

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 November 1999

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

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

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

THE HONOURABLE 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 AMBROSE CHEUNG WING-SUM, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

MEMBERS ABSENT:

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

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

THE HONOURABLE LAW CHI-KWONG, J.P.

PUBLIC OFFICERS ATTENDING:

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

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 ECONOMIC SERVICES

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

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

CLERKS IN ATTENDANCE:

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

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation	<i>L.N. No.</i>
Immigration (Amendment) Regulation 1999	273/99
Estate Agents (Licensing) (Amendment) Regulation 1999	274/99
Designation of Museums (Amendment) (No. 2) Order 1999.....	275/99
Legal Practitioners (Fees) (Amendment) Rules 1999.....	276/99

Other Papers

- No. 29 — Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 1999
- No. 30 — Report No. 33 of the Director of Audit on the results of value for money audits — October 1999
- No. 31 — Sir Edward Youde Memorial Fund
Report of the Board of Trustees for the period 1 April 1998 to 31 March 1999
- No. 32 — Secretary for Home Affairs Incorporated
Statement of Accounts for the year ended 31 March 1999
- No. 33 — Accounts of the Government for the year ended 31 March 1999

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Refund of Octopus Card Deposits

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

- (a) *whether it knows if the company responsible for managing the Octopus system plans to refund the deposits collected from the Octopus card holders; if not, of the reasons for that; and*
- (b) *of the reasons for not regulating the collection of the deposits by the company; whether it has assessed if the company's principal income, as derived from the levy payable by the relevant transport operators on the basis of the number of Octopus transactions, will enable the company to be financially capable of refunding the Octopus card deposits to the public?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, Creative Star Limited (CSL) is a private company set up by a group of public transport operators for the development and promotion of Octopus, a common public ticketing system which enables passengers to use one card for travelling on different modes of public transport. To date, about four million trips are made daily by commuters using Octopus.

The \$50 deposit has two components. The first component of \$30 is to cover the cost of each Octopus card. The remaining component of \$20 is to allow for a negative value which enables passengers to complete their last trip even when the remaining value of the card prior to the last journey is less than the required fare. The deposit is therefore required to protect the CSL against the loss of cards or against passengers discarding their Octopus cards after incurring a negative value. Given the present daily volume of Octopus transactions and the growing popularity of the card, the CSL could suffer huge financial losses if there is no deposit.

The CSL is currently being run as a non-profit-making operation. The main source of revenue is derived from the transaction fees charged on an "at-cost" basis to the public transport operators. All the income of the CSL, including the modest interest earnings (\$14.4 million in 1998) generated from the deposits have been ploughed back into the operation and the development of the Octopus system. The transaction fees chargeable to public transport operators will have to be raised drastically if sufficient surplus were to be generated to cover losses from negative value from the four million daily transactions and cards costs. These additional transaction fees will eventually be reflected in higher fares. This will be unfair as rule abiding passengers will have to pay higher fares to cross-subsidize the costs of cards and negative value lost by some commuters throwing away their Octopus cards.

We do not see the need to regulate the Octopus deposit at this stage as:

- (a) there is a practical and justified need for the deposit;
- (b) the level of deposit is reasonable; and
- (c) passengers are free to get a full refund any time they want by returning the Octopus card.

MR LAU KONG-WAH (in Cantonese): *Madam President, the CSL has actually been collecting deposits and also a rebate from the companies concerned. Under such circumstances of a double generation of income, the interest incurred alone would amount to more than \$10 million each year. So when the Secretary says that the CSL operates on a non-profit-making basis, it does not strike me as being convincing at all. With the increase in the number of Octopus cards issued, the cost per card issued will certainly be reduced, will the Transport Bureau consider imposing any regulation on this and urging the CSL to reduce the amount of deposit required or even refund the deposits so collected?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, most of the proceeds of the operations undertaken by the CSL in fact come from the transaction fees on fares paid by passengers each time when they use the Octopus card. This accounts for more than 75% of the company's income. As for the so-called interests generated from the deposits taken, though the amount is more than \$10 million in 1998, it only accounts for some 10% of the total income of the CSL. In circumstances as these, its interest income from the deposits will certainly not be enough in meeting the needs of the overall operation of the company.

Just now the Honourable Member asked whether the cost of Octopus cards would fall as the number of passengers rose. The CSL is a non-profit-making company. By being non-profit-making, it means that its income will be ploughed back into the development of its system and no dividends will be paid. Should the above-mentioned situation happen, there is of course a drop in costs. At that time those who benefit will be the users and no one else.

MR LAU KONG-WAH (in Cantonese): *Madam President, I was asking the Secretary whether the amount of deposit required would be lowered when costs were reduced. He has not answered this question.*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the so-called fall in costs may be a fall in the operation costs of the company. However, since an Octopus card costs \$30, I fail to see how its costs can be lowered. As for the negative value for the last trip made by passengers, a value of \$20 is insufficient to cover in full the negative value incurred by the fare for the longest trip that can be taken. We know that the fare for the longest trip made on the Mass Transit Railway (MTR) costs \$23, the fare for the longest trip on the Kowloon-Canton Railway (KCR) costs is \$33 which is even more. So if we charge \$20 to allow for the negative value, we are just trying to make up for the possible losses. If a negative value is incurred, it will serve as a minimum protection.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, in the third paragraph of his main reply, the Secretary mentions that interest earnings generated from deposits amounted to \$14 million per year. I believe that should not be a modest sum because it means an income of \$40,000 daily. Then the Secretary said that the deposit charged for a card was to cover losses from negative value. How much precisely is that negative value? What is the total amount incurred from losses in negative value every year? Besides, will the authorities urge the CSL to lift the deposit payable by all passengers, or failing that, lift that for senior citizens? It is because senior citizens are eligible for half-fare concessions when they use many different modes of transport, but they have to pay the \$50 of deposit in full for Octopus cards. Would the Government discuss with the CSL on the issue of deposits payable by senior citizens?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, take the example of the \$14 million or so interest from deposits for 1998, when we take the four million daily transactions and losses of negative value by, say, 8%, of some commuters who throw away their cards with negative value, the loss so incurred would be great enough to offset interest earnings of \$14 million over the past year. Therefore, interest earnings are not sufficient to cope with the negative value problem. The proposal made by Mr LAU not to levy any deposit is hence not practicable.*

