of this Council to the Board to enhance its representativeness.

The third undertaking concerns clause 5(f) of the Bill. I guarantee that orders made by the Chief Executive under this clause is subsidiary legislation and therefore it must comply with the requirements prescribed by section 34 of the Interpretation and General Clauses Ordinance, that is, it shall be laid on the table of the Legislative Council for negative vetting before it can come into effect.

To ensure the URA to be established is accountable to the public and will respond actively to the needs of the community, the Government recommends four measures to the URA.

Firstly, the URA will issue to all its directors a guideline on declaration of interest and a list of do's and don'ts. Secondly, the URA should be as open as possible and its transparency should be enhanced. Although some issues discussed in the URA Board may involve commercially sensitive information and it may not be desirable to make such information public, our principle remains that the URA should open their meetings to the public as far as possible to let the public have the chance to see how it operates. Thirdly, as suggested by some Members, a register of declared interests and attendance records for Board members should be uploaded onto the Internet. We will request the URA to consider this suggestion. Fourthly, we will suggest that the URA set up an independent audit team, which will prepare an annual report for inspection by this Council.

My next undertaking is about the financial arrangements of the URA. To enable the URA to launch a 20-year project of urban renewal and to take over the unfinished renewal projects from the LDC, the Government will introduce a package of both financial and non-financial tools. They include waiving land premia for redevelopment lots and land for rehousing, and providing loans to the URA where necessary. Examples of non-financial tools under consideration include exempting Government/Institution/Community facilities of URA projects from the calculation of gross floor area and relaxing plot ratio controls for some URA projects.

The next undertaking is about public consultation. The Government is of the view that the URA should set up a mechanism to collect public views. We will suggest to the URA to set up district advisory committees in each of the nine target redevelopment areas to provide to the URA opinion and assistance on the redevelopment projects in the area. Members of the committees should be appointed by the URA Board, and they should be able to represent the area, including owners of premises, tenants, District Council Members and concern groups who are non-government organizations in the area.

At present, the LDC pays for the expenditure of two urban renewal social work teams. Past experience shows that the teams can help in the process of urban renewal. We would request the URA to continue the service and set up one such team for each of the target redevelopment areas, so that they can act as a bridge between the URA and residents affected by urban renewal. The teams can also provide advice and assistance to residents. Urban renewal social work teams should preferably have been set up before an urban renewal project is launched in each of the target redevelopment areas.

Some Members and community organizations suggested that the URA should conduct a comprehensive assessment on the social impact of each redevelopment project proposed by the URA, including social security and rehousing needs of the affected residents. Thus, we suggest that the URA conduct an impact assessment on proposed projects and publicize the assessment results. We propose to conduct the assessment in two stages. A non-obtrusive impact assessment will be conducted before the publication of a proposed project, followed by a detailed impact assessment after the proposed project has been published in the Gazette.

After the proposed project has been published in the Gazette, the URA will conduct an assessment on the following areas, including:

- (a) demographic characteristics of the affected residents;
- (b) social and economic characteristics of the affected residents;
- (c) need for rehousing of the affected residents;
- (d) choice of rehousing of the affected residents;

- (e) employment of the affected residents;
- (f) work location of the affected residents;
- (g) community network of the affected residents;
- (h) education needs of the children of the affected households;
- (i) special needs of the elderly;
- (j) special needs of people with a disability;
- (k) detailed assessment of any hidden effects on the community resulting from the proposed projects; and
- (l) detailed report on any mitigating measures required.

I am certain the URA can work more smoothly than it does with the present arrangements in its renewal work and communication with the residents after a detailed assessment has been done on the above.

Some owner groups suggest that owners should be given the opportunity to participate in urban renewal projects. We undertake to request the URA to consider launching owner participation plans for urban renewal projects.

Among the Committee stage amendments that I am going to propose is a proposal to set up an Appeal Board. Some Members are concerned that the appellant may not have the means to be legally represented at the hearing. The interests of the appellant may be prejudiced against if the Government or the URA is legally represented. In fact, if the appellant is not legally represented, the Government may not engage legal practitioners to represent it as well. We will also suggest that the URA should be fair to appellants in engaging legal practitioners.

A basic principle of the Urban Renewal Strategy is that owners whose properties are resumed by the Government are given fair and reasonable compensation.



Owners of domestic properties are eligible for statutory compensation if their properties are resumed by the Government. This statutory compensation will be the open market value of the resumed properties. Owner-occupiers are also eligible for Home Purchase Allowance (HPA). According to a decision of the Finance Committee of the Legislative Council in April 1974, HPA is estimated on the cost of a replacement flat on the basis of a 10 years old flat of a size similar to the one being resumed and in the same district. I fully understand that Members hoped the basis could be changed to an eight years' old flat in the calculation of HPA.

Today, I am not going to debate on the age of flats that should be used as a basis. I will give a clearer indication on that later in my proposal made to the Finance Committee.

In regard to compensation, Members asked that we protect the interests of owners. The Government fully agrees with this principle. Thus, we will review the existing compensation arrangements, including:

- (1) to consider providing incentives to owners to sell the land to the URA by agreement after a resumption notice has been issued and before reversion of ownership of the land to the Government;
- (2) to review compensation for non-domestic properties;
- (3) to consider making new *ex gratia* payments in place of compensation for business loss. The amount of *ex gratia* payments may be fixed at a certain percentage of the open market value or calculated otherwise; and
- (4) to consider providing a bridging loan to affected owners to tide them over the difficult period after their properties are resumed.

We will submit a plan to the Finance Committee for Members' consideration on the above issues and on proposals to improve HPA. We aim at an all-win situation. First, the URA can make improvements on all of the nine target redevelopment areas. Second, improvement can be achieved on the appearance, maintenance, repair and renewal of buildings in Hong Kong. Third, residents in the relevant areas do benefit from urban renewal.

For owners of domestic properties affected by land resumption, we will set up a non-statutory appeals mechanism. Owners who are not satisfied with the amount of HPA they receive may make appeals, which will be dealt with by an Appeals Committee consisting entirely of non-public officers.

Disputes between the Lands Department and owners over the amount of compensation often originate from differences in opinion on the evaluation of the properties resumed. To enhance openness and transparency, the Lands Department will issue a set of valuation guidelines. Owners will then understand how the Department evaluates properties in the calculation of compensation. On this subject, as I indicated this morning when I spoke about another removal/demolition project, the Director of Lands sometimes may, in order to be fair to owners and to show them the basis of evaluation, take the initiative to submit to the Lands Tribunal his valuation report. He may also submit the report and the data supplied by owners to an independent lands tribunal.

The Government has pledged to tenants affected by redevelopment projects that no one will be rendered homeless by the implementation of redevelopment projects. The Government will ensure the URA has sufficient resources. The Government has reached a consensus with the Housing Society (HS) and the Housing Authority (HA) for them to be rehousing agents for the URA. The URA will sign a formal agreement with the HS and the HA after its establishment.

The Government will also take necessary steps to assist the URA in rehousing affected tenants in situ or in the vicinity as far as possible. The URA will be providing units in public housing estates in various parts of Hong Kong for affected tenants to choose from. The nine target areas being dealt with by the URA cover a greater area than those areas dealt with by the LDC. So, I trust the URA management will in future have greater flexibility and perform better in local rehousing.

If tenants affected do not want to be rehoused in interim housing units in the New Territories, they may receive cash allowance instead. The amount of the cash allowance will not be less than the statutory compensation payable to tenants by owners or private developers under the Landlord and Tenant (Consolidation) Ordinance in a redevelopment.

To flexibly deal with affected tenants, the URA should consider paying a temporary rental allowance to tenants who have to move, until they are properly rehoused. Payment of temporary rental allowance is a proper interim measure for tenants with a special need, such as the elderly and people with a disability, who may be able to find a suitable rehousing unit in the same area.

My last undertaking is about transitional arrangements. Transitional provisions in the Bill specify that after the dissolution of the LDC, all the assets and liabilities of the LDC will be transferred to the URA including its properties, documents, accounts and contractual agreements, and so on. Uncompleted LDC projects will be taken over by the URA for processing. As regards projects already announced by the LDC, the URA will give these projects priority as the announcement has been made for some time.

Madam President, the above are undertakings I have made on behalf of the Government. With your permission, I shall briefly outline those amendments I will be moving at the Committee stage. These amendments I will be moving are meant to improve further the provisions in the Bill.

Firstly, clause 4. In the course of scrutiny, members of the Bills Committee and some community groups expressed concerns about the suggestion of the Government to create an Executive Chairman in the URA Board. Members were of the view that there should be a non-executive Chairman and a Managing Director to effect checks and balances in the decision-making process. After giving further thoughts on that view, we now propose to create a non-executive Chairman and a Managing Director, both of whom will be appointed by the Chief Executive. For this I will be moving an amendment at the Committee stage to amend clause 4. I will also be moving an amendment to specify that there should be not less than seven other non-executive directors not being public officers in the Board. This amendment can increase the flexibility of persons who are not public officers holding non-executive director posts. It can also increase the representativeness of the Board.

Some members of the Bills Committee suggest that if a URA director is directly or indirectly interested in a contract made or proposed to be made by the URA, the director should not vote on any question concerning the contract. I do understand the concern of the members and I will propose an amendment to clause 7 at the Committee stage to specify that a URA Board member who is in any way directly or indirectly interested in the relevant contract shall not in any event vote on any question concerning the contract.

The Managing Director of the URA is its top executive and is most suited to explain the policies and operation of the URA. So, he should attend meetings of the various committees and subcommittees of the Legislative Council and answer questions raised by Members. At the Committee stage, I will move an amendment to clause 9, deleting "Chairman" where it twice appears and substituting "Managing Director".

The Hong Kong Society of Accountants suggests amending clause 16 to specify accounting and auditing details of the URA. I will propose an amendment at the Committee stage to the effect that detailed provisions be made requiring the URA to keep proper accounting records and prepare financial statements. It shall also appoint an auditor to audit the account and financial statements of the URA.

We will be preparing an Urban Renewal Strategy to set out a master plan for urban renewal in Hong Kong. The URA must act by the guidelines contained therein. The Bills Committee and some community groups requested that there should be public consultation before the Urban Renewal Strategy is finalized. For this I will move an amendment at the Committee stage adding a new clause 17A specifying that the Secretary for Planning and Lands shall consult the public before finalizing the Urban Renewal Strategy.

Regarding the time limit for objections to projects proposed by the URA, some members of the Bills Committee suggested extending the time limit. I will move a Committee stage amendment to amend clause 20(1) specifying that the time limit for raising objections to proposed development projects be extended from one month to two months. I will also move an amendment to clause 21(7) so that an owner affected by the amendment made by the Secretary for Planning and Lands and not included in the original development project shall send the statement of their objection within two months, instead of 14 days. Hence, residents affected by proposed development projects may have more time to prepare their statements of objection.

After considering statements of objection against a proposed development project, the Secretary for Planning and Lands may make a decision. Some Members suggest setting up a statutory Appeal Board to hear appeals by persons who raise objections to the decision of the Secretary. I will move an amendment at the Committee stage to add a new clause 23A to specify how an Appeal Board panel will be set up and how members of the board will be

appointed for hearing appeals. Anyone who feels aggrieved by a decision of the Secretary may submit his or her statement of appeal to the secretary of the Appeal Board panel.

Some Members held the view that the Chief Executive in Council should approve the sale or disposal of the land resumed only in public interest. To allay the fears of Members, I will move an amendment at the Committee stage to amend clause 25(2) specifying that the Chief Executive in Council shall, "if he considers the public interest so requires", grant approval to sell or dispose of the resumed land.

To decide whether affected persons are eligible for rehousing or *ex gratia* payments, the URA will conduct freezing surveys. As suggested by members of the Bills Committee, I will move an amendment at the Committee stage to specify that any person who gives such information which he knows to be false commits an offence.

At the Committee stage, I will move an amendment to clause 32 so that any employment contract signed with the LDC before its dissolution will be treated as if it is signed with the URA and employment with the LDC and URA should for all purposes be deemed to be a single continuing employment.

Madam President, apart from the above, I will also be moving other amendments to amend clauses 2, 6, 18(3) and (4), 19(5), 24 (1) and (2), 26(1), (4) and (7), 29(2) and the Schedule. These are mainly technical amendments.

Members also expressed concern that the new organization may be given too much power, too many projects and too cumbersome an establishment. I firmly believe that, with supervision by the Legislative Council, the people and the many organizations I mentioned, such a situation will not arise after the Urban Renewal Strategy is announced and the consultation on it is completed.

In addition, buildings constructed by the URA will be regulated by the Buildings Department in accordance with the law. Therefore, I believe the worries of some Members will not be a problem.

Madam President, Hong Kong is facing a problem of urban decay. We must act quickly and effectively to tackle this problem. We must improve the living conditions of people in dilapidated areas. We must improve the quality

of our environment completely in our city. I now recommend the Bill to Members of this Council and urge Members to support the amendments I will propose at the Committee stage. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Urban Renewal Authority 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.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

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

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

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

Mr Kenneth TING, Mr James TIEN, Mr David CHU, Mr HO Sai-chu, Miss Cyd HO, Mr Edward HO, Mr Albert HO, Mr Michael HO, Dr Raymond HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Eric LI, Mr LEE Kai-ming, Mr Fred LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr James TO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Gary CHENG, Mr Andrew WONG, Dr Philip WONG, Mr

WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mrs Miriam LAU, Mr Ambrose LAU, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Timothy FOK, Mr LAW Chi-kwong, Mr TAM Yiu-chung and Mr FUNG Chi-kin voted for the motion.

Miss Christine LOH voted against the motion.

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

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

THE PRESIDENT announced that there were 51 Members present, 47 were in favour of the motion, one against it and two abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Urban Renewal Authority Bill.

Council went into Committee.

### **Committee Stage**

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

### **URBAN RENEWAL AUTHORITY BILL**

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

**CLERK** (in Cantonese): Clauses 3, 5, 8, 10, 11, 13, 14, 15, 17, 22, 23, 27, 28, 30, 31 and 33.

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

(Members raised their hands)

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

(No hands raised)

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

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

**MR JAMES TO** (in Cantonese): Madam Chairman, I move that clause 1 be amended as set out in the paper circularized to Members.

I would like to explain to Members the amendment to clause 1. Clause 1 is about the notice on the commencement date. After a bill is passed, there will be a preparatory period for it to become effective. As in many other bills, the commencement date for this Bill will be determined by the use of negative or passive vetting, meaning that when the Government is of the view that preparations have been done, it will publish the commencement date of the bill in the Gazette. When the commencement date has been published, the legislation will come into force. As in all subsidiary legislation, the Legislative Council has 28 days to deliberate on the notice. The meaning of deliberation is to discuss with the Government whether the matching measures, manpower resources and changes in internal procedures are all in place to enable the bill to be implemented. If Members are of the opinion that these are not ready, then a Member can move a motion to cancel this notice. If the notice is repealed, then the bill will not become effective from the very day its notice is repealed. However, we know that the Council is required to vote in groups in accordance



with the methods by which Members are returned. So if Members propose to repeal the notice by way of passive vetting, then under extreme conditions, that is, when 45 votes think that the Bill is not yet ready, or that there are still some issues to be handled, such as compensation, rehousing, and the criteria for flexible rehousing, or even the compulsory resumption of properties which are negative assets, and so on, the Bill may be prevented from being enforced. However, if the Government can secure 15 of the votes of one group of Members during the division, then Members will be unable to amend the motion. In other words, the implementation of the Bill can proceed.

I think the above-mentioned method is a kind of last resort for ordinary bills to see if they should come into force. However, the Urban Renewal Authority Bill is somewhat different. We have used an entire year to scrutinize this Bill. The Administration has also put in a lot of efforts. However, discussions have to take a long time because in issues such as rehousing, a Policy Bureau may be in some way hampered by another Policy Bureau. Despite all these, there has been much progress and many of the suggestions made by Members have been accepted. The Secretary has made many pledges just now. However, as seen in the speeches made by Members, many of the central issues of concern, including those which I have mentioned, will have to wait until the Finance Committee of the new Legislative Council holds its meetings before a decision can be made.

My amendment is mainly aimed at changing the negative or passive vetting into a resolution. A resolution has the following advantages. First, the Government can gain the approval of the Council again in a division which I think would be fairer. This is not the procedure for first, second or third readings, but making a choice in the form of a resolution, just like we would be discussing some resolutions today after we have deliberated on some bills. For example, I am the chairman of the subcommittee which deliberates on the Mutual Legal Assistance in Criminal Matters (Switzerland) Order and we use positive vetting to pass matters on legal assistance between Hong Kong and Switzerland. So when there are still some issues which have not been resolved in this important piece of legislation, we should use positive vetting to deliberate on the commencement date of the notice. That will be a proper approach to take.

Of course, the Government may say later that this is an unprecedented approach to take, but I can say frankly that we have spent so much time on the Bill. I am aware that many Honourable Members say that the public does not

want Members to spend so much time on the Bill. It will not matter if this is something meaningful, but if this is something trivial and if it hinders the deliberation of the Bill, then it will not be a good thing. I therefore propose a middle-of-the-road approach, to enable Members to pass the Second and Third Readings of the Bill, even though there may be some amendments which may not be acceptable to them. That may be the amendments proposed by the Democratic Party or the amendment proposed by Mr LEE Cheuk-yan. In this way, there can be a final hurdle to complement other measures taken. I heard just now that many Honourable Members mention the basis for calculating compensation and on the finalization of rehousing matters. I think my proposal is a middle-of-the-road approach and I hope the Government will lend its support to it. In this way Honourable Members will not have such a strong reaction or that many of them would hesitate, for they can consider supporting the Third Reading of the Bill even if some of the amendments on some central issues fail to get passed.

It is against such a background that I brought up this proposal in the last meeting of the Bills Committee. I hope Honourable Members can support this proposal so that all the Members in attendance, as well as those to be returned in the new Legislative Council, whether they have any political affiliation or not, would help the legislature play the role of monitoring the executive authorities. They can also use a fairer way of voting in this final hurdle of giving approval to the commencement date of a piece of legislation only when all the matching measures have been adopted. I hope Honourable Members can be persuaded into supporting this amendment.

*Proposed amendment*

**Clause 1 (see annex XVII)**

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

**MR EDWARD HO** (in Cantonese): Madam Chairman, Mr James TO has explained to me why he proposes this amendment. He has also explained his position just now and I have listened to it carefully. The approach which Mr

TO has mentioned is an unprecedented, one which makes the Bill become effective only after the Legislative Council has proposed a resolution for positive vetting after it has been passed.

Mr James TO has said that only in the last meeting of the Bills Committee did he propose this approach. I do remember we discussed two issues on that day. One was on rehousing. We have talked with the Government on many occasions and we have spent a lot of time on that. It was not until the last meeting that there was some breakthrough as the Secretary for Housing attended the meeting. In the 1 000 units set aside from the Housing Authority (HA), 20% can be allocated at the discretion of the future Urban Renewal Authority (URA) to some "marginal" people who for some reasons are not allocated any public housing units. Another issue discussed was on compensation. The issue of Home Purchase Allowance (HPA) will be left to the Finance Committee for final decision.

I understand the worries of Mr James TO, that is, if the Bill is passed today, then when it is to become effective on a certain date, what powers do we have to prevent the Bill from becoming effective if we are not satisfied with the rehousing or compensation arrangements? However, I do not agree with one point raised by him, that is, if we are to use the negative vetting method, we will need to use the bicameral voting method. In this way, the Government may influence the 30 votes from the functional constituencies which I believe Mr TO was referring to. I strongly oppose to this. For although we are returned to the Legislative Council by different methods, we cast our votes according to the principles we go by. Despite the attempt by the Government to control the situation, it may not be able to do that through the division votes.

Before I speak on the position of the Liberal Party on the issue, I would like to ask the Secretary to talk about the issue of HPA again. It is because the Secretary did not make himself clear on that point when he spoke. When we were deliberating on the Bill, the Government first proposed that the HPA could be enough to buy flats with an age of 10 years in the same district. Then we bargained with the Government, pointing out that the 10-year criterion was similar to other criteria in other kinds of financial assistance. But under the circumstances of urban renewal and with this massive resumption of land by the Government, those residents affected are forced to surrender their title without having any power to bargain with the Government. So there should be some

generous treatment for these people. Finally, the information we got was that the basis for calculating compensation would be a replacement flat of eight to 10 years old. I have said in my speech that we are not at all satisfied with the use of flats of eight to 10 years as a basis for calculation. In some areas, as the buildings are quite new, so the basis of an eight-year-old replacement flat can be used. But in other older areas, only that of a 10-year-old replacement flat can be used. This may lead to some unfair treatment. The Secretary has not even mentioned this use of a eight or 10 year-old replacement flat as a basis for calculation. He only said that he would submit some arrangement which is reasonable or acceptable to the Legislative Council to the Finance Committee.

As for rehousing, we are worried that although the Planning Committee of the HA has agreed to the above proposal, no general meeting has been held to date. Will the general meeting reject the views put forward by the Planning Committee? The Government says that it is confident that the general meeting of the HA will not reject such a proposal. If this is so, then we will have nothing to say on this. I hope the Secretary can speak on the issue of compensation again.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, just now Mr Edward HO has said that this is an unprecedented approach. I think that is true. For there is some difference between things before and after 1997. When it was before 1997, no matter the positive or negative procedure was used, the voting method was the same. But after 1997, the voting method has changed. That is a fact.

Another fact is, irrespective of functional or geographical constituencies, the Government will find it easier to handle things when it is a voting by division. This does not mean that the Government will certainly exert pressure on Members returned from the functional constituencies, for the Government may do the same to Members from geographical constituencies as well. Everyone is a victim of the entire system. I am not especially worried about the Government exerting pressure on Members of the functional constituencies to make them lean towards the side of the Government in the motion debates. Having said that, it would be easier for the Government to handle things under bicameral voting. I think it is due to this reason that Mr James TO has proposed his amendment. I think that is a good proposal, for we can have another chance to think about this Bill.

Just now many Honourable Members have pointed out that the Bill has only a framework and some of the contents have not been written into the Bill. Mr Edward HO has mentioned earlier that he wishes to ask the Government on its final position on HPA. However, I do not think the Government will be able to state an amount or its position today. We may have to wait until it submits the papers to the Finance Committee. I think the most responsible way to deliberate on the Bill is to wait until the Finance Committee has held its meeting, when the complete compensation proposal is studied, and after the Finance Committee has given its approval before the Legislative Council approves of the effective date of the Bill. That is what I think to be the best procedure.

I do not know if the Secretary will say later whether he will do that or will he wait until the Bill comes into force before the Bill is referred to the Finance Committee for discussion. If we wait until the Bill comes into force before it is submitted to the Finance Committee for discussion, and if by that time we think that the information available is not sufficient, will we be forced to oppose the effective date of the Bill? I hope the Secretary will clarify this point of whether the Government will wait until the compensation proposal is discussed and agreed in the Finance Committee before the notice is submitted to the Legislative Council to endorse the Bill's effective date. I hope this will be the process. If this is really the case, then we can finish studying the whole package before deciding on whether the Bill should come into force. At the resumed Second Reading debate on the Bill just now, many Honourable Members said that they were not satisfied with some of the issues at all, but since the Government had to commence its work immediately, and since some of the urban renewal work was urgent, they therefore voted for the passage of the Bill for the time being. However, we need to examine the compensation proposal before we can make a final decision. The proposal should be in the best interest of all the parties concerned, including the residents and property owners and it should be agreed before the Bill can come into force.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, during our deliberations on the Bill, we had been talking with the Government on many important issues, including the composition of the URA Board, the appeal mechanism, the number of months for the notice period, and the accommodation measures, and so on. The issue of compensation is also a very important one.

The Government may solve all these important issues one by one and the Secretary has just now given us many undertakings, but the problem of compensation remains unresolved. The Government used to say that compensation would be paid according to the provisions on the compensation formula for land resumption and the amount of compensation should enable the residents affected to purchase a 10-year-old replacement flat in the same district. We did not agree to this compensation formula. Then the Government revised it to flats from about eight to 10 years old. At that time, we had proposals on flats from one to five years old, five years old and five to seven years old. Finally, we decided that such replacement flats should be five years old. I feel that throughout the entire process, the Government has been objecting to this basis for calculating compensation. I hope the Secretary can speak on this point later. I have no idea what proposal the Government will submit to the Finance Committee when it applies for funding later. If the Government is inclined to using flats of five years' vintage as a basis for calculation, then there is no need for us to support the amendment proposed by Mr James TO to set up another hurdle. However, if the Government cannot state its position now, then it would not be a bad thing impose another hurdle.

Two issues remained unsolved when we came to the final stages of our discussions. One was on the rehousing of the affected residents. Another was on compensation. As to the issue of rehousing, we demanded that the HA should make some flexible arrangements. Then the Government agreed to make a concession. Details of the arrangements remain to be considered though. Mr Edward HO has said just now that we are not sure whether this proposal will be passed in the general meeting of the HA. However, we may take what the Government says and regard the issue as solved.

As for the issue of compensation, we are not sure of its contents even now. In such circumstances, I may not agree to the passage of the Bill. However, we are aware of the strong reactions from the residents. They do not want to see any more delays on our part for many of them hope that the Government can commence the redevelopment projects early. So it is against this background that we may need to accept some compromise, such being, for example, on the revision of the method on the passage of the effective date and to leave the matter to the Finance Committee for discussion at a later date.

I think the Government knows clearly our stand on the issue. At first, we thought that the Bill should not be passed when no sound arrangements were in

place. Then when the different responses of the residents came to our attention, and as we respected the different preference of the residents, we tried to strike a balance. We hope that the Secretary could explain to us the position of the Government later. If the Secretary fails to put forward any concrete views, we may do something which the Government is unwilling to see or we may take some action which has never been done before and to revise the provisions on the effective date of the Bill. We are not sure how this may affect the relationship between the executive and the legislature. I hope the Secretary can tell us clearly. To be frank, if the Secretary can do that, we will not have to make so much effort. If not, the Secretary should not put the blame on us for agreeing to the amendment proposed by Mr James TO.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, the DAB supports the amendment proposed by Mr James TO. However, I wish to make it clear that we do not intend to make this amendment a precedent to change the established practice.

I wish to point out that the special thing about this amendment is the time factor. Madam President, during the resumed Second Reading debate of the Bill, I said that we were facing a dilemma. We know that the residents in areas pending redevelopment are asking for fair and reasonable compensation and rehousing. As the terms for compensation and rehousing are not part of the Bill, so what we can do is to pass the Bill after we have agreed with the Government on these terms for compensation and rehousing. In other words, in the process of bargaining with the Government, we can only use the passage or otherwise of the Bill as a chip to fight for a reasonable package of compensation and rehousing. However, when we started our deliberations, we found that the pressure was on Members, for if we chose to reject the Bill, then the Bill could not be expected to get passed in our current term of office and it has to be re-submitted. Then when can the Bill be expected to be passed? When can the URA be formed? No one knows. Delays like these will knock our grasp off the timing.

Had the Bill not come at a time so close to the end of our term of office, and under normal circumstances, we would not have let a bill get passed if the terms have not been agreed upon and when we still have any doubts. We would say to the Government, "You do not need to submit the Bill to the Legislative Council, for it will not be passed the Second and Third Readings." We would demand such a bill be submitted to the Council only after all the issues have been

resolved with the Government. However, we cannot do such things with this Bill. For if discussions are to drag on, our term of office would have come to an end and after this week, the Legislative Council will be dissolved. And we have no idea what will the next Legislative Council be like.

I therefore think that Mr James TO's amendment is a workable option. If we pass the Bill at Third Reading, we will not have to repeat most of the work we have done for almost a year. We do not have to undergo the cumbersome process of deliberating on the Bill and give it a Second and Third Reading. Having said that, with respect to the commencement date of the Bill, we would have a mechanism in place and, that is, we have to see the fulfillment of the undertakings and assurances made by the Government and that the compensation and rehousing arrangements can really meet the expectations of the people. So with such special circumstances in mind, we think that the proposal should be supported.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I am a member of the Bills Committee, but I have not been able to attend all of its meetings. It is because there were so many meetings held and so many details discussed. I have strong views on many issues, however.

I think the original inception of the Bill is problematic. If the Land Development Corporation (LDC) made any mistakes in the past, a new organization should not be formed indeed. Instead, solutions to the problems should be found. The plan for the establishment of the URA has been under discussion for a long time. First it underwent discussions as a White Bill, then as a Blue Bill. Then finally it is at the last stage of legislation. I think if we do not want to pass the Bill, we may as well not pass the Bill. If it is passed, we should not create some new things to it.

Let me analyse our current situation. What Mr Jasper TSANG has said earlier is wrong. For once this precedent is made, then when we pass the commencement date of a bill later on by means of positive vetting or a resolution, that will imply that we have passed the same bill twice. However, things are not like that. For the Bill has been passed, that is, the LDC is now defunct and those who are waiting for redevelopment will never have the chance.



I am not saying that the compensation package is right or wrong. I think that is another matter. Even after the Legislative Council is dissolved, we can fight for the same cause as individual members of the public. We can submit papers and other instruments to the Finance Committee and pass our recommendations to it. So if we have agreed to pass this Bill (the only one who opposes it is Miss Christine LOH and two other Members have abstained, and every other Member have agreed to it), then why are we making so many complications? It is as simple as this. Everything can be discussed and subsequently solved. I hope every one of us sitting here can return to the Council in the next term and start a new term of office and iron out every difference with the Government. Now we are divided on the issue of the commencement date. Some of us agree to its passage while some do not. Are we not like kids who change their mind ever so often. Why?

Madam Chairman, I hope every one of us will know that, as Mr James TO said, the amendment is unprecedented. It is something we have never had before, nor heard about it. So please do not make something new. I have a fear for new things. We have too many new things in Hong Kong right now. Everyone is making something new and new things mean mess. If we agree to this Bill, we should pass it; if not, then we should reject it. If the Bill is negated, the LDC can actually continue with its work. That is really a practical approach to take.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I do not agree to the analysis made by Mr Andrew WONG. I think the amendment will certainly lead to a lot of debates.

Mr Andrew WONG is very free and easy when he said these remarks earlier. He said that if we did not agree to the detailed arrangements, we should vote against the Bill. But I do not think that will be in line with the interests of the residents of the old urban areas affected by the nine projects in which the LDC is currently engaging, and the 25 projects which have been announced but have not been carried out due to time constraints. It is also not in the interest of the residents in old urban areas who will be affected by those redevelopment projects which have not even been named.

We have heard two views: first, to speed up the compensation and rehousing arrangements; and second, to pass the Bill as soon as possible. I reckon that many residents of these old urban areas hope that they will be given reasonable compensation and rehousing and that redevelopment work can proceed as soon as possible. Therefore, I have different views from those held by Mr Andrew WONG, that is, the residents of the old urban areas do not want to delay the issue for another year or even another year and a half. If we are to vote this Bill down, that is the situation that may appear.

Besides, if we do not adopt this approach, is there an alternative to protect the rights of the residents and owners? To put it simply, do we have any truly powerful weapon to make the Government concede to our demands?

My attendance rate for the meetings of the Bills Committee is close to 100%, or at least 80% or 90%. When I took part in the deliberations of the Bill, I was also involved in the compensation issue caused by the resumption of the Wah Kai Industrial Centre. I think the Government has held two completely different attitudes towards the two cases. In the Wah Kai case, I asked the Government to make loans to the factories at interest, but the request was turned down. When the Government was handling this Bill, it said that it was willing to make loans to the residents. As for compensation, the terms which the Government gives to the residents are more favourable than the factory owners of the Wah Kai case. We often ask a question and that is, why has the Government applied more leniency in this case than in the Wah Kee case? The answer is very simple. It is because the Government hopes that the Legislative Council will pass this Bill. When the Government wants the Legislative Council to pass some bills, it will sit down and discuss with us. But if there is no such a procedure, often the Government will just hear our views and then do nothing. Mr Andrew WONG said that in the summer, Mr Jasper TSANG, Mr Gary CHENG, Dr YEUNG Sum and Mr James TO can bring these residents of the old urban areas to visit the Secretary for Planning and Lands, because their constituencies have the most residents from the old urban areas. If Mr WONG asks me what I think of this, I would say that the Secretary may not want to meet them, for they may no longer be Members of the Council.

Then to whom can these residents of old urban areas turn for redress? They cannot complain to the chairman of the LDC because many of the works of the LDC have already been suspended. Mr WONG, if we vote this Bill down, it does not mean that the LDC will revive. At the moment, the LDC is half

dead if not almost dead. It is putting a lot of its work aside and leave them to be handled by the future URA. Mr WONG said that in the summer recess, some of the Honourable colleagues, they are in fact retired Members, could visit the chairman of the URA and hold discussions with him. But how can this be done? What rights do they have to discuss things with him?

I admit that the proposal in the amendment is not the normal practice. Constitutionally, this is unusual. But frankly, if Honourable Members are asked to deliberate on such an important bill in such a short time, that is, only three months from early March to the present, it is really asking too much from the Members. If we are to scrutinize and debate on each and every clause of the Bill, I think the task is no simpler than the District Councils Ordinance, the Legislative Council Ordinance and the ordinance which scrapped the Municipal Councils deliberated by Members last year. The Bill before us is very complicated. The reason why Honourable colleagues want to pass it is because many residents hope that this Bill can be passed as soon as possible. They do not want to wait for another year and a half. Honourable colleagues are also worried that the chance to press their views with the Government will slip away once the Bill is passed. For it is a usual practice for the Government to disregard the views of Members once a bill has been passed.