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has not answered my question. He has just given an answer to a hypothetical question, but that is not what I asked. I was asking how much negative value there is for a year and whether the requirement to pay a deposit would be lifted for senior citizens?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, I do not have any figures for the entire year. As for the daily figures, the four million transactions on the Octopus cards are most made by commuters using the MTR and the KCR. If we look at the figures for the MTR and the KCR, when there are some 50 000 people using the Octopus cards daily, there will be losses in negative value.*

MR BERNARD CHAN: *Madam President, in the Secretary's reply, the Octopus system was set up to enable passengers to use one card for travelling on different modes of public transport. It has now come to me that the issuer of Octopus cards has the intention of promoting these cards for use in stores for payment of merchandise, thereby going directly into competition with banks. If that is true, what is the attitude of the Government in regard to this intended deviation from the original purpose of this system?*

SECRETARY FOR TRANSPORT: Madam President, first and foremost, the Octopus system was developed for transport purposes and it is meant for transport purposes. It will not deviate from this primary objective. Whatever non-transport venture might be involved, it would not constitute the majority of the activities. And indeed, the restrictions are such that this system would not go beyond those core activities, that is, transport activities.

DR LUI MING-WAH (in Cantonese): *Madam President, in the second paragraph of the Secretary's main reply, the cost for each Octopus card is \$30. For any person with some knowledge in electronics, he will know that the card itself is not worth \$30. Could the Secretary give us some detailed information on that?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I am not an expert on that. However, some experts told me that each Octopus card cost \$30.

DR LUI MING-WAH (in Cantonese): *Madam President, could the Secretary give us a written reply on the cost analysis of the Octopus card after the meeting?*

PRESIDENT (in Cantonese): Secretary, will you give a reply in writing?

SECRETARY FOR TRANSPORT (in Cantonese): I will. (Annex I)

MISS CHOY SO-YUK (in Cantonese): *Madam President, in the second paragraph of the main reply, the Secretary said that the cost for each Octopus card was \$30. As far as I know, the initial cost for technological products is usually high, but it will level off with time. Will the Government consider the fact that costs for the cards have fallen a lot and therefore the deposits should be refunded or lowered?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, we will convey this view to the CSL. I have to emphasize that the Octopus system is developed and run by a private firm. We may of course reflect the case to it should we find the deposit collected not reasonable. (Annex II)

MR TAM YIU-CHUNG (in Cantonese): *Madam President, just now the Secretary has not answered a question raised on senior citizens. As this year is the International Year of Older Persons, could the Government ask the CSL to lower the deposit payable by senior citizens by half as they only need to pay half of the adult fares?*

SECRETARY FOR TRANSPORT (in Cantonese): I will pass this suggestion to the CSL for consideration. As Mr TAM Yiu-chung has just mentioned, senior citizens are already enjoying fare concessions because most of the operators of public transport have given them fare concessions. (Annex III)

MRS MIRIAM LAU (in Cantonese): *The Secretary pointed out in the third paragraph of his main reply that the CSL charges transaction fees on an "at-cost" basis to the public transport operators. Would the Secretary tell us how can the revenue from deposits be reflected in the calculation of costs? Moreover, what is the actual amount of transaction fees charged on the public transport operators?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I have answered this point briefly. Take for example the income received by the CSL from its operations in 1998, the income from interest earnings generated from deposits accounts for less than 15%. As to the rate of fees charged from each

transaction, it is usually about 1% of the relevant fare. There are some other details for that, but the rate charged for each transaction is about 1%.

MRS MIRIAM LAU (in Cantonese): *Madam President, I was asking the Secretary just now how would the interest earnings generated from the deposits be reflected in the transaction fees chargeable to public transport operators. The Secretary did not give a direct reply to that. The thrust of my question was how the transaction fees were charged on an "at-cost" basis to public transport operators. I was not asking about the percentage taken up by interest earnings from the deposits in the total revenue of the CSL.*

PRESIDENT (in Cantonese): Secretary, do you understand what this supplementary question is asking?

SECRETARY FOR TRANSPORT (in Cantonese): I hope I understand what this supplementary question is all about. I have already answered the second part of the question, that is, the CSL charges about 1% of the fare for each transaction made by passengers using the Octopus card. Then how is the charge calculated? That includes cost recovery and volume of transactions, which is about 1% of the amount of transaction. That is the charge made by the CSL. (Annex IV)

MRS MIRIAM LAU (in Cantonese): *The Secretary still has not answered my supplementary question, but I think I will ask him on another occasion. I was actually asking about how the "at-cost" principle held by the CSL was calculated. And the 1% charge mentioned by the Secretary is not calculated on an "at-cost" basis.*

MR HOWARD YOUNG: *Madam President, I would like to follow up on what the Honourable Bernard CHAN has just asked on transport. Does "parking" also come under the definition or broader definition of "transport", and if so, has the Government looked to see whether this card in due course could also be used in connection with parking meters, so that people who drive and also use public transport do not have to carry two cards?*

SECRETARY FOR TRANSPORT: Madam President, "parking" certainly comes under the broad category of "transport", and there is indeed an experimental scheme for the Octopus cards to be used in a public car park. But at this stage, it is no more than an experimental scheme. I can, however, easily envisage the possibility of Octopus card technology being developed to such an extent that these cards can be used for even on-street parking meters and certainly can be used in multi-storey car parks.

PRESIDENT (in Cantonese): I know that many Honourable Members also wish to ask questions. I suggest that they may follow up this issue in the Panel on Transport.

Building New Exhibition and Convention Facilities

2. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, in response to my written proposal in April this year for building major exhibition and conference facilities in the new airport at Chek Lap Kok or other suitable locations, the Government advised at that time that it would study the proposal. In this connection, will the Government inform this Council:*

- (a) *of the progress of its study at present;*
- (b) *whether it will consider constructing such facilities within the airport at Chek Lap Kok; if not, whether other locations will be considered; if it will consider other locations, of the details of those locations; and*
- (c) *whether it will consider granting visa-free entry to visitors who are bound for such facilities only?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, my answer to Miss CHOY So-yuk's question is as follows:

- (a) The Government has commissioned a consultancy study on the provision of additional convention and exhibition facilities in Hong Kong. The report on the consultancy study has been completed

recently. The consultant recommends that there will be a need for an exhibition based multi-purpose centre by 2005-06, with a usable area of about 50 000 sq m. The consultant is of the view that Chek Lap Kok is the most suitable location for building such facilities. The consultancy report will be submitted for consideration by the Services Promotion Strategy Group this month.

- (b) The Airport Authority (AA) has been closely involved in the study. The AA has indicated that it will consider whether such facilities should be planned for the airport island. The AA will include the feasibility of establishing convention and exhibition facilities in the Airport North Commercial District land use study to be undertaken by a planning consultant.
- (c) Currently, nationals from about 170 countries and territories may visit Hong Kong visa-free. Our visa requirements are kept under constant review to facilitate visitors while ensuring that immigration control and security are effectively maintained. We will carefully consider any suggestion to facilitate the entry of visitors to Hong Kong.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary has mentioned in part (a) of the main reply that there would be a need for a centre with usable area of about 50 000 sq m. As a matter of fact, the existing facilities in Hong Kong are also about 50 000 sq m in area, although similar facilities in other Asian cities like Shanghai are more than 100 000 sq m in area. The facilities in Singapore are also around 100 000 sq m in area as well. Could the Secretary inform this Council on what basis has the consultant made such a recommendation; and whether the Government would consider extending the area of the facilities concerned?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, certainly the consultant has conducted research into the needs in this respect; in particular, special consideration has been given to the needs as at present and in the next 10 to 20 years. In this connection, the consultant has estimated that the capacity of the existing facilities for convention and exhibition purposes will be saturated by 2007, and has therefore foreseen a need for an

exhibition based centre with a usable area of about 50 000 sq m by 2005-06. The said centre should be considered the first phase of development, and we would have development phase two should the need arise. For instance, construction work might be conducted to enlarge the size of the centre to 80 000 sq m in area. We will consider embarking on phase two in the light of the needs concerned.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Government mentioned in part (a) of the main reply that the consultant was of the view that Chek Lap Kok should be the most suitable location for building the relevant facilities. Could the Secretary inform this Council on what basis has the consultant made this recommendation? On the other hand, since the Government is considering rezoning the West Kowloon Reclamation, could the Secretary inform this Council whether the Government would consider constructing an exhibition based multi-purpose centre there?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): *Madam President, actually, the consultant has considered a number of locations. Apart from Chek Lap Kok, North Lantau, the West Kowloon Reclamation referred to by the Honourable Member just now, as well as the South East Kowloon have also been taken into consideration. Having regard to the various factors involved, such as the transportation arrangement for convention participants and exhibition visitors, the consultant has come to the view that the area near Chek Lap Kok should be the most convenient location.*

MR NG LEUNG-SING (in Cantonese): *Madam President, according to part (a) of the Government's main reply, the report on the consultancy study has been completed recently. In this connection, could the Secretary inform this Council whether the consultant commissioned by the Government is a local firm; and whether the consultancy firm concerned has adequate knowledge of our geographical environment?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, the consultancy firm commissioned is a local firm named PKF Consultant Limited. It is well versed in convention and exhibition facilities.

MR AMBROSE CHEUNG (in Cantonese): *Madam President, the PKF Consultant Limited is also well versed in the tourism industry. May I ask the Secretary whether the supporting tourism facilities at Chek Lap Kok and on Lantau Island have been taken into account as a whole when considering the most suitable location for a convention and exhibition centre?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): As I said before, the AA, the Hong Kong Tourism Association (HKTA) and the Hong Kong Trade Development Council have also been involved in the consultancy study, naturally consideration has also been given to promoting Hong Kong as a convention centre and tourist destination. As a matter of fact, visitors attending conventions here spend more money in Hong Kong than tourists generally do. On average, each convention participant would spend some \$12,000 during his stay in Hong Kong; what is more, the amount has been increasing continuously. According to our estimation, some 230 000 participants have attended conventions held in Hong Kong within the year. We are considering constructing new facilities near Chek Lap Kok and in North Lantau simply because there would be many other matching facilities, such as cable cars, available at the locations concerned. Hence, in addition to convention facilities, we should be providing matching facilities on the tourism front as well.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, may I ask the Secretary whether this Council would have the chance to study the consultancy report in detail?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, we will submit the consultancy report to you for consideration at the meeting of the Services Promotion Strategy Group. Perhaps we could also consider making the report available to the public.