The proposal in Mr James TO's amendment is an option we can pursue. I hope the Government can make itself clear at the Committee stage in respect of its position on this central issue and have it put on the official records of the Legislative Council. If the Government decides tonight that the basis for calculating compensation will be an amount which will enable owners to purchase a replacement flat of five years' vintage in the same district, then I am prepared to object to Mr James TO's amendment at any time. If only the Secretary for Planning and Lands would stand up and state that the basis for calculating compensation would be five-year-old replacement flats, though the Secretary does not agree to use one to four-year-old flats as a basis for calculation of compensation, I can ask the Democratic Party to oppose Mr James TO's amendment at any time. Unfortunately, I have not heard the Government make such an undertaking. Then what should we do? Are we going to argue all over again when the Bill is referred to the Finance Committee for deliberation? I can see no reason why we should not support this amendment, especially when up to the present moment, the Government has not changed its position. When the Bill resumed its Second Reading, I said that if we did not pass Mr James TO's amendment, we could only vote against the proposals and funding

arrangements to be submitted by the Government to the Finance Committee for scrutiny. By then there will be another round of heated debates.

Therefore, I hope that Honourable colleagues can support this amendment, so that some of the unresolved issues can be resolved. I think this will not hinder the preparatory work after the passage of the Urban Renewal Authority Bill. I have asked the Government a question in the Bills Committee, and so has Miss Emily LAU, that is: What are the transitional arrangements? Will the Government announce some more projects, land resumption and demolition plans? Mr Stanley FISHER, the Deputy Secretary, said that the Government would not do so. Those transitional arrangements will need a few months to complete. They are mostly on the internal staffing arrangements. Even if Mr James TO's amendment is passed, the internal arrangements on administration and staffing can still proceed. When the Legislative Council resumes in October, the Government can fix a date and discuss the compensation arrangements with Honourable Members, then pass the commencement date. By that time, the URA can be formally established and work in various areas can then proceed.

I urge Honourable Members to support this amendment. Thank you, Madam Chairman.

**PROF NG CHING-FAI** (in Cantonese): Madam Chairman, earlier I abstained from voting because I had made myself very clear that I had reservations about the Bill.

I share Mr Andrew WONG's view. As everyone supports the Second Reading of the Bill, which means that all of us are basically in support of the Bill, therefore, why should a tail be left behind? Why has it to be approved by this Council before it comes into force? I do not think this is a neat and tidy way. As a result, it is difficult for me to support this Committee stage amendment.

**CHAIRMAN** (in Cantonese): Mr WONG, I will let you to speak again after the Secretary for Planning and Lands has delivered his speech.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam Chairman, first of all, I would like to clarify two points. Firstly, with regard to the point that the Housing Authority (HA) has already granted approval for the Urban Renewal Authority (URA) to have discretion over the usage of some public housing units in the future, I confirm that the proposal was formally approved by the HA on 23 June, and this has now become an established policy.

Secondly, on the age of flats which will be used as the basis for the calculation of compensation, I have not mentioned this point in my speech mainly because — I have to clarify that the position of the Administration has remained unchanged — our present position still remains that a compensation scheme based on the value of eight to 10-year-old flats should be adopted. I learned that the majority of Members are of the view that a compensation scheme based on the value of eight to 10-year-old flats is inappropriate and they are unhappy about it. So, I feel that it is my responsibility to carefully consider the whole issue, not only the age of flats, but also the issue of compensation, before the proposal is submitted to the Finance Committee for Members' approval. Our position has remained unchanged, and we still insist that the value of eight to 10-year-old flats should be used as the basis for the calculation of compensations.

As regards the fact that the Government will adopt the so called "acquiesce vetting" or "passive" vetting approach (negative vetting approach), and that is, even if the Government sets up the URA by virtue of publishing a notice in the gazette, Members will certainly still be given adequate time to study the legislation which is passed by means of "acquiesce vetting". Therefore, Members can rest assured that they will not be asked to pass a piece of legislation without being given sufficient time to scrutinize it.

Upon the establishment of URA by means of acquiesce vetting, its main duties will not involve anything that will directly affect the residents. The URA will only undertake preliminary preparatory work in the areas of strategic research and administrative arrangements. If such ground work is not properly done, then the work of the latter stage, which is directly related to the residents will be delayed. If the Finance Committee does not approve the necessary funds for the new compensation scheme, then the work in subsequent stages can never be carried out. So, this will in no way affect the work of Members when they scrutinize the compensation scheme in the future. The establishment of the URA is simply to carry out preliminary preparatory work, and it will not have any impact on the residents.

Finally, I have to say that the Government considers Mr James TO's amendment totally unacceptable. As Mr James TO himself has said, this is a brand new arrangement. In fact, the "acquiesce vetting" approach is well-tested. I hope that Members will vote against Mr TO's amendment after listening to what I have said. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr Andrew WONG, do you wish to speak again?

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I would like to respond to what Mr LEE Wing-tat said just now. Much of what he said was soothing to the ear. Our position is that we support the establishment of the URA. We have examined the White Bill and the Blue Bill, and we agree to what is contained in the Blue Bill. We just do not agree with the compensation arrangements proposed by the Government. Since our term of office is going to end soon and the Legislative Council is going to be dissolved, we must account to the public. The Democratic Alliance for the Betterment of Hong Kong supports the position of the Democratic Party and so do I. We just do not agree with the arrangement. I am not saying I regard the Government's compensation package fair or correct, but we will always have a second trial. We will have a further chance of discussion because we need the funding to implement the policy, which will be drafted after the passage of the Bill and in accordance with the Bill. Therefore there is still room for discussion before any funding is approved by the Finance Committee. Then, why complicate matters by seeking to use a positive resolution to deal with the commencement date? Therefore, I think the proposal is just novel, superfluous and superficial, but otherwise meaningless.

I just want to say this much, hoping everyone will understand the matter. I am not saying every Member should agree to the compensation arrangements proposed by the Government in respect of urban renewal. I only mean to say all this show of novelty should stop.

**MR JAMES TO** (in Cantonese): Madam Chairman, I would like to respond to the last point made by Mr Andrew WONG. Whether a Member is doing something superfluous depends on whether he or she gives full support to a compensation scheme or whether he or she is against the unsatisfactory scheme as proposed by the Government at present. Members should consider whether

they are willing to go through a roundabout way in passing the Bill. This is because if a division is claimed, the Bill will be passed if the Government can secure 15 votes in either of the two groups. To reduce our influence is to undermine our bargaining power.

Of course, one may ask: Is it possible to vote down the Government's proposal at the Finance Committee? Mr LEE Wing-tat indicated a while ago that the Finance Committee is not divided into two groups as this Council is and voting is not done by way of a division. We can certainly oppose proposals at the Finance Committee. Secretary Gordon SIU said no work could be done without funds and the framework alone cannot get things done. Is it really the case? It is not, in fact. If, say, the Government submitted a proposal in which calculation for compensation was not done on the basis of five-year-old buildings, there might be 45 Members who voted against the proposal and it would not pass. No work could be done. If there were no funding, would it mean nothing could be done? No. The Government may come up with a proposal whereby calculation for compensation is done on the basis of ten-year-old buildings because the Lands Resumption Ordinance is applicable to resolutions at the Finance Committee. If the Bill is passed, a new law called the Urban Renewal Ordinance will come into existence. But land resumption is carried out under the Lands Resumption Ordinance, in which provisions for compensation were passed in 1997 by the Finance Committee, stating the compensation should be enough for the purchase of ten-year-old flats in the same area. If Members voted down the proposal for eight-year-old flats, the Government can act according to the Ordinance. There is a precedent. I believe Mr MA Fung-kwok will recall the debate on the Firearms and Ammunition (Amendment) Bill 1999. A Member said it would be very inconvenient for the relevant persons to apply for a licence too frequently. Finally, the Member on behalf of the industry indicated that unless actors using prop guns were exempted from applying for a licence, a lose-lose situation would arise. That was what happened. The Bill was not passed. Procedures for application for a licence were not relaxed and the Government continued on its own way: issuing licences for prop guns as before. If there was a relaxation on the licence period, people in the industry need only apply for a licence every two years. With no relaxation, the industry needs to apply for a licence every time one is needed. That is the case for the film industry.

So, it is not true that if the Finance Committee does not approve the expenditure proposal, the Government will not be able to launch its project. The Government can still do its work. As such, I hope Members will take into consideration the special circumstances in which the Legislative Session is about to end and we do not want to procrastinate. I hope they will not object to an ingenious method that enables us to deal with the matter beyond our term of office; otherwise our influence will be undermined.

Lastly, I want to say that the Government is trying to pass the Bill by negative vetting. What may happen then? The Government can put the Ordinance into operation before the Finance Committee approves Members' proposals, and the clock will begin to tick. We will only have 28 days to scrutinize it. It is of course a good thing if we can be united in both of the two groups. The fact is that during the interim of several months, the Government would work at raising expectations of the people through some propaganda. Then when it comes to voting by division, every division, every vote is vital; and pressure mounts on all parties. As the Government has done a lot of preparatory work and created some *fait accompli*, it will be in a better position to lobby for votes in each group.

I hope Members will understand it is not without precedent to go by positive vetting as proposed in the amendment. Recently, the Legislative Council needed to scrutinize a number of subsidiary legislation, such as the Dutiable Commodities Bill, just passed, or some matters we might regard as trivial. There is a need for positive vetting as we have this bicameral voting mechanism, which, as Mr LEE Cheuk-yan pointed out, first started in 1997. More often than not, the Government is reluctant to table motions before the Legislative Council for positive vetting due to the tension between the executive authorities and the legislature, which we all feel. Despite of the fact that they are trivial matters, we can work things out if we are willing to accommodate each other. That is why the Government has recently submitted many laws, such as laws on the protection of witnesses. When we asked, the Government was willing to table motions, including the commencement dates of some subsidiary legislation, or issues the Government might regard as being trivial, before the Legislative Council for positive vetting. Why? Because there is the system of voting by division, which I do not want to describe again. Indeed, some subsidiary legislations are very important. Almost the entire piece of



subsidiary legislation is new, an example being the Mutual Legal Assistance in Criminal Matters (Switzerland) Order which we will be scrutinizing later. The entire Order is very special. In fact as we scrutinize the Switzerland Order, or the Thailand Order, we need to work as if we were scrutinizing a bill in detail. Every part has to be considered in detail as the agreement signed by every country or region is different. For these Orders, we adopt the positive vetting procedure.

Why are we asking that the Government's motion be scrutinized again? This is an arrangement under special circumstances and I cannot help wondering why the Government should raise objections. If the Government is willing to compromise, the people and Members of this Council will find it easier to support the Third reading of the Bill.

**MR EDWARD HO** (in Cantonese): Madam Chairman, just now I did not make clear the stance of the Liberal Party on this matter because I wanted to first listen to the different views held by Honourable Members before doing so.

Actually, we have been considering the Bill for a very long time since it was still in the form of a White Bill, and have spent substantial time discussing in detail a number of issues contained therein in the process. Hence, I believe Members should by now be very familiar with the contents of the Bill. We have raised a number of questions for discussion, some of which, such as the question of compensation, could not be covered by legislation. For this reason, we have requested the Government to make 28 undertakings to the Bills Committee during our meetings; besides, I was also asked by members to repeat our request to the Government in my capacity as Chairman of the Bills Committee. Today, the Secretary has honoured his promises in this connection.

Earlier, I have referred to two issues. Regarding the first one, which is rehousing, since the Secretary said just now that the Housing Authority had actually approved the rehousing arrangement, I believe the issue should have been resolved. The second issue is compensation. In this connection, just now the Secretary has also reiterated that the stance of the Government on the compensation package remained that compensation would be calculated on the basis of the value of a flat of eight to 10 years old. This has given me a message: There is still room for improvement. As I said earlier, it is my hope that the

Government would not implement its "eight to 10-year-old flat" compensation package. While a number of members have opined at the meetings of the Bills Committee that the same compensation package must apply across the board, there were of course some other members who even suggested using a flat of five years old as the basis of calculation. But then again certain organizations were of the view that a new problem would be created on top of the cost to public coffers if the compensation package should be too generous, since some people might turn the Government's redevelopment projects to their advantage. As such, it is imperative that the Government strikes an appropriate balance between the various requirements.

Perhaps Members support the Bill in principle. In this connection, I believe Members should be aware that we have raised a lot of questions on the Bill during the scrutiny process, and that the Government has made a number of undertakings in addition to the amendments it is going to move today. So, if we should have the chance to endorse the commencement date of the Bill by way of negative vetting, I do not think the Government would then make every effort to lobby us just because of the voting method which separates Members into two groups according to their methods of election. For these reasons, the Liberal Party does not support the amendment proposed by Mr James TO today.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I would like to make a few more comments, for I think Mr Edward HO has asked the Secretary for Planning and Lands, Mr Gordon SIU, on behalf of the Liberal Party, whether he can clarify on the compensation package which is based on the value of eight to 10-year-old flats. As such, should the Government at least come up with a package which is more distinct and fair? Since no consensus has been reached at the Bills Committee with regard to the compensation package based on the value of five-year-old flats, it is only fair to say that some political parties support the five-year vintage compensation package and some do not. However, when we talked about the compensation package which is based on the value of eight to 10-year-old flats, my impression is that the majority of colleagues, including those present at the meeting, had indicated their support.

In his capacity as the Chairman of the Bills Committee, Mr Edward HO of the Liberal Party has pointed out to the Deputy Secretary Stanley FISHER on many occasions, that objectively speaking, the Government's compensation package which is based on the value of eight to 10-year-old flats is unfair. The

reason is, in a district where there are only 10-year-old flats, owners will only receive compensations based on the value of such flats; but in districts where there are many eight-year-old or newer flats, owners will receive compensations based on the value of such flats. I do not think that a government policy, especially one which has to do with compensation should depend on pure luck or that the amount of compensation should depend on the district where owners live. I do not know what Mr Edward HO thinks, but I do know that members of the Bills Committee at least have a common understanding in regard to this issue, and we have the support of many Members. However, the Administration has now indicated that its position on this matter remains unchanged, and insisted on adopting a compensation package based on the value of eight to 10-year-old flats. The Administration has not said that compensation based on the value of eight-year-old flats will apply across the board, so I really cannot understand why Mr Edward HO still supports the position of the Government.

I think the Government should at least demonstrate that it will adopt the minimum basis of calculation on which the Bills Committee does have a consensus. As regards the compensation package based on the value of five-year-old flats, we have not yet reached a consensus, but we have agreed using the value of eight-year-old flats as the basis of calculation. In that case, what else does the Government still have to consider? Moreover, the money spent by the Government on a specific project, if I remember it correctly — my memory is not very good — will only be increased by a few hundred million dollars over a period of 20 years. I have asked Mr FISHER on every occasion why the Government is unwilling to spend a few more hundred million dollars if the basic interests of the affected owners can be safeguarded. So, I cannot really understand why the Liberal Party can still support the Government under such circumstances. If the Government said that it is willing to adopt a compensation package based on the value of eight-year-old flats, or offer across-the-board compensations, then the situation will be different. However, under the present circumstances, should Members be united in our efforts to press the Government for a clear opinion on this issue? For owners, there will be a difference of \$50,000, \$100,000 or \$150,000 in the amount of compensation payable to them depending on whether a compensation package based on the value of eight-year-old flats or that of 10-year-old flats is adopted. The sum of \$50,000, \$100,000 or \$150,000 is by no means a great amount, compared to the tens of billions of dollars the Government spent on its 20 year-programme. However, for elderly people who live on income from their flats, an additional \$50,000, \$100,000 or \$20,000 is very substantial.

Therefore, I do not think that we should support the position of the Government since there are still ambiguities. We should continue to support Mr James TO 's proposal on positive vetting. Thank you, Madam Chairman.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, the more I have heard the more puzzled I am. With regard to the compensation package, some people may ask for more, while others may consider less compensation is also acceptable, that is why the controversy has arisen. But if we have decided not to accept this Bill under certain circumstances, we should have it negatived, so that the Second and Third Readings will not possibly be passed. Given that we support the Bill, we should not deliberately complicate the matter.

I would like to talk about the constitutional aspects. According to the negative vetting procedure in the British Parliament, the House of Commons is not entitled to making inquiry into the bill in question; it is entitled to making inquiry into the drafting mistakes. However, according to the so-called negative vetting procedure in Hong Kong, bills enacted by this Council may empower the Administration to make subsidiary legislation by means of the negative vetting procedure, and then table them to this Council for approval. Members shall have the right to repeal or amend the subsidiary legislation within 28 days, and it is already a very great power of Members.

In the British House of Commons, it is stipulated in the law that some matters must be approved by the House by means of resolution, that is, the so-called positive vetting procedure in this Council. Therefore, this Council has already been endowed with immense power in the negative vetting procedure alone. The Government has stated that it will not put the Bill into operation hurriedly before we have the opportunity to scrutinize it, which I consider a very great compromise. Furthermore, without the approval of the Finance Committee, the Government cannot put any policy into effect, because nothing can be done without financial support. On the contrary, it is a different story in the United Kingdom. As the House of Commons does not have a Finance Committee, whenever a motion relating to financial matter is approved by the Parliament, the relevant policy can be implemented immediately, thus if the bill is also passed, everything will be fine.