MISS CHOY SO-YUK (in Cantonese): *Madam President, I personally consider it a good idea to construct exhibition facilities near the Chek Lap Kok Airport. If we are to grant visa-free entry to visitors from the Mainland who are bound for such facilities, ferry terminals or similar facilities should be provided to enable them to have direct access to the facilities and to return to the Mainland on the same day upon the completion of their visits. In this connection, could the Secretary inform this Council whether the consultancy study has considered providing such matching facilities for mainland visitors on visa-free entry to Chek Lap Kok, so that they could return to the Mainland by sea upon completion of their visits?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): We hope that more people would come to Hong Kong for attending conventions. In addition to catering for the departure needs of visitors attending conventions here, we also seek to attract them to stay behind and spend money in Hong Kong. As regards the suggestion made by the Honourable Member, actually the consultant has also conducted research in this area as well, since this is one of the factors that can encourage more people to visit Hong Kong for conventions and exhibitions. In this connection, I believe the timing is very good. The construction work of the Disney theme park, which we are concerned with, is expected to be completed by 2005-06. As regards the review of the immigration procedures we have been referring to all along, we hope to simplify the relevant procedures as far as practicable, so as to facilitate the entry of visitors to Hong Kong, regardless of whether they are coming here for sightseeing, for attending conventions, or for visiting exhibitions. Therefore, we will definitely consider issues on this front.

MR HOWARD YOUNG (in Cantonese): *Madam President, in the tourism development proposal we submitted to the Commissioner for Tourism at the beginning of the year, the Liberal Party alluded to the need to construct exhibition facilities. In our opinion, the exhibition facilities should be of a secondary grade, for we did not intend to have facilities as extravagant as the Hong Kong Convention and Exhibition Centre. May I ask the Secretary whether the consultancy report has come to any conclusion in this respect? In addition, could the Secretary inform this Council whether the proposed exhibition based multi-purpose centre would be as high-class as the present Hong Kong Convention and Exhibition Centre, or it would be similar to some outdoor exhibition venues designed for the exhibition of lower-priced products and heavy machinery?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, the consultant has also considered the proposal to build an outdoor exhibition centre. However, considering that outdoor exhibitions are generally conducted for heavy machinery or motor cars, the consultant has come to the view that such an exhibition centre would not be profitable. According to the consultant, an indoor multi-purpose exhibition centre should be constructed; besides, this indoor exhibition centre should have a high ceiling and of a high floor loading, so that exhibits like heavy machinery could also be displayed there. That way, the exhibition centre would be more versatile, since exhibitions could be conducted irrespective of the elements.

MR BERNARD CHAN (in Cantonese): *Madam President, could the Secretary inform this Council whether the consultancy report has recommended constructing matching facilities like hotels; and whether it has suggested relying on the airport hotel to cater for the accommodation needs of visitors coming to Hong Kong for exhibitions, or that the majority of the visitors should stay in hotels in the urban areas?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Actually, Hong Kong is not very large in size. Moreover, as I said earlier, apart from attending conventions in Hong Kong, we also hope that visitors would visit urban Hong Kong and spend money there as well. Hence, as far as hotels are concerned, we will review the situation comprehensively. By that I mean we will consider whether Hong Kong as a whole has enough hotels to cater for the needs of visitors coming to Hong Kong for conventions or exhibitions. In this connection, the HKTA has all along been conducting research into the situation concerned. On the other hand, the future planning for the Lantau Island Development project would naturally include facilities like hotels.

DR LUI MING-WAH (in Cantonese): *Madam President, the economic development of Hong Kong has pointed to the need for an even larger convention and exhibition centre. For this reason, the industrial sector is very much concerned with this development. May I ask the Secretary whether the Government would provide a copy of the consultancy report for interested Members of this Council?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, as I said before, we would consider making the consultancy report available to the public.

MR HO SAI-CHU (in Cantonese): *Madam President, just now the Secretary mentioned that outdoor exhibitions would not be profitable. However, as a matter of fact, we currently do not have any outdoor exhibition facilities in Hong Kong. Under the circumstances, if there are locations suitable for conducting outdoor exhibitions in the vicinity of the Chek Lap Kok Airport on Lantau, we should give further consideration to the proposal. It would be best if we should have some outdoor exhibition grounds to complement the proposed exhibition centre, since we do not need to rely solely on outdoor exhibition grounds for profits then. Could the Secretary inform this Council whether further consideration would be given to the suggestion?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I am not quite sure whether we are now talking about indoor exhibition facilities or outdoor ones. Actually, as I said earlier, we had already considered the proposal to provide outdoor exhibition facilities. Generally speaking, the products displayed in outdoor exhibitions are heavy machinery or motor vehicles, yet exhibitions of such kinds will not be held throughout the year normally. For this reason, after taking into account factors like market needs, operating costs, expenses and so on, the consultant has come to the view that we would be incurring losses if we should construct any large-scale outdoor exhibition facilities. Bearing in mind that the facilities concerned would not be operated by the Government but run as business operations, the consultant has come to the view that no one would be willing to provide such kind of facilities. Having considered the various factors concerned, the consultant has suggested constructing a large-scale warehouse-like exhibition centre with a high ceiling and a high floor loading. That way, we would have a more versatile exhibition centre which could satisfy all outdoor exhibition needs on the one hand, and ensure that exhibitions be conducted irrespective of the elements on the other.

MR AMBROSE CHEUNG (in Cantonese): *Madam President, the reply given by the Secretary in relation to the question on convention and exhibition facilities is about an exhibition based multi-purpose centre. In this connection, could the Secretary inform this Council whether the consultancy report has considered scattering some secondary grade or smaller-scale convention facilities among the various districts in Hong Kong, with a view to making up for the current problem of inadequate supply of convention and exhibition facilities?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, the consultancy study has also taken into account the needs of Hong Kong as a whole. Having considered the various factors concerned, the consultant has suggested constructing an exhibition based multi-purpose centre at Chek Lap Kok, Lantau Island. As I referred to earlier, the said centre would be about 50 000 sq m in area. The centre under planning would allocate some 45 000 sq m and some 6 000 sq m of its area for exhibition and convention purposes respectively. The consultant is of the view that the location is the most suitable choice and can best cater for all our needs.