Therefore, in terms of constitutional arrangement, I feel the negative vetting procedure in Hong Kong is relatively vigorous and powerful. Moreover, the Government can implement a new policy only after the Finance Committee has approved of the funding provision. Perhaps we want to keep on discussing with the Government, but this Council will be dissolved soon, we cannot hold much discussion now. However, I hope Secretary Gordon SIU can expound the position of the Government later, so as to enable Members to make the choice with their wits and decide whether or not to support the Bill. Thank you, Madam Chairman.

**MR JAMES TO** (in Cantonese): Madam Chairman, since constitutional arrangements are mentioned, I may as well add one comment. Madam Chairman, in the United Kingdom, such a system of voting by groups is not found.

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

(No Member responded)

**CHAIRMAN** (in Cantonese): Secretary for Planning and Lands, do you wish to speak again?

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam Chairman, I would like to raise two points. In fact, I have listened very carefully to concerns of Members about the compensation formula of eight to 10-year-old flats. The present problem is a matter of logic, rationality and the principle of equity. The Government is of the view that only after it has carefully considered the arguments of Members concerning the possible partiality or deficiency in respect of the calculation basis in the compensation formula of eight to 10-year-old flats, it will then consider other proposals on this basis.

Therefore, under the circumstances, we have not changed our position in adopting the calculation basis of eight to 10-year-old flats for the compensation formula. However, the Government has promised to reconsider the entire

compensation package, as we are not only considering that issue alone. In order to help Members to make their decisions on the Bill, I have to reiterate the 29th undertaking of the Administration: the Administration will not allow the URA to exercise any land resumption activity prior to a full approval of funding from the Finance Committee. Consequently, the concerns of some Members are not justified. Thank you, Madam Chairman.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam Chairman, just now the Secretary told us that he would listen to our opinions as regards logic and rationality. He has also made the 29th undertaking that the URA is not permitted to operate during the interval prior to the approval of funding applications by the Finance Committee.

Madam Chairman, I have something to speak out. Of course, I have listened to the speech of the Secretary imposingly, and the Secretary has also listened calmly to our opinions on the compensation proposal of eight to 10-year-old flats. The Secretary has talked about logic and rationality. I hope the Secretary can look at things from a different perspective. If he looks at the issue from the perspective of logic and rationality, he may overrule our opinions.

When we scrutinized the Bill, I had frequently referred to the redevelopment of the six streets in To Kwa Wan. The so-called six streets are actually a redevelopment project for a plot surrounded by six streets in that district. If residents from those six streets come out simultaneously to purchase replacement flats in the district, assuming that the targets are flats eight-year-old under the eight to 10-year-old principle, is it possible for them to purchase the replacement flats? I have told the Deputy Secretary, Mr Stephen FISHER, that it was impossible. For the six streets in To Kwa Wan, we have seen that some residents were unable to purchase replacement flats eight-year-old. I had asked Mr FISHER that if he could guarantee that those residents would be able to purchase replacement flats eight-year-old, but his answer was no. Therefore, I hope the Secretary can look at the matter from another perspective. Objectively, if there is another redevelopment project in 11 streets in To Kwa Wan in future, may I ask where on earth can those residents purchase their replacement flats of that vintage? The Wyler Gardens does not fall into that category. The reality is, those people will have no alternative but move to other districts.

When we discuss the compensation proposal of eight to 10-year-old replacement flats, I feel that most of Members disagree with that proposal. Meanwhile, views on the one to four-year-old flats or five to seven-year-old flats are diverged. The object of redevelopment is to improve the livelihood of residents in old urban areas. I would like to emphasize that we are talking about old urban areas, areas which have been developed for decades and most of the residents are not big property-owners, they are only people from the grassroots. Let me take To Kwa Wan which I know so well as an example. There are several spinsters among the owners who do not have the intention of getting married. They have bought the flats for only self-occupation and let-out purposes. We can say that they are only poor people. If the Government looks at the matter from this perspective, and if we use the five-year-old flat as the basis for the calculation of compensation, then when the 11-street plot is redeveloped, it is impossible for the affected residents to buy replacement flats five-year-old in the same district. In the end, they can only purchase replacement flats eight-year-old or even older. As a result, apart from logic and rationality, I hope the Secretary can take the objectivities and reality into consideration, and see whether the relevant proposal is viable.

Furthermore, I would like to discuss another issue. Today the Secretary asked for our approval of this Bill, so that the Government will be able to discuss the terms of compensation in the meetings of the Finance Committee. Notwithstanding the Secretary has promised that nothing will change, the problem mentioned by Mr Andrew WONG is still possible if we handle the matter in this way. That is, even if the Bill is passed and becomes effective, a prolonged suspension of urban redevelopment projects may result if it is rejected by the Finance Committee subsequently.

Madam Chairman, in view of the abovementioned reasons, unless the Secretary is able to tell us he knows very well that there is room to modify the proposal of eight to 10-year-old flats, otherwise, I will accept the not so satisfactory amendment of Mr James TO.

Thank you, Madam Chairman.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

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

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

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

Functional Constituencies:

Mr Michael HO, Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the 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 Jasper TSANG, Dr



YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted for the motion.

Mr Andrew WONG, Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok and Mr Ambrose LAU voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 25 were present, eight were in favour of the motion and 17 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 20 were in favour of the motion and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of a division being claimed by a Member in respect of the other amendments to the Urban Renewal Authority Bill, the Committee of the whole Council shall proceed forthwith to the division after the division bell has rung for one minute.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That in the event of a division being claimed by a Member in respect of the other amendments to the Urban Renewal Authority Bill, the Committee of the whole Council shall proceed forthwith to the division after the division bell has rung for one minute. Does any Member wish to speak?

(No Member responded)

**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 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.

I now order that in the event of a division being claimed by a Member in respect of the other amendments to the Urban Renewal Authority Bill, the Committee of the whole Council shall proceed forthwith to the relevant division immediately after the division bell has rung for one minute.

**CHAIRMAN** (in Cantonese): As Mr James TO's amendment to clause 1 has been negatived, I now put the question to you and that is: That clause 1 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 4.

**CHAIRMAN** (in Cantonese): Council will debate on the amendments relating to the establishment of Board of the URA.

**CHAIRMAN** (in Cantonese): The Secretary for Planning and Lands has given notice to move an amendment to clause 4(1), Mr LEE Cheuk-yan has given notice to move amendments to clause 4(1) and (2) and the addition of clause 4(7) to (11), and Mr LEE Wing-tat has given notice to move an amendment to clause 4(2).

Committee will proceed to a joint debate. I will first call upon the Secretary for Planning and Lands to move his amendment, as he is the Public Officer in charge of the Bill.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I move that clause 4(1) be amended, as set out in the paper circularized to Members.

Having considered the composition of the Urban Renewal Authority (URA), the Government now proposes to establish the offices of a non-executive Chairman and an Executive Director, both to be appointed by the Chief Executive. The Government also proposes that the Board of the URA should comprise not less than seven other non-executive directors who are not public officers. Since our amendment has been discussed and endorsed by the Bills Committee, I sincerely hope that Members will support our amendment.

*Proposed amendment*

**Clause 4 (see Annex XVII)**

**CHAIRMAN** (in Cantonese): I will call upon Mr LEE Cheuk-yan and Mr LEE Wing-tat in turn to speak on the amendment moved by the Secretary for Planning and Lands as well as their own amendments. If the Secretary for Planning and Lands' amendment is passed, Mr LEE Cheuk-yan may not move his amendments

as they are inconsistent with the decision taken by the Committee. However, Mr LEE Wing-tat may still move his amendment. On the other hand, if the Secretary for Planning and Lands' amendment is negatived, Mr LEE Cheuk-yan may move his amendments, and if his amendments are negatived, I have given permission for Mr LEE Wing-tat to revise the terms of his amendments to clause 4(2). However if Mr LEE Cheuk-yan's amendments are passed, Mr LEE Wing-tat may not move his amendment, as it is inconsistent with the decision taken by the Committee.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, part of my amendment is actually exactly the same as that of the Administration. In the Administration's amendment, the Secretary mentioned that the non-executive Chairman and Managing Director are separate entities. This is exactly the same as my proposal. The main difference between my amendment and that of the Administration is the way by which at least seven non-executive directors are selected. In my amendment, I propose that four out of the seven non-executive directors should be elected from among Legislative Council Members, and the remaining three non-executive directors should be appointed by the Government.

I hope that Members will support the idea of electing four executive directors from among Members of this Council, for the URA has a very important role to play in the future. Its policy will affect the interests of all residents in old urban areas, and it will also be responsible for formulating urban renewal strategies and programmes, whereas the composition of its Board will affect the future operations of the URA.

The residents' groups raised two suggestions during our discussions. Firstly, they hoped that there would be representatives of residents on the Board; and secondly, they hoped that there would be representatives of public opinion. How should the Bill be amended so that public opinions can be represented on the Board? I think it will be a very difficult task. However, I hope that the Secretary will get the message, that residents hope that they can be represented on the Board. I find it very difficult to define residents' representative in the amendment, and I cannot make a list in the Schedule to put down all residents' groups from which representatives can be elected. This is really extremely difficult. However, I hope that the Secretary can understand that residents had requested that there should be representatives of residents on the Board.

Their other request is that there should be representatives of public opinion on the Board. I am of the view that, after all, the Hong Kong Legislative Council is representative of public opinions, and Legislative Council Members are similar to Deputies to the National People's Congress under the Chinese political structure. Therefore, though the Hong Kong Legislative Council is not known as the National People's Congress, Members of the Council are also representatives. That is why I hope that Members will support the idea that there should be representatives of public opinion on the Board. Why? The first reason is that, the general public is of the view that if there are representatives of public opinion in the URA, they will have more confidence in the future decisions of the URA and in its ability to reflect public opinions. Of course, they have only requested that representatives of public opinions should be elected from among Members of this Council to the URA because they have confidence in us.

The second reason is that, if some of our colleagues were appointed to the Board, I hope that these representatives of public opinion can serve as a bridge between residents and the URA. They can reflect the opinions of residents to the URA, and will be responsible for gathering public views in regard to certain projects or development strategies. This will enhance communication between residents and the URA.

We hope that Members will support this proposal, so that the creditability of the URA can be enhanced. I think we have proposed a very good plan to the Government. In view of what has happened to the Housing Authority, it will eventually be to the benefit of the Government if Legislative Council Members are appointed to the Board and are allowed to share the responsibility. The executive authorities will also consider this a truly desirable approach for it can increase the responsibilities of Legislative Council Members. I hope that this can also serve as a precedent for other statutory bodies.

Thank you, Madam Chairman.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, the amendment is on the composition of the Board of Urban Renewal Authority (URA Board). I have to apologize to Honourable colleagues. This afternoon, I set out the contents of my amendment in a letter to Members. Actually, the amendment has to do with the Chairman and other non-executive directors not being public

officers, but I have left out the word "not" in my letter, and would hereby like to extend my apologies. However, the amendment to the Bill itself was in order. A question was raised during the discussions of the Bills Committee, and that is, how can we trust that the representatives of the URA Board can be able to balance the interests of all parties? In the past, the greatest criticism directed at the Land Development Corporation (LDC) was that there was collusion between the business sector and the Government or that its Board members failed to represent the interests of all parties concerned. I understand that there were two Legislative Council Members on the LDC Board, and other members of the Board include members from the business sector, professionals of the engineering and architectural sector, social workers as well as representatives from various professions.

I have made a few observations from what I gathered from the residents. First of all, given the importance of the future URA, why are members of the public not represented? Of course, a number of projects have to be carried out — nine projects are still underway, while a timetable has not yet been drawn up for another 25 projects. If one representative for each project were appointed to the Board, then the Board would have a very cumbersome structure. Moreover, how will the representatives be elected? This is really not an easy task. I would suggest one particular approach which is not complicated but will achieve the purpose of balancing the interests of various parties. Whenever we discussed the composition of statutory bodies in the past, people would ask whether members of the Housing Authority (HA) and Hospital Authority could be returned through direct elections. The Democratic Party has been continuously mulling over this problem, and we have come to the conclusion that organizations and political parties which are in support of democracy will mostly favour direct elections. However, if direct elections are applied to every statutory body, and assuming that there are 10 such statutory bodies in the future, we are talking about an annual exercise of 10 elections. This exercise will become a very complicated matter. However, many residents are worried that if we simply rely on the Chief Executive to make the appointments, then first of all, there will be a lack of representativeness. Secondly, to whom should this body be accountable? Should it only be accountable to the Government instead of to the public at large? That is why we have come up with this proposal: ex-officio members of the Board will be appointed by the Government, and we do not have to do anything in this regard, while the Chairman of the Board and executive directors who are non-public officers will still be appointed by the Chief Executive, but the list of candidates have to be endorsed by the Legislative Council.

This is not an innovative idea for I had moved a Private Members' Bill at the former Legislative Council in 1996 to amend the Housing Ordinance. I made similar recommendations to the then Governor on how members of the HA should be appointed. Unfortunately, I lost by one vote, and I will never forget this incident. I only want to reform the way by which members are appointed to statutory bodies. If I had been successful on that day, then at least, for once in history, members who were appointed by the Governor or Chief Executive to the statutory bodies would have to be endorsed by the Legislative Council. This time around, I have continued to exert myself because I believe that this is the best means to achieve a balance. If we rely on appointment by Mr TUNG, I am really worried about the representativeness of the Board, and wonder whom Board members will be accountable to. The approach proposed by me will also increase the transparency of the Legislative Council. I remember that when the Government lobbied Legislative Council Members against my amendment on the HA in 1996, it put forward the following argument. It said it did not seem appropriate that people who were requested to perform public duties should be subject to the scrutiny of Legislative Council Members, and be questioned by Legislative Council Members in public before their appointment were endorsed.

In fact, I think these are the appropriate procedures. After several decades of democratic elections and as a result of social developments, the public has very different expectations on statutory bodies compared to that of 10 years ago. More than 10 years ago, people who are appointed to the HA or other statutory bodies were only volunteers who held senior posts and had more responsibilities. They regarded their appointment as an honour or a way to repay the society. Today, these organizations have very extensive policy-making powers. To a certain extent, the power of the HA is even greater than the Legislative Council in the formulation of housing policies. And, in the future, the power of the URA will be even greater than the Legislative Council in the formulation of the urban renewal policy. In that case, why should members of the Board not be accountable to the public? People with an old society mindset may think that it is inappropriate for them to be subject to scrutiny and they do not have to be accountable. I think that this mindset should change. I would suggest that those who are not up to these challenges should not become members of statutory bodies. Madam Chairman, times have changed, and there is no way that a person can become a member of a statutory body and at the same time refuse to take up responsibilities. If they are worried that they will be

embarrassed and do not know how to respond or be accountable to the public, then they should not be appointed by the Government. They should also indicate whether they have time for the statutory bodies.

Every year, members of the press will collect information on the attendance rate of members of the statutory bodies, such as the Hospital Authority (fortunately, Dr LEONG has a very high attendance), the HA and the Town Planning Board, and they will count the number of meetings that members of those bodies have attended. Frankly speaking, members of the statutory bodies should all ask themselves honestly whether they have time for such duties. Since these are not charitable bodies, their workload will be pretty heavy. If their appointments were endorsed by the Legislative Council, then at least, Legislative Council Members can ask them whether they will have time for the meetings. If there are 12 meetings in a year, then will they have time to attend at least eight or nine meetings? They should not accept the appointment, if they feel that they cannot make such commitments. Members of the press have looked at the attendance rate of the members of HA and Town Planning Board in this year, and discovered that certain members have only attended 10% to 20% of the meetings. Honestly, I do not know why the Government still appoints these people. If the Legislative Council does not have the opportunity to scrutinize the appointment of URA members, then we will not have a chance to ask them questions. We cannot ask what are their aspirations for the URA, what policies they wish to implement, and how much time they can spare. I think, constitutionally, this is acceptable. In fact, a lot of countries have also adopted such an approach to maintain checks and balances. It will be even better if the executive authorities have the power to appoint the legislature, and such appointments are endorsed by the Parliament. By doing so, members can be accountable to the public and transparency of these bodies will also be increased. Therefore, I hope that Members can support my amendment, but before they can do so, they have to first vote against the Government's amendment. As regards Mr LEE Cheuk-yan's amendments, I do not have the heart to ask Members to vote against his amendments, so I call upon Members to support him. Though the passage of his amendments will mean that my amendments cannot be passed, but as brothers of the democracy cause, I will support Mr LEE Cheuk-yan. However, if Mr LEE's amendments are not carried, then I will ask Members to support my amendment. Thank you.



**CHAIRMAN** (in Cantonese): Members may now debate the amendment moved by the Secretary for Planning and Lands as well as the respective amendment(s) by Mr LEE Cheuk-yan and Mr LEE Wing-tat.

**MR HOWARD YOUNG:** Madam Chairman, I would like to speak on the amendments. There are various amendments put forward by the Administration and the Honourable LEE Cheuk-yan and the Honourable LEE Wing-tat on clause 4. The merits of the Administration's amendments have all been touched upon when we were debating the Second Reading of the Bill, and I believe that my colleague, the Honourable Edward HO, has also mentioned our support for that.

Regarding the amendments put forward by the two Members regarding endorsement, selection or election of board members by the legislature, it is not a brand new topic. It has been raised before, as I recall, when we were discussing other ordinances or bills in this Council. I have no doubt at all that there is a greater public appetite for public accountability, especially expressed in the discussion over the last 10 days or so on a coming motion, regarding the Housing Authority in this Council. There is no doubt that members of the public want to know more, want to have a bigger say in the running of their affairs, and want people who are appointed on this public body to be accountable, and the public body to be more transparent.

Sometimes, I feel quite distressed when I read the newspapers. As Mr LEE Wing-tat has pointed out, they come up with the score card and show the people who have been appointed onto very important boards. I remember last time when we had the Select Committee meeting concerning the fiasco of the new airport, it was pointed out that some Airport Authority members hardly ever attended any meetings at all. I also agree that when we appoint people, get people to work for public good, onto various bodies, they should be more accountable and more transparent. The public ought to know more what they are doing, how much they are doing, whether they are committed and, of course, what professional expertise they have to be appointed on these boards and organizations. However, when discussing this particular Bill, although I believe that we will eventually move towards this direction, the Liberal Party, at this point in time, is not ready to give full-fledged support to this type of arrangement for the Urban Renewal Authority in particular.

We believe that such matters ought to be debated in the overall package of reforms and accountability that we have for the Hong Kong Government and the executive, and including the involvement by the legislature. Last week, when we were discussing the report by the Panel on Constitutional Affairs, we did say that we felt that there was a need for more accountability, and that this might be the way forward to be achieved in the future. But on this particular occasion, the Liberal Party is not able to support the amendments put forward by Mr LEE Cheuk-yan and Mr LEE Wing-tat. We will be supporting the Administration.

However, I do call on the Government that when you make appointments, we do look forward to actually having Legislative Council Members appointed on these committees, not because of their political affiliations, but really for their expertise. If it is a commercial organization, fine, then appoint someone with commercial expertise. If it is an organization which has to do with social affairs or whatever, appoint people with that sort of background, regardless of their political affiliations. I think by doing that way, we can avoid these boards and committees and so on being politicized.

I would also like to say to the Administration that before you appoint anyone, do not treat it just like a honorary carrot dangling in front of people's heads and say, "Would you like to sit in such a board?" You must explain clearly to these people what sort of time, what sort of commitment that is expected of them. Many people think that once they are appointed to a board of some sort, that may just mean one more slot in their *curriculum vitae* to fill in and does not represent any work at all. It is far from the truth. In fact, the Government should also explain to the people who might accept the appointments or whom the Government would like to appoint that when they are appointed to a board or a committee of some sort, there are also subcommittees or various groups that they are expected to join. Let people really weigh out whether they are willing to commit the time that is required for taking up such public appointments, and also get themselves prepared. Because I believe that whether these people are selected or endorsed by the Legislative Council, no doubt, public scrutiny will be there. In that way, under the eyes of the media and the public, they will have to feel that they are accountable and have to be able to stand up to it.

With those words, Madam Chairman, I rise to support the Administration's amendments.

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

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I really sympathize with Mr LEE Wing-tat, for we are going to vote on Mr LEE Cheuk-yan's amendment first, so he has no alternative but to support his brother on the same democratic front.

I have debated this issue with Mr LEE Wing-tat on many occasions in this Council and the former Legislative Council. His position was very similar to the one adopted by Mr LEE Cheuk-yan today. They both demanded that there should be democratically elected members in the Housing Authority (HA) or that representatives should be elected from among Legislative Council Members to the HA. At that time, I pointed out that it was obvious that the proposal of having elected members or representatives from the Legislative Council on statutory bodies which deal with housing, education, transport and municipal affairs were certainly not feasible. What has happened recently at the HA also shows that this will not work. The reason is, if representatives are elected from among members of a certain council, and if the majority of the members of that council belong to a certain group, party or coalition, then they would certainly nominate their own members to the statutory body. And, the political group itself does not have to bear any responsibilities. Representatives who are elected by Legislative Council Members or members of the public in this manner will be too busy with political debates to handle the affairs of the statutory bodies (we shall soon deal with another amendment on making all meetings open to the public, with the exception of those which involve commercial secrets). Fortunately, Mr LEE Wing-tat has seen this point and agreed that it would not work. He was of the opinion that if members appointed by the Chief Executive cannot be trusted, and problems will arise if representatives are elected from among Members, we might as well let the Administration make all the appointments, as long as those appointments are subject to our approval. We have never debated on this before.

Madam Chairman, today I would like to make a few comments. I have always opposed the idea that the appointment of judicial officers be subject to the approval of the legislature. One may say that there are examples to show that this is feasible and the practice is time-honoured. In the United States, the Chief Justice of the Supreme Court is appointed by the President, but the candidates have to be vetted by the Senate before the appointments are made.

In the past, consideration by the Senate would be made on the principles of whether the candidates have sufficient experiences, adequate legal knowledge, common sense or whether they upheld the humanity spirit. Regrettably, in the recent rounds of Chief Justice selection of the United States, the political criteria have come into the picture. There may be a lot of conflicts if the political affiliation of the majority of legislative and Senate members is different from that of the President.

As regards last week's motion on the appointment of two judges to the Court of Final Appeal, the Government might not have clearly indicated whether, in making the appointments, the Chief Executive would listen to the advice of the Judiciary Service Commission only and such appointments would not be made according to his own opinion? If the Government is to follow the traditional practice in Hong Kong, where the former Governor never failed to listen to the advice of the Judicial Service Commission, I would prefer that the legislature not to have any say on this. I think that Mr LEE Wing-tat's proposal is not acceptable for such appointment may become politicized. I think that the deliberation and the vetting process has already become too politicized. If any political party is in a dominant position, then it will only endorse the appointment of Members from its party. Its main concern will not be to do a good job.

Moreover, both the Urban Renewal Authority (URA) and the HA are executive statutory bodies appointed by the executive and the Chief Executive. They should be accountable to the executive which is in turn accountable to the legislature. I think this should be the correct path and the dividing line should remain clear and distinct. It is easy for us to talk about democracy, transparency and elections, but will it be of any help to resolving the matter? I really have doubts.

The main characteristic of constitutional development in the West is the separation of powers, and that there are checks and balances in the exercise of such powers. A controls B, B controls C, and C in turn controls A. The executive, legislature and judicial authorities are separated and they have control over each other. They also encourage certain traditional virtues through flexibly written provisions. Therefore, though there are no explicit rules in the United Kingdom to provide that whenever a vote of censure or vote of no confidence is passed, the Ministers concerned must resign. But the Ministers will certainly resign, for it will be very unpleasant for them to stay on their jobs. Since there is no way that they can stay on their jobs, they should resign as soon

as possible. I think this is an important constitutional question and is as important as the motion which we are going to debate. The Government should not take this matter lightly. I propose that the URA should be accountable to the executive, which will in turn be accountable to the Legislative Council. And, this authority should not be undermined. Since the URA is going to make decisions which will have serious consequences, it is all the more important that Mr Gordon SIU, the Secretary for Planning and Lands, should be held responsible. As appointments made by the Chief Executive are based on the recommendations of the Administration, such appointments could also be terminated at any time by the Chief Executive upon the recommendation of the Administration. In this way, the most important provision in the Basic Law on the Legislative Council, and that is, that the executive authorities should be accountable to the legislature, will not be undermined. Moreover, this is the first big step towards democratic reforms. If this step has not been taken, all forms of elections will be meaningless. Without this, elections will only result in the majority overpowering the minority unless the majority is so generous as to indicate that it would not do so. But chances are, the majority can always overpower the minority. There will be no separation or diversification of power and the power will be in the hands of the majority. This is also not good for society.

Madam Chairman, I cannot support these two amendments, and I am also reluctant to support the amendment of the Government. It is because I have doubts whether such a statutory body should have a Chairman and a Managing Director or whether the Chairman should at the same time be the Managing Director. Basically, we have two different models in Hong Kong. There used to be a Chairman and Chief Executive Officer in the Kowloon-Canton Railway Corporation (KCRC), and the two posts were held by two persons. The Chairman was nominal in nature and only received a small remuneration. This is similar to the case of the HA. However, as a result of certain events, the KCRC decided to adopt the model of the Mass Transit Railway Corporation (MTRC) where the posts of Chairman and Chief Executive Officer are held by the same person. The structures of the Airport Authority and the Hospital Authority are again different. I am not sure whether the URA should adopt any one of these models? In the future, we may have to move a number of amendment bills on who should be answerable to the Legislative Council. This is really a doubtful question.

I did raise the above issues at the Bills Committee, but obviously due to the wide scope of the matter, both Members and the Secretary were not interested in discussing these issues. The Secretary only indicated that he would reconsider the matter. Since the Government has accepted the view of most Members and considered the model of having both Chairman and Managing Director in the URA as satisfactory, we will debate whether the Managing Director should also be the Deputy Chairman in the next amendment. Though this model is accepted by most Members, I must say that I agree to this arrangement only on a temporary basis for I would like to get things started. This does not mean that I think this arrangement is perfect or satisfactory. It is really confusing that we have different arrangements for different public bodies. This makes the accountability system very confusing.

So, with reluctance I support the Government's amendment. I will vote against the other two amendments. Thank you, Madam Chairman.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, I think the issue of parliamentary system, which is under discussion today, is very complicated, and it will not be easy for us to arrive at a conclusion. I do not think that it will ever work if the parliamentary system of Hong Kong is applied to the Parliaments and Congresses of other countries. It is also impossible for us to apply the model of the United States or the United Kingdom in Hong Kong, or to speak of the European model in the same breath as that of Hong Kong for their systems are very much different. I think it will be very difficult for us to compare our system to that of Western countries in terms of accountability or relationship. We often talk about democracy or the democratic system in Western countries, but I hope that we will only focus our attention on its spirit rather than concrete issues.

Today, when we discuss the composition of the Urban Renewal Authority (URA), we notice one phenomenon, and that is, members of the public have completely lost their confidence in advisory boards and statutory bodies of the past. We are aware that those boards and bodies were all appointed by the Governor in the past or the Chief Executive at present. Very often, people will have the feeling or impression that these appointments are influenced by either economic or political considerations. As a result, the decisions of these boards and bodies are often foregone conclusions. Madam Chairman, this is actually the crux of the problem. If advisory boards can only produce foregone conclusions, then what is the purpose of appointing members to these boards?

That is why we have to discuss the composition of the Board of the Urban Renewal Authority (the Board) today. We are not trying to ask these boards, authorities or similar organizations to come up with unpredictable decisions. However, it is most important that their decisions should be made with reference to public opinions. In the past, we could always foretell the decision of advisory boards. It was very rare that their decision was different from our guess. Take the Housing Authority, which we are going to talk about in the upcoming debate, for example, we can almost always foretell the result of their deliberations because they are always the same. This also applies to the Land Development Corporation, for we can always predict its decision. If that is the case, how can there be any creditability and accountability? How can these boards and bodies be accepted by members of the public? This is why there are so many problems.

Madam Chairman, I hope that today we can achieve better results. I think that both proposals of Mr LEE Cheuk-yan and Mr LEE Wing-tat are not satisfactory for we have to elect from among ourselves members to the Board. The outcome can, in fact, be biased for everyone knows that the formation of the Legislative Council, especially politically, is biased. Therefore, the four Legislative Council Members to be appointed to the Board in accordance with Mr LEE Cheuk-yan's proposal may not be able to represent public opinion in the next term. We may have to wait for a few more terms before Legislative Council Members can be truly representative. This also goes for Mr LEE Wing-tat's proposal for how could representativeness be assessed? Madam Chairman, these problems have arisen because of the nature of the Legislative Council itself. The proposals of both Members may only be the lesser evils, and I only support them because there are no other alternatives. Though I do not expect that there will be democratic elections for the boards and statutory bodies, at least Members of the Legislative Council have to be democratically elected, if the members of these bodies are to be truly representative of public opinions. Given the present composition of the Legislative Council, what is it like compared to other countries? Since Mr Andrew WONG is most familiar with the constitutional systems and parliamentary systems of other countries, I would like to ask Mr WONG which country has an election system similar to ours. The answer is no. Therefore, the amendments of the two Members are, just as the Honourable Martin LEE has often said, "like squeezing toothpaste out of the tube". It is only the lesser evils, like picking some bad oranges out of the rotten ones, but the fact remains that these are all rotten oranges, not good ones.

I think that the most ideal composition is one which is similar to that of other countries, and maybe Mr Andrew WONG can elaborate on this later. The urban renewal problem of other countries is resolved at the district council level, rather than setting up special authorities to get the work done. Unlike the situation in Hong Kong, the district councils of overseas countries are returned through direct elections, and they are responsible for handling problems at the district level. It is unlike Hong Kong in that not so many peculiar advisory boards have to be set up.

The amendments are not ideal, and I believe that nobody, not even Mr LEE Cheuk-yan and Mr LEE Wing-tat, will think that they are ideal, but I will support these two amendments.

Madam Chairman, I so submit.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, I really should not have joined in the argument for the Honourable Miss Emily LAU will also say that I am elected by a small circle of people. However, I would like to say a few words against the amendments of Mr LEE Cheuk-yan and Mr LEE Wing-tat. Though I do not totally agree with the Government's proposal, I still find it relatively acceptable.

In fact, the Hong Kong Government is quite lucky to have so many volunteers serving on its councils, committees and authorities without any remuneration. And, its success can be attributed to the work of these volunteers. So far, members of these boards have been appointed in their personal capacity. Though these appointees are also members of some organizations, it does not mean that they are appointed in this capacity, and I do not think that anyone will dispute this fact. We are also aware that there are Legislative Council Members on a number of boards, committees and advisory bodies, but very often, they have not been appointed to these bodies in their capacity of Legislative Council Members.

This issue is very simple. If Legislative Council Members are to elect among themselves members to the Board of the Urban Renewal Authority (the Board), then it will obviously lead to two problems. First of all, the Board may become politicized, and this may eventually impact on its effectiveness in operation. Secondly, if someone is appointed to the Board in his capacity as the representative of an organization, then that person will have to be accountable to



that organization. And, this may slow down the overall operation of the Board, for every time the person is asked to make a decision, he will have to consult the organization to which he belongs.

Madam Chairman, we have got a situation where Members of the Legislative Council have elected several members among ourselves to sit on the Board of the University of Hong Kong and the Chinese University of Hong Kong. However, up till now, we still have not been able to come up with an arrangement whereby these Members can be accountable to the Legislative Council or the House Committee. Some Members have suggested that these representatives should be asked to submit an annual report, but so far, we have not seen any of those reports. From this, we can see that problems will arise even if we elect members among ourselves to sit on other boards, and this is really worth considering.

I totally agree with what Mr Andrew WONG has just said. We should really clearly define the duties. I feel that there is something wrong with both amendments of Mr LEE Cheuk-yan and Mr LEE Wing-tat, and there are also problems with the Government's amendment. In fact, I have also tried to move an amendment. However, the problem is, both the Chairman and Managing Director are appointed by the Chief Executive. Since the Managing Director is not appointed by the Board, who should the Managing Director be accountable to? Should he be accountable to the Board or to the Chief Executive? How can we define the responsibilities? I think that there will be problems.

There are a number of Boards under the Government, for example, the Airport Authority (AA), the Hospital Authority and the Housing Authority (HA) and each of them has its own structure and mode of operation. In the future, the Government should decide which is the best structure, otherwise each Authority will have a different structure. For example, the structure of the AA is the same as another Authority, while the HA has a different structure. A civil servant is appointed to the HA under its present structure and its Managing Director cum Vice-Chairman is a civil servant. So, one will question whether this is a civil service or political appointment? The Hospital Authority again has a different mode of operation for the Chairman of the Hospital Authority is elected by its Board of Directors, and the Chief Executive of the Hospital Authority works under the Chairman. Therefore, the most effective solution is for the Government to unify the arrangements.

Madam Chairman, I share Mr Andrew WONG's opinion in that I think the proposal of the Government is acceptable, but I will not support the amendments of Mr LEE Wing-tat and Mr LEE Cheuk-yan. Thank you.

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

**MISS EMILY LAU** (in Cantonese): Madam Chairman, I oppose the Secretary's amendment. Actually, there is nothing wrong with the Secretary's amendment. However, if I do not oppose it, the amendments to be moved by Mr LEE Cheuk-yan and Mr LEE Wing-tat will have no chance of being passed. Although we support the Secretary's amendment, I have to oppose him due to the way things now stand.