PRESIDENT (in Cantonese): Last supplementary.

MR FUNG CHI-KIN (in Cantonese): *Madam President, in answering supplementary questions raised, the Secretary has all along referred to the Government's hope that visitors coming to Hong Kong for exhibitions would visit our urban areas to do shopping and spend money there. In this connection, could the Secretary inform this Council whether the consultancy report has made any mention of the possible foreign exchange earnings that would be generated if the Government's wish should come true? Could the Secretary inform us whether any estimates have been made in this respect?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): I should like to thank the Honourable Member for his question. The consultancy study has also looked into the possible economic benefits in this connection and estimated a basic income growth at around \$6.6 billion to \$21.5 billion.

Admission of Talents Scheme

3. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, with regard to the Admission of Talents Scheme, which is mainly targeted at mainland talents, will the Government inform this Council:*

- (a) *how the academic and professional qualifications of the applicants will be assessed; whether it will invite the Hong Kong Council for Academic Accreditation to take part in the assessment of the qualifications of these applicants; if it will, of the procedure; if not, of the reasons for that; and*
- (b) *of the mainland universities (to be listed in an appendix) from which applicants should have earned their PhD degrees in the relevant fields for the relevant applications to meet the academic requirement of the scheme; and the criteria adopted for selecting these universities?*

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

- (a) The applicants under the Admission of Talents Scheme must possess outstanding qualifications, expertise or skills which are needed but not readily available in Hong Kong. They must have good academic qualifications, normally a doctorate degree in the relevant field. They may also supply supporting documents, such as their publications, research studies or relevant documents on experience, to demonstrate that their outstanding abilities or achievements are not readily available in Hong Kong.

The applicants are required to submit supporting documents to the Immigration Department for the assessment of their academic and professional qualifications. If doubts arise about the authenticity of the documents, the Immigration Department will check with the relevant mainland authorities. A selection committee, composed of official and non-official members, will also be set up to advise the Director of Immigration on the eligibility of the applicants. In case of queries over the standards of the academic and professional

qualifications of the applicants, we will seek assistance from the Hong Kong Council for Academic Accreditation and other professional bodies.

- (b) Our initial view is that the degrees possessed by the applicants should be conferred by universities with the authority to award doctorate degrees. These universities have generally achieved a higher standard in teaching and research. According to the relevant mainland authorities, there are currently some 200 such mainland universities. We are verifying and compiling the list of these universities, and will consider publishing it upon the introduction of the Scheme. Whilst we will refer to this list in considering the qualifications of applicants, every application will be considered on a case-by-case basis to ensure that the applicant concerned indeed possesses outstanding qualifications, expertise or skills which are needed but not readily available in Hong Kong.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary has made it clear in referring to the "outstanding qualifications" that the doctorate degrees concerned must be conferred by the 200 mainland universities. However, it is very difficult to define the expertise or skills "needed in Hong Kong". In this connection, could the Secretary inform this Council whether such expertise or skills would be the same as those "needed by employers"; and if not, what are the expertise or skills "needed in Hong Kong"?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the applicants are required to be in possession of good academic qualifications and considerable skills. As a basic idea of the Scheme, our initial view is to require applicants to have a doctorate degree. Besides, in order to facilitate the work of defining the academic qualifications at the early stage, we have also intended to require the doctorate degrees be conferred by mainland universities with the authority to award doctorate degrees. However, the possession of a doctorate degree is no guarantee to any successful application. Companies and firms applying for importing talents are required to submit reasons in support of their needs to import such talents into Hong Kong. As regards the selection committee, it will be composed of a variety of professionals who could look into the situations concerned when required. As regards those

applicants who possess a doctorate degree conferred by the relevant universities as well as the expertise and experience needed, we would still need to consider whether the expertise and skills they possess are needed but not readily available in Hong Kong. If that should be the case, the applicants would then be admitted in Hong Kong. I believe I must make it very clear that the possession of a doctorate degree is but a basic requirement, it does not follow that applicants with such academic qualifications would necessarily be admitted.

MR LAU CHIN-SHEK (in Cantonese): *Madam President, could the Secretary inform this Council whether the selection committee would comprise any representatives from trade unions; if not, why not; and how a partnership kind of co-operation could be realized in this respect. In addition, if the public and this Council should wish to examine if the selection committee is doing its work properly, would there be any procedure for this purpose?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we have explained the matters concerned at meetings of the relevant Panels of the Council. Basically speaking, the function of the selection committee is to assist the Director of Immigration by providing relevant professional advice in relation to the applications concerned. As such, the members of the selection committee will be chosen for their expertise, experience and skills. Naturally, their interest in serving the public would also be taken into account as well. Certainly, none of them will be representing any sectors of the community.

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

MR LAU CHIN-SHEK (in Cantonese): *The Secretary has not answered the second part of my supplementary, which asked about the mechanism whereby we could examine if the selection committee is doing its work properly.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the selection committee will basically be responsible for advising the Director of Immigration in relation to the applications concerned; as such, the final decisions would still be made by the Director of Immigration. Certainly, if any applicants should be dissatisfied with the decision of the Director of Immigration, they may apply for an appeal. In addition, so long as the personal privacy of the committee members concerned could remain unaffected, we would of course like to make public the composition as well as functions of the selection committee as far as practicable, with a view to enhancing the transparency of the selection committee. On the other hand, a comprehensive review of the Scheme will be conducted after it has been in operation for a year; naturally, the work of the selection committee would also be reviewed as well.

MR LEE KAI-MING (in Cantonese): *Madam President, may I ask whether the Government would announce the terms and conditions for employing mainland talents, such as academic requirements and salary levels, before admitting them into Hong Kong? That way, opportunities could be given to local talents with suitable qualifications to compete fairly for the positions concerned, thereby ensuring the employment priority of local workers on the one hand, and avoiding the risk of overlooking some local talents on the other.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, as I have said just now, we would consider publishing the information concerned upon the introduction of the Scheme, including the universities that would be accepted in principle. Regarding the success or otherwise of any applications, however, I believe no decisions are to be made before the Director of Immigration has considered the recommendations submitted by the selection committee. As I said before, the selection committee will assess whether the applicants concerned indeed possess expertise needed in Hong Kong in the light of the context of the Scheme.

MR LEE KAI-MING (in Cantonese): *Madam President, I have no doubt about the academic qualifications required by certain positions, but the problem remains how we could prove that the needed talents are not readily available in Hong Kong. For this reason, will the Government consider publishing the*

vacant positions concerned to enable local talents to apply and compete for them in a fair manner?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Admission of Talents Scheme is fundamentally different from any of the Labour Importation Schemes. As far as the former is concerned, we would rely heavily on the members of the selection committee, who, with the various professional expertise they possess, would assess every application in an objective manner and advise the Director of Immigration accordingly. As regards the details of the applications concerned, we have no intention to disclose any of them at the moment.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, it has been pointed out by the Secretary in paragraph (a) of the main reply that the applicants under the Scheme must possess a doctorate degree in the relevant field. I should like to know if any flexibility would be allowed on this front. In this connection, supposing an applicant does not have a doctorate degree but possesses plenty of practical experience and professional qualifications in the relevant field, and supposing this applicant is even highly recommended by authoritative members of the trade, will the Government consider exercising some discretion in assessing the application concerned under such circumstances?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we must set out some basic requirements in formulating the requirements of application. As I said in the main reply, every application will be considered on a case-by-case basis. If we are satisfied that an applicant possesses very special and sufficient proof in support of the expertise he or she possesses, the other aspects of the applicant concerned without a doctorate degree will surely be considered as on par with other talent applicants who possess one. While applicants could certainly decide for themselves whether an application should be lodged or not, the success or otherwise of their applications would depend on the decision of the Director of Immigration after taking into consideration the advice of the selection committee.

MR ANDREW CHENG (in Cantonese): *Madam President, the Scheme allows the imported talents to switch jobs after admission into Hong Kong for a year. Upon completion of their contracts, the imported talents are free to switch trades; what is more, they can even compete with local workers for part-time jobs. May I ask the Government whether the selection committee has in place any mechanism whereby it could ensure that the imported talents are only allowed to take up jobs within the scope of work relevant to the academic qualifications stated in their application forms?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, actually this supplementary has somewhat digressed from the main question. Regarding the details of the Admissions of Talents Scheme, including the question as to whether there are any special arrangements for them to switch jobs, perhaps we could discuss that at the meetings of the relevant Panels of the Council.

MR ANDREW CHENG (in Cantonese): *Madam President, I do not think my supplementary has digressed from the main question. This is because I have clearly asked about the mechanism whereby the selection committee could ensure that the academic qualifications possessed by applicants, and the subject of the main question is also related to the academic qualifications of applicants. Why are we so very much concerned with the academic qualifications of applicants? We are concerned because we would like to know whether the selection committee has any mechanism to ensure that the imported talents will only be engaged in those fields that are relevant to the academic qualifications they have stated, rather than allowing them to switch jobs. So, my supplementary is on the mechanism for assessing academic qualifications.*

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

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the supplementary has not digressed from the main question if it should be asking about the mechanism for assessing academic qualifications. I have pointed out very clearly in the main reply that the applicants must possess a doctorate degree conferred by universities with the authority to award doctorate

degrees. As regards professional expertise, we would of course take into consideration the advice made by the selection committee, and where necessary, we will also seek assistance from the Hong Kong Council for Academic Accreditation and other professional bodies. If there should be any talents engaging in jobs other than that set out in the application forms concerned, this would naturally be considered a breach of the application terms. I am sure the Immigration Department will take suitable actions pursuant to the provisions set out under the Immigration Ordinance.

MR CHAN WING-CHAN (in Cantonese): *Madam President, I hope the Secretary would give further consideration to the proposal to incorporate trade unionists into the selection committee, bearing in mind that they can also offer a great deal of professional advice. May I also ask the Secretary how long is a term of office of the selection committee?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the details of the Scheme, including the composition of the selection committee, its specific functions, as well as the terms of office of its members, will be announced together in due course.

PRESIDENT (in Cantonese): Last supplementary.

MR JAMES TIEN (in Cantonese): *Madam President, could the Secretary inform this Council whether only those persons possessing a doctorate degree will be considered talents; and whether the Government would consider lowering the academic qualifications required slightly, so that persons without any doctorate degree but a master's degree will also be eligible to apply under the Scheme?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I have made it very clear in the main reply that applicants are normally required to possess a doctorate degree in the relevant field. However, if any applicant should have very exceptional grounds, for example, he or she does not have any doctorate degree but possesses the practical expertise or

achievements that are very much needed in Hong Kong, the applicant concerned should state so clearly in the application form submitted. I am sure both the selection committee and the Director of Immigration will give consideration to such points.

PRESIDENT (in Cantonese): That is all for this question. I understand that many Honourable Members are waiting to raise their supplementary questions, but I suggest them following up the question through other channels.