Madam Chairman, I do not quite agree that Legislative Council Members should do everything, since they are really very busy. I think the amendment to be moved by Mr LEE Wing-tat is a very good one. While people might say this would turn into a political wrestle, it cannot be helped. Even if the officials are appointed by the Chief Executive, the whole thing might still be politicized, only it is done behind closed doors. If the Chief Executive appoints some people he likes and submits a list to the Legislative Council, we will have to accept or compromise. Why should we rack our brains to think of all this? While I believe the amendments of both Members will fail, the Secretary must not think that all problems will be resolved. Why do the two Members want to propose amendments? It is because many people — especially those who know they will be affected by redevelopment — have no confidence in the people to be appointed by the Government to the Board. After seeing the example of the Land Development Corporation (LDC), they have no confidence. Why do we need representatives of the people or directly elected Legislative Council Members? It is a question of trust. Why is it that the operation of this body has failed to win the people's trust over the years? The Secretary may be very pleased later, since the two Members' amendments will fail. However, does it mean that Hong Kong can find any answers to the problem? The Government sets up an organization and appoints people to the organization. However, many residents do not accept or trust them. As I said just now, we must all co-operate to get the job done. A first step must be made. Actually, the two Members may not necessarily lose. Madam Chairman, some people may be appointed in future

without the need for the Legislative Council's endorsement. Even though Mr LEE Wing-tat and Mr LEE Cheuk-yan may lose, the residents would applaud it.

I wonder if the Secretary has ever thought about it. In any case, he cannot evade it and should ask himself honestly why so many people came to the Legislative Council asking us to move all kinds of amendments. It is because they do not trust the existing method. As a colleague says, if the Chief Executive appoints him, does it not mean that he is only answerable to the Chief Executive? Madam Chairman, that is what the residents are worried about. Why is it that this clique of people is only accountable to the Chief Executive? This is the knot that cannot be untied as described by Ms Rosanna WONG. Even if today's amendments are negated, I believe we have to find a way to identify a group of people whom both the Government and the residents can trust. This means that the decisions of these people must be people-oriented and in the residents' interest. Perhaps the Secretary can say something to regain the residents' trust tonight. When we see the list at last, will we be able to trust them? From the past record, we can more or less say that residents will not trust them. Therefore, I do not think Mr LEE Wing-tat's amendment is better than Mr LEE Cheuk-yan's. However, I will follow Mr LEE Wing-tat's example and support Mr LEE Cheuk-yan's amendment first, before giving support to Mr LEE Wing-tat's amendment. In any case, I believe the Secretary has to face the problem.

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

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I would like to make a brief response. In regard to this issue, Mr Andrew WONG is both my friend and teacher and we have debated this matter for many years. What confuses me most is that he does like the system under which judges and important officials are appointed in the United States, neither does he like the Chinese system. As for Hong Kong, he does not like the system proposed by me and Mr LEE Cheuk-yan, and he also said that the Government's system is not good. Though he has mentioned three other systems, he still thinks that they are not good enough. I really think Mr WONG should come up with a proposal.

Madam Chairman, I think that it would be best if there is something good, a good system or opportunity which can facilitate the operation of the whole

organization, resolve the issue of the so-called division of powers, and at the same time, win the trust of the public.

Our existing system has been in operation for many years. Under such a system, statutory bodies enjoy a lot of power and the process of making appointments to these organizations lacks transparency. I believe most residents cannot accept this system. Miss Emily LAU just said that our amendments may not be carried. However, I hope that the Government will consider one issue, and that is, people who serve on these statutory bodies are not serving on charitable organizations. Very often, a person may serve on four or five statutory organizations at the same time. Frankly speaking, I agree with Miss Emily LAU that Legislative Council Members have a very heavy workload. Being a member of the Housing Authority (HA) and a Legislative Council Member, I find it hard to cope with all the work. However, in the past, some people could serve as member of the Executive Council, HA, Town Planning Board and the Land and Building Advisory Committee at the same time. These people were really very brilliant to be able to serve on so many Boards and Committees, but I really doubt whether they were able to perform their duties. It is already killing me to serve on the HA and the Building Committee, for I always have to read a large pile of documents. To be honest, if I do not have enough time, I will only read the executive summary which is only about five pages because the document can be as long as 50 pages. Though I cannot read all 50 pages of the document each time, at least I will read the executive summary before I attend the meetings. I really do not know why some people can have so much time to take up so many posts. Are they really smarter than Members of the Legislative Council or smarter than you, Madam Chairman? Really incredible. I think that they have really taken their work very lightly. I really hope that the amendment of the Government will be negated. If not, I hope that the Government can understand the following clearly: firstly, the residents hope that there will be representatives of members of the public, owners or grassroots; secondly, they hope that the composition of the Board of the Urban Renewal Authority (the Board) can be more balanced; and thirdly, the Government must find ways to increase the transparency and accountability of the Board.

I do not agree with Mr Andrew WONG that the Chairman and members of the Board should be accountable to the public through the Secretary for Planning and Lands. This theory is very pleasing to the ear but the procedure is very complicated. If those people who have extensive powers keep formulating

policies behind the scene and are not required to be accountable to the public, I do not think that they can adjust to the development of the political culture in Hong Kong.

As regards the issue of who should be accountable to whom, I would like to make a few comments. In fact, there are different responsibilities in the work of the so-called statutory bodies. Those who held certain posts may not always have to be accountable to the organization which has made the appointment. I agree with Mr Andrew WONG that the voters have not elected me because they want me to serve as a tape recorder, and to read out each of their request. I hope that they have elected me because they have trust in my political judgment. I hope they will expect that as a Legislative Council Member, I will consider their interests as well as the interests of the whole community, and that I will consider the short-term as well as long-term interests of the community. Even if as Mr LEE Cheuk-yan has proposed, four Members of the Legislative Council are elected to the Board, it does not mean that they will have to listen to the instructions of the other 59 Legislative Council Members. They are actually not required to do so, and this is also not how those who are engaged in political work or the work of statutory organizations should behave. Why should people want to elect someone who do not have independent judgment? If that is the case, then we might as well pass the Agenda over to the other 59 Legislative Council Members and ask the representative to read out the main points and summary which the other 59 Members have highlighted. If that is the case, why should the person be elected? Why can a tape-recorder not serve the same purpose? Therefore, the question of accountability is very simple. I do not think that it is complicated. I still hope that Members will vote against the Government's amendment and support mine. However, if my amendment really cannot be passed, then I hope that the Secretary for Planning and Lands, Mr Gordon SIU, can appoint another group of people. Please bear in mind that Mr Fred LI's amendment was proposed some time ago. The Secretary should be aware of the consensus in the community, and that is, the old appointment system no longer works, and the way by which members of the statutory bodies are appointed is not accepted by the public. The composition of the statutory body should be more open, more transparent and accountable. Therefore, I hope that the Secretary can exercise more caution when making appointments.

Thank you, Madam Chairman.

**MR ANDREW WONG** (in Cantonese): I think it is not difficult to have discussions with me. I often do not state all my arguments because the agenda of meeting always prevents us from discussing freely. If I explain a proposal at great length, not only government officials but also Honourable Members will not be interested. They may not have a keen interest in how every bit of it can be done nicely.

Over the years, Mr LEE Wing-tat and I have had numerous discussions on many issues. It is not that I dislike the system of the United States. In the legislature of the United States, the Senate, which is a more reasonable institution with a higher age limit for candidates, is comprised of two Senators from each state. The legislature is not in a position to make appointments or exercise control over the process and yet, politicization exists. I have not said that the system in the United Kingdom has any problem either. The most important point is that Hong Kong should implement a parliamentary or ministerial system, under which a Ministry directly under a Minister is made directly responsible for one policy area. The appointment of the Minister or the head of the Ministry must be a political appointment and therefore, the person so appointed must assume political responsibility. If we consider that under the legislative system, some areas of work should be entrusted with public bodies instead of a Ministry, then members of the Board must also be appointed by the Government or the relevant Minister, and the Board must be responsible to the Minister. In the event that mistakes are made, the Minister will dismiss some members or even the Chairman. For a body of a commercial nature, it surely does not embody equality in that the Chairman or the Director will certainly be in a higher echelon. It is totally impracticable for members of the Board to be returned by elections. This is why I have told Mr LEE Wing-tat before that there might be a transport government, an education government, a housing government, and so on. It is because everyone would claim to be elected by the people or by parliamentary assemblies. In that case, how could we possibly co-ordinate all the policies? By then, there would not be just one government, but a diversity of governments. They are not local governments, but governments responsible for different policy areas.

I do not wish to engage in debates with Members. It is indeed difficult to debate with Miss Emily LAU for she considers everything wrong. She holds that a legislature comprising 30 seats returned by functional constituencies and 10 seats by the Election Committee cannot be regarded as one returned by elections and thus not in compliance with the principle of universal and equal

suffrage. A Chief Executive not returned by direct election is also not in compliance with the principle of democracy. My point is that those people appointed by the Government must at least assume political responsibility. I think this is better than the proposal that Members shall elect representatives from among themselves to different Policy Bureaux and statutory bodies. The proposal that Members shall elect representatives from among themselves to different Policy Bureaux will result in a retrogression rather than a step forward in political development and democratization. What I have said today sounds like lectures at university. Perhaps it gives the impression that I am thinking to turn this Chamber into a lecture room in university. I beg your pardon, Madam Chairman. I hope I can exercise more self-restraint in future. I have spent some three minutes only so I have not spoken for too long. In fact, Madam Chairman, I can speak for as long as three hours.

**CHAIRMAN** (in Cantonese): Mr WONG, I hope you will not do that.

**MR ANDREW WONG** (in Cantonese): I hope Members will support the Government's amendment and oppose those of Mr LEE Cheuk-yan and Mr LEE Wing-tat.

Thank you, Madam Chairman.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam Chairman, let me comment very briefly on the issue of Chairman and Chief Executive Officer (CEO), in particular the remarks of Dr LEONG Che-hung. In fact, the Bills Committee has discussed this issue many times, therefore I am not going to repeat the arguments as a consensus has been reached. Actually, is this model better than the model of KCRC or MTRC? As a consensus has been reached, I will propose the amendment which I have promised earlier. Will there be any problem of mixing up powers and responsibility if both the Chairman and CEO are appointed by the Chief Executive? The answer is no. Although both of them are appointed by the Chief Executive, there are explicit terms in the organization defining their duties, thus their powers and responsibilities will not be mixed up.

As to whether or not the Board will be comprised of Legislative Council Members, the Chairman and Members would remember that I have made the undertaking that the Administration would recommend the Chief Executive to appoint a certain number of Legislative Council Members as members of the Board of URA. Therefore, it is positive in this aspect. However, the problem here is that the amendments proposed by the two Honourable Members will bring about an arrangement which will affect the division of labour between the executive and legislature. I do not intend to argue about the influence, as I just want to say that if the two amendments were passed, I would probably withdraw the motion at Third Reading because it is a new arrangement. I therefore implore Honourable Members to support the original amendment and oppose the two amendments proposed by the two Members.

With regard to whether or not the URA will perform its duties properly, I have undertaken that its representativeness and transparency will be enhanced. This I think will have addressed the concerns of Members to a certain extent. That is, to ensure that the performance of the new organization will be monitored, its transparency enhanced, and that it will be more impartial and perform its duties better. I therefore implore Honourable Members to support the original amendment and not to support the two amendments proposed by the two Members.

**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.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.



**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

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

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

Mr Kenneth TING, Mr David CHU, Mr HO Sai-chu, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Mr Ronald ARCULLI, Mr MA Fung-kwok, Mr HUI Cheung-ching, MR CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Gary CHENG, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK and Dr TANG Siu-tong voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr Michael HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr LAW Chi-kwong voted against the motion.

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

THE CHAIRMAN announced that there were 51 Members present, 34 were in favour of the motion and 16 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CHAIRMAN** (in Cantonese): As the amendment moved by the Secretary for Planning and Lands has been passed, Mr LEE Cheuk-yan may not move his amendments to clause 4, as they are inconsistent with the decision already taken by the Committee.

I now call upon Mr LEE Wing-tat to move his amendment.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I move that clause 4(2) be amended, as set out in the paper circularized to Members.

*Proposed amendment*

**Clause 4 (see Annex XVII)**

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

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

Mr Kenneth TING, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI ming-wah, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK 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, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG and Mr SZETO Wah voted for the motion.

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

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, four were in favour of the motion and 20 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 12 were in favour of the motion and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam Chairman, I move that clauses 4(3) and (5) be amended, as set out in the paper circularized to Members. The amendment to subclause (3) stipulates that the Managing Director of the URA, is by virtue of holding that office, the Deputy Chairman of the Board of the Authority; while the amendment to subclause (5) stipulates that the Managing Director is the administrative head of the URA. Thank you, Madam Chairman.

*Proposed amendment*

**Clause 4 (see Annex XVII)**

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

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I support this amendment but I would like to say a few words. As regards the appointment of the Managing Director, the issue has been repeatedly debated at the meetings of the Bills Committee. I hope to draw the attention of the Government to one point, and that is, members of the public and colleagues of the Legislative Council are often given the impression that the handsomely paid senior posts of statutory bodies are especially created for retired senior government officials, and people are very dissatisfied with this situation. As a matter of fact, most senior posts of similar statutory bodies were filled by retired civil servants, Policy Secretaries or Policy Secretaries who have retired early from the Government. For example, the Chief Executive posts of the Mandatory Provident Fund Schemes Authority and the newly established Hong Kong Exchanges and Clearing Limited were both filled by such persons, and they all receive high salaries. Some receive annual salaries of \$4 million to \$5 million,

while others receive salaries as high as \$10 million. A few persons, including the Secretary for Planning and Lands, have been named as possible candidates for the Chief Executive post of the new statutory body. Of course, I cannot tell whether Mr SIU will really take up this position. However, if members of the public have so many doubts, I think the Government should be more careful in handling this matter, especially when the appointment does not require the approval of the Legislative Council. If the same thing happens again, I believe the creditability of the Government will go down the drain. People will once again see that these highly paid jobs with annual salaries of \$4 million to \$5 million are tailor-made for our retired senior government officials. I do not think members of the public will support such actions.

Thank you, Madam Chairman.

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

**MISS EMILY LAU** (in Cantonese): I am totally in support of what Mr LEE has said. We must state our position clearly today, and that is, we think these posts should definitely not be tailor-made for serving or retiring senior government officers. In fact, if these people are really brilliant, they could have easily found employment in the big market out there. I trust that the Secretary is not interested in this post, but I hope he will understand that people will still be very disappointed if the post were taken up by one of his colleagues. I think it will not do any good to the creditability of the Government if the passage of this Bill were going to create some tailor-made posts for certain government officers.

**MR RONALD ARCULLI**: Madam Chairman, in regard to the view expressed by the Honourable LEE Wing-tat and the Honourable Miss Emily LAU, it is probably felt to be true in not a significant part of the community. But I think one has to be fair, when the individuals named are not here to defend themselves and when the true story of the whole picture is not told to the public. For the institutions referred to by Mr LEE Wing-tat, he knows that search committees were set up by the institutions concerned to actually identify candidates who had been interviewed and had to go through a process. So, for the two Policy Secretaries who took up those two posts, after they were retired, they have gone through the nomination and interview procedure, and obviously, a search

committee was involved. I think one has to be fair in the process. I do not know who is going to get the job, whether it is going to be a retired civil servant or a serving civil servant. But I always believe that it is always the best man or woman for the job.

Thank you.

**MR JAMES TO** (in Cantonese): Madam Chairman, actually I did not intend to speak, but after listening to what Mr Ronald ARCULLI has said, I would like to add a few words.

There was an example in the past where a Policy Secretary made a proposal to the Chief Executive to set up a Board, and a Board was eventually appointed by the Chief Executive. Though the Board did set up a search committee to search for suitable candidates, the post of Managing Director was eventually filled by the said Policy Secretary. I would like to ask whether this is justifiable? I am not saying that there must be impropriety, but from the outlook of the matter, is this fair in the eyes of the public?

Now, I am glad to learn from a number of press reports that the Secretary for Planning and Lands, Mr Gordon SIU, has indicated that he will not take up the post of the Managing Director of the Urban Renewal Authority (URA), for Mr SIU will obviously have a role to play in making recommendations to the Chief Executive regarding the suitable candidate for the job. So, how can we say that there will not be any conflict of interests and how can the public be convinced if that job were eventually taken up by the Secretary? Fortunately, Mr SIU has already told the press that he will not take the job, otherwise the situation will be similar to what happened to the abovementioned Policy Secretary.

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

**MR MARTIN LEE**: Madam Chairman, I, too, would like to make a short reply to what the Honourable Ronald ARCULLI has said. I think we have to accept that not only must justice be done, but it must be manifestly seen to be done. Our Chief Executive's popularity rating has been dropping and dropping. I do

not believe that he is actually a bad man at all. I do not believe that all his policies are bad, but that the public perception, I am afraid, is against him. That is the point that we have to take into account.

Thank you.