Safety of Operating Buses during Onslaught of Typhoons

4. **MR ALBERT HO** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the number of accidents involving franchised buses operating during the hoisting of typhoon signal No.8 or above over the past three years;*
- (b) *whether it knows if various models of buses are equipped with devices to withstand strong gales and impacts from flying objects during typhoons, and the measures adopted by the franchised bus companies to ensure the safety of the bus captains on duty and the passengers on board during typhoons; and*
- (c) *whether it knows if the franchised bus companies have issued guidelines or codes of practice to bus captains on driving safety during typhoons or in adverse weather conditions, or provided training for them in this regard; if they have, of the details; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, in the past three years, typhoon signal No. 8 or above were hoisted on six occasions. Franchised buses were involved in three traffic accidents involving minor injuries during those typhoon periods.

The provision of bus services during typhoons is subject to the actual operating conditions on individual routes and the passenger need for the services. Normally, franchised bus services would continue for about two or three hours after the hoisting of typhoon signal No. 8. To ensure the safety of passengers and bus captains during such services, the bus companies would closely monitor the conditions on individual routes to check that they are suitable for bus operation and to facilitate bus deployment. Where necessary, the bus companies would seek assistance from the relevant government departments in clearing obstructions.

All models of buses currently used in Hong Kong are subject to the requirements under the Road Traffic (Condition and Maintenance of Vehicles) Regulations and the Road Traffic (Safety Equipment) Regulations which require them to meet standards that can withstand severe weather conditions. For example, to protect passengers and drivers from flying objects, the windscreens and side-windows of all buses are required to be made of safety glass. Besides, all franchised buses are required to pass a stringent tilt test to ensure stable balance of the vehicles during strong wind situations.

The bus companies issue to their bus captains operation handbooks on safe driving during typhoons and adverse weather conditions. Driving in strong wind and adverse weather conditions is one of the subjects covered in the training courses provided to new recruits and refresher courses for in-service drivers. The guidelines and training cover the following major aspects:

- (a) suitable speed adjustments when travelling in strong winds and on certain highways which may be susceptible to strong winds;
- (b) proper driving behaviour, such as proper control of the steering wheel;
- (c) special attention to fallen or hanging trees, dangling signboards and other objects;
- (d) special attention to road conditions, for examples, landslide and flooded roads and follow instructions from police on site, and seek assistance/directions from inspectors of the bus companies wherever practicable to ensure safe bus operation especially along certain affected road sections; and

- (e) effective communication between bus captains, inspectors and their control room.

MR ALBERT HO (in Cantonese): *Madam President, it is stated in the second paragraph of the Secretary's main reply that franchised bus services would usually continue for about two or three hours after the hoisting of typhoon signal No. 8. Is this a statutory requirement? Or, is it an agreement between the Transport Department and franchised bus companies? Or, is it just a discretionary arrangement by franchised bus companies? I mean, are franchised bus companies given any discretionary power, so that they can suspend their services on safety grounds without any fear of violating any laws or agreements?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, there is no express provision in any ordinance or terms and conditions of franchise which specifies how franchised bus companies should adjust their services in times of typhoon attacks or severe weather conditions. In general, as I pointed out in the main reply, the provision of bus services in times of typhoon attacks is subject to two factors: First, actual passenger need; and, second, actual weather and road conditions. Our experience over the years tells us that for the convenience of members of the public, franchised bus companies would normally hope to maintain a certain degree of bus services within two to three hours after the hoisting of typhoon signal No. 8.*

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary's reply seems to suggest that a series of measures has been put in place. But I must say that these measures are just about the provision of bus services after the hoisting of typhoon signals. So, I wish to ask the Secretary one question. When bus services have to be suspended due to the hoisting of typhoon signals or severe weather conditions, how are bus drivers going to return home safely? Has the Government ever checked whether franchised bus companies have put in place any appropriate arrangements in this respect?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, franchised bus companies will of course never ignore the safety of their staff. In times of typhoon attacks or severe weather conditions, if any bus services have to be suspended due to mechanical breakdowns or road conditions, and if any bus crews thus need to be evacuated, bus companies will definitely arrange means of transport for them. Similarly, if passengers have to switch to other vehicles under similar circumstances, bus companies will also make appropriate arrangements in the light of actual circumstances. Members will all appreciate that under severe weather conditions, or when typhoon signals are hoisted, one really has to make arrangements in the light of the actual circumstances. But I can say that bus companies will never ignore the safety of passengers or their staff.

MR ANDREW CHENG (in Cantonese): *Madam President, as stated in a notice posted in franchised buses, passengers are advised to keep all bus windows wide open as far as possible in times of typhoons, so as to ensure a proper balance of their buses. However, the windows of all existing air-conditioned buses are sealed. That being the case, when there are strong winds, how can operating buses possibly maintain their stability? Besides, one of the guidelines mentioned in the main reply — "proper driving behaviour, such as proper control of the steering wheel" — does appear extremely funny to me. Well, I would say that even when there is no typhoon attack, this should still be the proper behaviour expected of bus drivers. Has the Transport Bureau ever held any discussions with bus companies on how to resolve the problem arising from the design of existing air-conditioned buses and the simple guideline I have referred to?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I do not think that it is anything funny at all if bus drivers do not know how to control their steering wheels properly in times of typhoon signal No. 8 or No. 10. In regard to air-conditioned buses, as I said a moment ago, all franchised buses, whether single-decked, double-decked or air-conditioned, are required to meet very stringent structural and maintenance standards, and one of these requirements is the passing of a tilt test. Therefore, even with their sealed windows, air-conditioned buses are still subject to the same safety standards. So, even in strong winds, the sealed windows of air-conditioned buses will not affect passenger safety.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I think in its reply to the first part of the main question, the Government is simply trying to pick holes in the use of words. The main question asks about the number of accidents in general, but in his reply, the Secretary simply says that franchised buses were involved in three accidents causing minor injuries. The main question does not ask about the number of accidents involving minor injuries; rather, it asks about the number of accidents in general. Some accidents did not lead to any injuries. For example, in the accident I have just heard about, a tree plunged into*

PRESIDENT (in Cantonese): Mr LEE, please come to your supplementary question direct. You are not supposed to instruct the Secretary how to answer supplementary questions.