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

(No Member responded)

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam Chairman, let me reiterate the position of the Government and that is, whoever is appointed to this post must be the best person for the job, and the bearer of the office is selected through a series of established procedures. Therefore, though Members do have worries about the selection process, this system has, in fact, been established for some time and there are certain rules which we must follow. I hope that the opinions expressed by Members today will not affect the mentality of those who work for various statutory bodies. Though, I understand that Members' speeches were not targeted at those who work for the statutory bodies, and they are only talking about matters of public interests in general, I am afraid their opinions may insinuate to a certain extent that these persons have not undergone a selection process. Here, I would like to state clearly that the appointment and selection of each and every member will be made through a selection process, and the objective of that process is to select the best person for the job. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose 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.

### **SUSPENSION OF MEETING**

**CHAIRMAN** (in Cantonese): Honourable Members, I think this is the best time to adjourn the meeting. The Council will resume at 9.30 am tomorrow morning.

*Suspended accordingly at ten minutes to Ten o'clock.*



**Annex I****WRITTEN ANSWER****Written answer by the Secretary for the Environment and Food to Dr Raymond HO's supplementary question to Question 2**

The information on the locations of the laundries with diesel boilers operated by government departments and the Hospital Authority is now attached for Members' reference.

Locations of Laundries with diesel boilers operated by  
Correctional Services Department<sup>#</sup>

<i>Location</i>	<i>Number of diesel boilers</i>
1. Stanley Prison	3
2. Hei Ling Chau Addiction Treatment Centre	1
3. Ma Po Ping Prison	1
4. Pik Uk Prison	3
5. Tai Lam Centre for Women	2
Total:	10

Locations of Laundries with diesel boilers operated by  
Hospital Authority

<i>Location</i>	<i>Number of diesel boilers</i>
1. Alice Ho Miu Ling Nethersole Hospital	1
2. Caritas Medical Centre	1
3. Grantham Hospital	1
4. Ruttonjee Hospital	1
5. Tuen Mun Hospital	2
6. United Christian Hospital	1
7. Chai Wan Laundry	3
8. Shum Wan Laundry	3
9. Butterfly Beach Laundry	3
Total:	16

---

<sup>#</sup> Correctional Services Department is the only government department that operates laundries.

**Annex II****WRITTEN ANSWER****Translation of written answer by the Secretary for Security to Mr CHAN Wing-chan's supplementary question to Question 4**

The Immigration Department has made great efforts to simplify clearance formalities. At present, the time required for customs clearance is already very short, taking an individual traveller only ten-odd seconds to complete the relevant formalities. Our top priority in managing the Lo Wu Control Point is to ease the traveller flow. Even when the number of travellers is at its peak, we will make sure that our performance pledge is kept (that is, 92 % of the travellers can complete their clearance formalities within 30 minutes), thereby enabling people to clear customs smoothly as soon as possible. In order to meet this target, we have taken a series of measures:

- in December 1999, the departure hall at Lo Wu was completely refitted with newly-designed immigration clearance counters, resulting in an expansion of the traveller queuing areas in the hall. Moreover, the number of immigration clearance counters also increased from the original 68 to 76.
- In the meantime, the Lo Wu Control Point has been installed with contra-flow measures so that the traveller-handling capacity can be upgraded whenever the need arises. Where there appears a large number of incoming travellers, the number of immigration clearance counters processing incoming clearance for Hong Kong residents can be increased from 92 to 104; where a large crowd of outgoing travellers appears, immigration clearance counters processing outgoing clearance can be increased from 76 to 116.
- During the busy long holidays and festive days, the Lo Wu Control Point will extend the passage time for travellers according to the actual situation and need.

**WRITTEN ANSWER** — *Continued*

Upon implementation of the above measures, we have successfully expanded the traveller throughput that can be handled (where at its peak, 21 000 incoming or 22 000 outgoing travellers can be handled per hour), thus reducing the queuing time for travellers. According to the figures for January to August this year, 96.9% of the travellers completed the clearance formalities within 30 minutes. Among them, 83.2% even completed the relevant formalities within 15 minutes. In other words, our actual performance has surpassed the performance pledge of the Immigration Department.

In the long run, the Kowloon-Canton Railway Corporation has decided to construct a railway extension from Sheung Shui to Lok Ma Chau so as to ease the congestion at the Lo Wu Control Point. According to this project, the Administration will in 2004 set up at the terminal of the extension a new border control point linking Lok Ma Chau and Huanggang. It is expected that the control point can handle on average 150 000 cross-boundary travellers daily. Moreover, the Government of the Hong Kong Special Administrative Region is actively pursuing a feasibility study to see if by around 2005, a new road link connecting Guangdong and crossing Deep Bay could be built, hence joining Ngau Hom Shek in Yuen Long of North West New Territories and Shekou of Shenzhen. This "Shenzhen — Hong Kong Western Corridor" project includes the construction of a new control point.

Furthermore, the Immigration Department is actively considering simplifying cross-boundary procedures for border travellers through the application of advanced technology in order to cope with the ever-increasing number of travellers. This includes the consideration of applying the smart card and biometrics identification technology to the traveller clearance automation scheme so that traveller throughput can be expanded and manpower resources can be more efficiently utilized.

**Annex III****WRITTEN ANSWER****Translation of written answer by the Secretary for Security to Mr TAM Yiu-chung's supplementary question to Question 4**

As no traveller is required to disclose his purpose in making his cross-boundary trip on passing the Immigration Department's kiosk, it is impossible to identify from the solitary and superficial cross-boundary information which of the Hong Kong people are going back to the Mainland for residence. In order to make an estimation in this respect, one of the ways is to conduct systematic statistical surveys on travellers at the various crossings. From October to November 1999, the Planning Department conducted a "Cross-boundary Travel Survey" at the various control points to collect detailed information on cross-boundary travel, including information on the mode of cross-boundary travel and the socio-economic characteristics of cross-boundary travellers. According to the findings of the statistical survey, about 51 000 people of Hong Kong domiciled in the Mainland have returned to Hong Kong during the survey period. Their main purposes being returning to Hong Kong for work or visiting relatives. What has to be emphasized is that this figure is insufficient to reflect the comprehensive picture of Hong Kong people residing in the Mainland because those Hong Kong people who reside in the Mainland but have not returned to Hong Kong during the survey period have not been included.

Moreover, the Census and Statistics Department has used the unidentified immigration information of the Immigration Department to analyse the state of residence and flow of the people so as to compile the figure on "Hong Kong resident population". The analysis shows that by the end of 1999, three types of people always stay in the Mainland who probably have their regular residence in the Mainland. Details of which are as follows:

- (i) about 56 000 persons staying five to six days each week in the Mainland and staying regularly in Hong Kong during the weekends;
- (ii) about 72 000 persons staying for a major proportion of time in the Mainland (or Macao) and returning to Hong Kong from time to time; and

**WRITTEN ANSWER** — *Continued*

- (iii) about 7 000 elderly persons (aged 60 or above) staying for a major proportion of time in the Mainland (or Macao).

However, the above figure has not included those Hong Kong people who stay in the Mainland for a long period of time, making only short stays in Hong Kong.

**Annex IV****ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Transport

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting subclause (2) and substituting -  "(2) This Ordinance shall come into operation on 1 October 2000."
Part IV	(a) In the heading, by adding "AND ITS SUBSIDIARY LEGISLATION" after "ORDINANCE".  (b) By adding after the heading -  <b>"Fixed Penalty (Criminal Proceedings) Ordinance".</b>
New	By adding in Part IV -  <b>"Fixed Penalty (Criminal Proceedings) Regulations"</b>

**13A. Schedule amended**

The Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg.) is amended in Form 1, in the List of Offences and Fixed Penalty, after the heading "*Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.)*" by adding -

ClauseAmendment Proposed

- "33A. Driving a vehicle Regulation \$450  
without a "P" plate 12K(1)
- 33B. Failing to comply Regulation \$450".  
with restriction 12K(2)  
on carrying  
passengers

**Annex V****ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2000****COMMITTEE STAGE**Amendments to be moved by the Honourable LAU Kong-wah

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting paragraph (a).
4	By deleting paragraph (a).
6	(a) By deleting paragraph (a). (b) In paragraph (b), by deleting subparagraphs (i) and (iii).



## ROAD TRAFFIC LEGISLATION (AMENDMENT) BILL 2000

**COMMITTEE STAGE**

Amendments to be moved by the Honourable Mrs Miriam LAU Kin-ye, JP

<u>Clause</u>	<u>Amendment Proposed</u>
---------------	---------------------------

4	By deleting paragraph (a).
---	----------------------------

6	By deleting paragraph (b)(iii).
---	---------------------------------

**Annex VI****EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 2000****COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
6	In the proposed section 6E(6), by deleting "法定" and substituting "合法".
13	In the proposed section 24(1A), by deleting "was" and substituting "were".
New	By adding -  <b>"14A. Remedies independently of Ordinance against employer</b>  Section 26(1) is amended, in the proviso, by repealing "to an employee" and substituting "against an employer".
15	By deleting everything after "repealing" and substituting ""personal representative or dependant" and substituting "legal personal representative or member of his family".
26	In the proposed Sixth Schedule, in the second column, by deleting "16,000" and substituting "35,000".

**Annex VII****ADAPTATION OF LAWS (NO. 2) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 1, section 7	By deleting the section.
Schedule 3	By deleting the Schedule.
Schedule 5, section 4	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 6, section 4	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 7, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 8, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

ClauseAmendment Proposed

Schedule 9, By deleting everything after "Central" and substituting  
section 3 "Authorities or the Government of the Hong Kong Special  
Administrative Region under the Basic Law and other laws".

Schedule 11, By deleting everything after "Central" and substituting  
section 3 "Authorities or the Government of the Hong Kong Special  
Administrative Region under the Basic Law and other laws".

**Annex VIII**

## ADAPTATION OF LAWS (NO. 19) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 1, section 5	By deleting everything after "repealing" and substituting ""Governor" and substituting "Chief Executive".
Schedule 1, section 6	By deleting everything after "repealing" and substituting ""Governor" and substituting "Chief Executive".
Schedule 7, section 9	By deleting paragraph (a).
Schedule 8, section 7	By deleting paragraph (a).

**Annex IX**

## ADAPTATION OF LAWS (NO. 32) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and ManpowerClauseAmendment Proposed

Schedule 22    By deleting section 15.

**Annex X**

## ADAPTATION OF LAWS (NO. 33) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 7, section 1	By deleting paragraph (c).
Schedule 8, section 9	By deleting paragraph (a).
Schedule 9, section 9	By deleting paragraph (a).
Schedule 10	(a) In section 2(b), by deleting everything after "repealing" and substituting "'Governor" and substituting "Chief Executive".  (b) By deleting section 11.

**Annex XI****DUTIABLE COMMODITIES (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) By renumbering the clause as clause 2(1).</p> <p>(b) By adding -</p> <p style="padding-left: 40px;">"(2) Section 6(4) is repealed and the following substituted -</p> <p style="padding-left: 80px;">"(4) Any regulation made by the Chief Executive in Council -</p> <p style="padding-left: 120px;">(a) on the matter stated in subsection (1)(i); or</p> <p style="padding-left: 120px;">(b) in exercise of the powers conferred by subsection (3),</p> <p style="padding-left: 40px;">shall be subject to the approval of the Legislative Council."."</p>
3	<p>(a) By renumbering the clause as clause 3(1).</p> <p>(b) By adding -</p> <p style="padding-left: 40px;">"(2) Section 17(4) is amended by repealing "No" and substituting "Subject to section 64A, no"."</p>



<u>Clause</u>	<u>Amendment Proposed</u>
---------------	---------------------------

4	By deleting paragraph (b).
---	----------------------------

New	By adding -
-----	-------------

**"5A. Section added**

The following is added before section 46A -

**"46AA. Disqualification order for  
hydrocarbon oil offences**

(1) This section applies to any offence

-

(a) under section 17(1) or (6) in  
respect of hydrocarbon oil;  
or

(b) under regulation 5A, 5B or  
9 of the Dutiable  
Commodities (Marking and  
Colouring of Hydrocarbon  
Oil) Regulations (Cap. 109  
sub. leg.),

if the person concerned commits the offence in respect of hydrocarbon oil in the fuel tank of a vehicle used by the person or if the person concerned uses a vehicle in the course of commission of the offence. An offence to which this section applies is referred to in this section as a "relevant offence".

ClauseAmendment Proposed

(2) The court or magistrate, on convicting a person of a relevant offence, shall order the person to be disqualified for a period of -

- (a) 6 months, if the person has one previous conviction of any relevant offence;
- (b) not less than 6 months, if the person has two or more previous convictions of any relevant offences,

whether the present and previous convictions relate to offences under the same provision or under two or more different provisions referred to in subsection (1). This subsection does not apply to a previous conviction of an offence that was committed before the commencement of section 5A of the Dutiable Commodities (Amendment) Ordinance 1999 ( of 1999).

(3) An order of disqualification under this section may be taken into account in determining any other penalty for the offence.

(4) The court or magistrate may deal with an offence as a first offence if a period of 5 years has elapsed since the person's last conviction of any relevant offence.

(5) If satisfied that there are special reasons for doing so, the court or magistrate may order that a person to which subsection (2) applies to be disqualified for a period shorter than 6 months or that the person not be disqualified.

ClauseAmendment Proposed

(6) The following provisions apply to disqualification under this section as they apply to disqualification under the Road Traffic Ordinance (Cap. 374), namely -

(a) (i) section 44 (offence of obtaining licence, or driving, while disqualified);

(ii) section 71 (notification and effect of, and appeal against, disqualification);

(iii) section 72 (removal of disqualification) (except that a reference in subsection (5) of that section to the Commissioner of Police shall be treated as a reference to the Commissioner of Customs and Excise); and

(iv) section 111 (forgery of documents),

of the Road Traffic Ordinance (Cap. 374); and

ClauseAmendment Proposed

- (b) (i) regulation 6  
(restrictions on issue  
of driving licences);
- (ii) regulation 10  
(applications for full  
driving licences);
- (iii) regulation 12B  
(application to take a  
motor cycle driving  
test);
- (iv) regulation 31  
(application to take a  
driving test);
- (v) regulation 35  
(procedure on  
disqualification);
- (vi) regulation 37  
(visiting drivers from  
abroad);
- (vii) regulation 38  
(application of other  
provisions to visiting  
drivers);
- (viii) regulation 39 (record  
of driving licences  
and permits);
- (ix) regulation 45  
(appeals); and

ClauseAmendment Proposed

(x) the Seventh Schedule  
(particulars of  
record),

of the Road Traffic (Driving  
Licences) Regulations (Cap.  
374 sub. leg.).

(7) The power to order  
disqualification under this section does not affect the  
power to order disqualification under any other  
Ordinance.

(8) In any proceedings for a relevant  
offence, a certificate stating -

(a) that the person named in it  
was convicted of the  
relevant offence specified in  
it and whether the person  
committed the offence in  
respect of hydrocarbon oil  
in the fuel tank of a vehicle  
used by the person or the  
person concerned used a  
vehicle in the course of  
commission of the offence;

(b) the date on which the  
person was so convicted;  
and

(c) the date of the commission  
of that offence,

ClauseAmendment Proposed

and purporting to be signed by or on behalf of the Commissioner shall be admitted in evidence for the purpose of this section on its production without further proof; and -

- (i) until the contrary is proved, the court or magistrate shall presume that the certificate is so signed; and
- (ii) the certificate shall be prima facie evidence of the facts stated therein.

(9) In this section -

"disqualified" (取消駕駛資格) means disqualified from holding or obtaining a driving licence;

"driving licence" (駕駛執照) means a driving licence issued under the Road Traffic Ordinance (Cap. 374);

"special reasons" (特別理由) means -

- (a) special reasons that relate to the offence; or
- (b) in exceptional circumstances, special reasons that relate to the offender or to such other circumstance as the court or magistrate may consider relevant. ". "

ClauseAmendment Proposed

- 7 By deleting the proposed section 64A(2)(c)(i) and substituting -
- "(i) is stored in sealed containers marked legibly the words "Home Brewed, Not for Sale" or "家中自釀，不得售賣" or words to the same effect; or".
- 9 (a) By renumbering the clause as clause 9(1).
- (b) By deleting subclause (1)(a) and substituting -
- "(a) by repealing paragraph (e) and substituting -
- "(e) goods, other than alcoholic liquor or tobacco, imported of their own use and in their baggage by passengers or crew members of any ship, aircraft, train or vehicle in such quantities as the Commissioner may, by notice published in the Gazette, determine;"
- (c) In subclause (1)(b), in the proposed regulation 12(1)(ea)(ii), by deleting "may determine and publish in the Gazette" and substituting "may, by notice published in the Gazette, determine".
- (d) In subclause (1)(c), by deleting the proposed regulation 12(1)(ga)(iii)(A), and substituting -
- "(A) stored in sealed containers marked legibly the words "Home Brewed, Not for Sale" or "家中自釀，不得售賣" or words to the same effect; or".

ClauseAmendment Proposed

(e) By adding -

"(2) Regulation 12 is amended by adding -

"(1A) For the avoidance of doubt, it is declared that a notice under subregulation (1)(e) or (ea)(ii) is subsidiary legislation."."



## Annex XII

SECURITIES AND FUTURES LEGISLATION (PROVISION OF  
FALSE INFORMATION) BILL 2000

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Financial Services

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting everything after "on" and substituting "17 July 2000."
2	By deleting the proposed section 56A and substituting -

**"56A. Provision of false information**

(1) A person commits an offence if he, in purported compliance with a requirement to provide information imposed by or under any of the relevant Ordinances, provides to the Commission any information that is false or misleading in a material particular and he -

- (a) knows it to be false or misleading in a material particular; or
- (b) is reckless as to whether it is false or misleading in a material particular.

(2) Subsection (1) shall not apply if, in relation to a provision of any of the relevant Ordinances by or under which a requirement to provide any information is imposed, there is a provision in that Ordinance making it an offence for a person to provide any false or misleading information in purported compliance with the requirement or a provision to similar effect.

ClauseAmendment Proposed

(3) Subject to subsection (4), a person commits an offence if he, in circumstances other than those mentioned in subsection (1), provides to the Commission a record or other document that is false or misleading in a material particular and -

(a) either -

(i) he knows it to be false or misleading in a material particular; or

(ii) he is reckless as to whether it is false or misleading in a material particular; and

(b) the record or other document is provided in connection with the performance of a function of the Commission under this Ordinance; and

(c) he has, in relation to the provision of the record or other document, received prior written warning from the Commission to the effect that provision of false or misleading information shall render him liable for prosecution for an offence under this subsection.

(4) In the prosecution of an offence under subsection (3), the prosecution shall, in addition to any other matters it is required to prove to obtain a conviction for that offence, also be required to prove for such conviction that -

ClauseAmendment Proposed

- (a) the Commission has reasonably relied on the record or other document to which the offence relates (but it shall not be necessary to prove that any person has been misled or has suffered any detriment or incurred any loss as a result of the reliance); or
- (b) the defendant intended that the Commission rely on the record or other document."

3 In the proposed section 61(4), by deleting "56A(2)" and substituting "56A(3)".

5 In the proposed section 109A -

- (a) by deleting subsections (1) to (4) and substituting -

"(1) A person commits an offence if he, in purported compliance with a requirement to provide information imposed by or under this Ordinance or any other enactment, provides to the Exchange Company any information that is false or misleading in a material particular and he -

- (a) knows it to be false or misleading in a material particular; or

ClauseAmendment Proposed

- (b) is reckless as to whether it is false or misleading in a material particular.

(2) Subsection (1) shall not apply if, in relation to a provision of this Ordinance or any other enactment by or under which a requirement to provide any information is imposed, there is a provision in this Ordinance or in that enactment (as the case may be) making it an offence for a person to provide any false or misleading information in purported compliance with the requirement or a provision to similar effect.

(3) Subject to subsection (4), a person commits an offence if he, in circumstances other than those mentioned in subsection (1), provides to the Exchange Company a record or other document that is false or misleading in a material particular and

-

- (a) either -

- (i) he knows it to be false or misleading in a material particular; or
- (ii) he is reckless as to whether it is false or misleading in a material particular; and

ClauseAmendment Proposed

- (b) the record or other document is provided in connection with the performance of a function of the Exchange Company under this Ordinance or any other enactment; and
- (c) he has, in relation to the provision of the record or other document, received prior written warning from the Exchange Company to the effect that provision of false or misleading information shall render him liable for prosecution for an offence under this subsection.

(4) In the prosecution of an offence under subsection (3), the prosecution shall, in addition to any other matters it is required to prove to obtain a conviction for that offence, also be required to prove for such conviction that -

- (a) the Exchange Company has reasonably relied on the record or other document to which the offence relates (but it shall not be necessary to prove that any person has been misled or has suffered any detriment or incurred any loss as a result of the reliance); or

ClauseAmendment Proposed

- (b) the defendant intended that the Exchange Company rely on the record or other document.

(4A) In this section, "record or other document" (紀錄或其他文件) has the same meaning as in section 2(1) of the Securities and Futures Commission Ordinance (Cap. 24).";

- (b) in subsection (5)(b), by deleting "subsection (2)" and substituting "subsection (3)".

7

In the proposed section 38A -

- (a) by deleting subsections (1) to (4) and substituting -

"(1) A person commits an offence if he, in purported compliance with a requirement to provide information imposed by or under this Ordinance or any other enactment, provides to the Exchange Company any information that is false or misleading in a material particular and he -

- (a) knows it to be false or misleading in a material particular; or
- (b) is reckless as to whether it is false or misleading in a material particular.

ClauseAmendment Proposed

(2) Subsection (1) shall not apply if, in relation to a provision of this Ordinance or any other enactment by or under which a requirement to provide any information is imposed, there is a provision in this Ordinance or in that enactment (as the case may be) making it an offence for a person to provide any false or misleading information in purported compliance with the requirement or a provision to similar effect.

(3) Subject to subsection (4), a person commits an offence if he, in circumstances other than those mentioned in subsection (1), provides to the Exchange Company a record or other document that is false or misleading in a material particular and

-

(a) either -

(i) he knows it to be false or misleading in a material particular; or

(ii) he is reckless as to whether it is false or misleading in a material particular; and

(b) the record or other document is provided in connection with the performance of a function of the Exchange Company

ClauseAmendment Proposed

under this Ordinance or  
any other enactment; and

- (c) he has, in relation to the provision of the record or other document, received prior written warning from the Exchange Company to the effect that provision of false or misleading information shall render him liable for prosecution for an offence under this subsection.

(4) In the prosecution of an offence under subsection (3), the prosecution shall, in addition to any other matters it is required to prove to obtain a conviction for that offence, also be required to prove for such conviction that -

- (a) the Exchange Company has reasonably relied on the record or other document to which the offence relates (but it shall not be necessary to prove that any person has been misled or has suffered any detriment or incurred any loss as a result of the reliance); or



ClauseAmendment Proposed

- (b) the defendant intended that the Exchange Company rely on the record or other document.

(4A) In this section, "record or other document" (紀錄或其他文件) has the same meaning as in section 2(1) of the Securities and Futures Commission Ordinance (Cap. 24).";

- (b) in subsection (5)(b), by deleting "subsection (2)" and substituting "subsection (3)".

8

In the proposed section 15A -

- (a) by deleting subsections (1) to (4) and substituting -

"(1) A person commits an offence if he, in purported compliance with a requirement to provide information imposed by or under this Ordinance or any other enactment, provides to a recognized clearing house any information that is false or misleading in a material particular and he -

- (a) knows it to be false or misleading in a material particular; or
- (b) is reckless as to whether it is false or misleading in a material particular.

ClauseAmendment Proposed

(2) Subsection (1) shall not apply if, in relation to a provision of this Ordinance or any other enactment by or under which a requirement to provide any information is imposed, there is a provision in this Ordinance or in that enactment (as the case may be) making it an offence for a person to provide any false or misleading information in purported compliance with the requirement or a provision to similar effect.

(3) Subject to subsection (4), a person commits an offence if he, in circumstances other than those mentioned in subsection (1), provides to a recognized clearing house a record or other document that is false or misleading in a material particular and -

(a) either -

(i) he knows it to be false or misleading in a material particular; or

(ii) he is reckless as to whether it is false or misleading in a material particular; and

(b) the record or other document is provided in connection with the performance of a function of the recognized clearing

ClauseAmendment Proposed

house under this Ordinance  
or any other enactment;  
and

- (c) he has, in relation to the provision of the record or other document, received prior written warning from the recognized clearing house to the effect that provision of false or misleading information shall render him liable for prosecution for an offence under this subsection.

(4) In the prosecution of an offence under subsection (3), the prosecution shall, in addition to any other matters it is required to prove to obtain a conviction for that offence, also be required to prove for such conviction that -

- (a) the recognized clearing house has reasonably relied on the record or other document to which the offence relates (but it shall not be necessary to prove that any person has been misled or has suffered any detriment or incurred any loss as a result of the reliance); or

ClauseAmendment Proposed

- (b) the defendant intended that the recognized clearing house rely on the record or other document.

(4A) In this section, "record or other document" (紀錄或其他文件) has the same meaning as in section 2(1) of the Securities and Futures Commission Ordinance (Cap. 24).";

- (b) in subsection (5)(b), by deleting "subsection (2)" and substituting "subsection (3)".

10

In the proposed section 17A -

- (a) by deleting subsections (1) to (4) and substituting -

"(1) A person commits an offence if he, in purported compliance with a requirement to provide information imposed by or under this Ordinance or any other enactment, provides to a recognized exchange controller any information that is false or misleading in a material particular and he -

- (a) knows it to be false or misleading in a material particular; or
- (b) is reckless as to whether it is false or misleading in a material particular.

ClauseAmendment Proposed

(2) Subsection (1) shall not apply if, in relation to a provision of this Ordinance or any other enactment by or under which a requirement to provide any information is imposed, there is a provision in this Ordinance or in that enactment (as the case may be) making it an offence for a person to provide any false or misleading information in purported compliance with the requirement or a provision to similar effect.

(3) Subject to subsection (4), a person commits an offence if he, in circumstances other than those mentioned in subsection (1), provides to a recognized exchange controller a record or other document that is false or misleading in a material particular and -

(a) either -

(i) he knows it to be false or misleading in a material particular; or

(ii) he is reckless as to whether it is false or misleading in a material particular; and

(b) the record or other document is provided in connection with the performance of a function of the recognized exchange

ClauseAmendment Proposed

controller under this Ordinance or any other enactment; and

- (c) he has, in relation to the provision of the record or other document, received prior written warning from the recognized exchange controller to the effect that provision of false or misleading information shall render him liable for prosecution for an offence under this subsection.

(4) In the prosecution of an offence under subsection (3), the prosecution shall, in addition to any other matters it is required to prove to obtain a conviction for that offence, also be required to prove for such conviction that -

- (a) the recognized exchange controller has reasonably relied on the record or other document to which the offence relates (but it shall not be necessary to prove that any person has been misled or has suffered any detriment or incurred any loss as a result of the reliance); or

ClauseAmendment Proposed

- (b) the defendant intended that the recognized exchange controller rely on the record or other document.

(4A) In this section, "record or other document" (紀錄或其他文件) has the same meaning as in section 2(1) of the Securities and Futures Commission Ordinance (Cap. 24).";

- (b) in subsection (5)(b), by deleting "subsection (2)" and substituting "subsection (3)".

**Annex XIII****ADAPTATION OF LAWS (NO. 16) BILL 1998****COMMITTEE STAGE**Amendments to be moved by the Secretary for Home AffairsClauseAmendment Proposed

2

By deleting the clause and substituting -

**"2. Commencement**

(1) (a) This Ordinance, except as provided in paragraph (b), shall be deemed to have come into operation on 1 July 1997.

(b) Sections 33, 34, 39, 40, 41, 42 and 46 of Schedule 3 shall be deemed to have come into operation on 1 January 2000, which is the date appointed for the commencement of the Provision of Municipal Services (Reorganization) Ordinance (Cap. 552).

(2) Subsection (1) shall be subject to Article 12 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).".

Schedule 3 By deleting sections 7, 8, 13, 16 to 18 and 20.

Schedule 3, By deleting "where it twice appears".  
section 22



<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 3	By deleting sections 23, 28, 31 and 32.
Schedule 3, section 33	<p>(a) In the subheading before the section, by deleting "<b>(Urban Council) Bylaws</b>" and substituting "<b>Regulation</b>".</p> <p>(b) By deleting "Bylaw" and substituting "Section".</p> <p>(c) By deleting "(Urban Council) Bylaws" and substituting "Regulation".</p>
Schedule 3, section 34	<p>(a) In the subheading before the section, by deleting "<b>By-laws</b>" and substituting "<b>Regulation</b>".</p> <p>(b) By deleting "By-law" and substituting "Section".</p> <p>(c) By deleting "By-laws" and substituting "Regulation".</p>
Schedule 3, section 35	<p>(a) By deleting the subheading before the section.</p> <p>(b) By deleting the section.</p>
Schedule 3	<p>(a) By deleting the subheading before section 36.</p> <p>(b) By deleting sections 36 to 38.</p>
Schedule 3, section 39	<p>(a) In the subheading before the section, by deleting "<b>(Urban Council) By-laws</b>" and substituting "<b>Regulation</b>".</p> <p>(b) By deleting "By-law" and substituting "Section".</p> <p>(c) By deleting "(Urban Council) By-laws" and substituting "Regulation".</p>

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 3, sections 40 and 41	By deleting "By-law" and substituting "Section".
Schedule 3, section 42	(a) In the subheading before the section, by deleting " <b>(Regional Council) Bylaws</b> " and substituting " <b>Regulation</b> ".  (b) By deleting "Bylaw" and substituting "Section".  (c) By deleting "(Regional Council) Bylaws" and substituting "Regulation".
Schedule 3, section 43	(a) By deleting the subheading before the section.  (b) By deleting the section.
Schedule 3	(a) By deleting the subheading before section 44.  (b) By deleting sections 44 and 45.
Schedule 3, section 46	(a) In the subheading before the section, by deleting " <b>(Urban Council) Bylaws</b> " and substituting " <b>Regulation</b> ".  (b) By deleting "Bylaw" and substituting "Section".  (c) By deleting "(Urban Council) Bylaws" and substituting "Regulation".
Schedule 4, section 2	By deleting "in Council".

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 6, section 11	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 7, section 10	By deleting the section.
Schedule 11, section 2(b)	By deleting "in Council".
Schedule 12, section 7	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 14, section 1(b)	By deleting "in Council".
Schedule 14, Section 11	By deleting paragraph (a).

**Annex XIV****ADAPTATION OF LAWS (NO. 16) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Health and WelfareClauseAmendment Proposed

Schedule 10 By deleting section 1.

Schedule 10, By adding "of the Smoking (Public Health) Ordinance (Cap.  
section 2 371)" after "18(1)".

Schedule 11 By deleting section 6.

Schedule 13 By deleting section 8.

## Annex XV

## ADAPTATION OF LAWS (NO. 34) BILL 1999

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic Services

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 8	(a) In the heading, by deleting "AND ITS SUBSIDIARY LEGISLATION".
	(b) By deleting the subheading " <b>Hongkong and Kowloon Wharf and Godown Company Limited (By-laws) Ordinance</b> ".
	(c) By deleting the subheading " <b>Hong Kong and Kowloon Wharf and Godown Company Limited By-laws</b> ".
	(d) By deleting section 2.

**Annex XVI****ADAPTATION OF LAWS (NO. 11) BILL 1998****COMMITTEE STAGE**Amendments to be moved by the Secretary for Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
---------------	---------------------------

Schedule 1, section 1(c)	By deleting "in Council".
-----------------------------	---------------------------

Schedule 1, section 10	By deleting paragraph (a).
---------------------------	----------------------------

**Annex XVII****URBAN RENEWAL AUTHORITY BILL****COMMITTEE STAGE**Amendments to be moved by the Secretary for Planning and LandsClauseAmendment Proposed

4

(a) By deleting subclause (1) and substituting -

"(1) There shall be established a Board to be named the Board of the Urban Renewal Authority comprised of the following members -

- (a) a Chairman of the Board of the Authority ("the Chairman"), who is at the same time a non-executive director and is not a public officer;
- (b) a Managing Director of the Authority ("the Managing Director"), who is at the same time an executive director and is not a public officer;
- (c) 2 other executive directors, not being public officers;
- (d) not less than 7 other non-executive directors, not being public officers; and
- (e) 4 other non-executive directors who are public officers."

ClauseAmendment Proposed

- (b) By deleting subclause (3) and substituting -

"(3) The Managing Director is, by virtue of holding that office, the Deputy Chairman of the Board of the Authority."

- (c) By deleting subclause (5) and substituting -

"(5) The Managing Director is the administrative head of the Authority. Together with the other executive directors, the Managing Director is responsible, subject to the direction of the Board of the Authority, for administering the affairs of the Authority and, subject to that direction, has such other responsibilities as may be assigned by the Board of the Authority."



## URBAN RENEWAL AUTHORITY BILL

**COMMITTEE STAGE**

Amendments to be moved by the Honourable James TO Kun-sun

Clause

Amendment Proposed

1

By adding -

"(3) Any notice made under subsection (2) shall be subject to the approval of the Legislative Council."

## URBAN RENEWAL AUTHORITY BILL

**COMMITTEE STAGE**Amendments to be moved by the Honourable LEE Wing-tatClauseAmendment Proposed

4

(a) By deleting subclause (2) and substituting -

"(2) The Chairman and all non-executive directors who are not public officers shall be appointed by the Chief Executive by order in the Gazette.

(2A) No order shall be made under subsection (2) unless a draft of it has been laid before and approved by resolution of the Legislative Council, and section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply in relation to any such order.

(2B) Any order made under subsection (2) shall contain the names of all persons to be appointed to the Board of the Authority on the same day.

(2C) The Managing Director, the 2 other executive directors and the 4 non-executive directors who are public officers shall be appointed by the Chief Executive.

(2D) All members of the Board of the Authority shall be appointed for a term not exceeding 3 years."