MR LEE CHEUK-YAN (in Cantonese): *That's not fair. But* well

let me then ask the Government this question: In order to allay the worries of passengers and bus drivers about their safety, will the Government issue a clear guideline to bus companies, asking them to suspend all their services upon the hoisting of typhoon signal No. 10 — I am talking about typhoon signal No. 10 — and three hours after the hoisting of Typhoon Signal No. 8?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the first part of the main question asks about the number of accidents involving franchised buses operating during the hoisting of typhoon signal No. 8 or above. The fact is there were only three such accidents. To be specific, all these accidents involved only minor injuries. In regard to the proposal on a mandatory suspension of all bus services upon the hoisting of typhoon signal No. 10 or three hours after the hoisting of typhoon signal No. 8, I do not think that we can possibly lay down any such rigid requirement. As I said a moment ago, strong winds are a natural phenomenon, and so no one can actually predict what the actual situation will be. And, as a matter of fact, strong winds will affect different places in different degrees. That said, I must of course add that the Government and all public transport operators do share the following common objectives: First, the provision of suitable services; and, second, the provision of

suitable services under safe conditions. As far as these objectives are concerned, I believe that the existing arrangement, under which bus companies will continue to provide services as far as possible within two to three hours after the hoisting of typhoon signal No. 8, has already struck a proper balance.

MR HO SAI-CHU (in Cantonese): *Madam President, does the Secretary know whether the safety of bus captains operating during typhoons is also covered by any insurance?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the law requires that franchised bus companies must take out the insurance policies stipulated in the Motor Vehicles Insurance (Third Party Risks) Ordinance. That is why buses operating under typhoons are also covered by insurance.

MR HO SAI-CHU (in Cantonese): *Madam President, my main point is on bus operation during typhoons because many insurance policies do not cover the risks arising from typhoons. That being the case, may I ask whether the insurance policies taken out by bus companies carry any special protection against typhoons?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, in Chinese, we have "汽車保險(第三者風險)", and in English, we have "third party risk". The word "risk" refers to risks in general, not specifically any risks arising from typhoons. In other words, I am referring to third party risks in general. Normally, if a third party sustains any injuries or losses, the insurance policies taken out by bus companies will cover.

MR HO SAI-CHU (in Cantonese): *Madam President, may I ask the Secretary to state clearly whether the accidents caused by typhoons are also covered by insurance? If not, will the Secretary ask bus companies to take out insurance policies which cover the risks arising from typhoons?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, as far as I understand it, that is already covered.

MR CHAN WING-CHAN (in Cantonese): *Madam President, it is said in the third paragraph of the main reply that the windscreens and side-windows of all buses are required to be made of safety glass. May I ask whether the safety glass used by buses and that used by private cars are the same in strength? If yes, can an appropriate quantity of stronger safety glass be purchased, so that it can be installed on buses in times of typhoon to ensure driver and passenger safety?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I am afraid that I do not have any technical and detailed information to hand which compares the strength of the safety glass used respectively by buses and private cars. I shall provide a written reply on this later on. (Annex V) However, I can still assure Members that as required by existing legislation, the windows of buses are all able to protect passengers during typhoon attacks.

MR LAU KONG-WAH (in Cantonese): *Madam President, it is said in the second paragraph of the main reply that bus services will normally be maintained within two to three hours after the hoisting of typhoon signal No. 8. Will the Secretary please inform this Council under what circumstances bus companies will curtail their services? And, how do bus companies inform the public accordingly?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, in general, all will have to depend on the conditions of individual districts and roads. For example, we will have to see whether there are any obstacles on a certain road section which may seriously affect the use of it by vehicles. Or, we may have to see whether driving safety in a certain district is adversely affected because it is more vulnerable to strong winds than other districts. That is why in times of typhoon attacks, bus companies will always maintain close contact with bus captains at different places, so as to ensure that the safety of their operating fleets is not adversely affected.

PRESIDENT (in Cantonese): Last supplementary question.

MR ALBERT HO (in Cantonese): *Madam President, having read the Secretary's main reply, I have the impression that bus companies are left to make many judgments on their own. What I mean is that bus companies have to make decisions in the light of prevailing circumstances. Well, if the power of discretion is given to bus captains, and if, for example, a bus captain on driving duty notices that a certain road section has turned extremely unsafe for driving, can he then make the decision of suspending the bus service concerned? Does the Transport Department (TD) have any guidelines on such cases? This question reminds us that bus companies will also have to respect the judgment of bus captains; if ever a bus captain finds that driving on a certain road section has turned dangerous, he should have the power to make a decision on the spot. And, what other powers do the authorities have to monitor the overall safety situation?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, whenever there are any typhoon attacks, various government departments, in particular the TD, will have a very busy time. As rightly pointed out by Mr HO, they will have a very busy time in ensuring the safety of all road users (including all means of public transport), and they will also have to ensure that appropriate transport services can be made available to the public. Within the TD, there is an Emergency Transport Co-ordination Centre, and working in conjunction with other departments such as the Hong Kong Observatory, the Police Force and the Highways Department, this Centre will disseminate detailed road conditions information to public transport operators and members of the public. That way, people can make judgments according to the realistic road and traffic conditions.

Dissemination of Information on Medical Services to the Public

5. **MR MICHAEL HO** (in Cantonese): *Madam President, it is learnt that some doctors or dentists who provide information on medical services for the public have been regarded as breaching the relevant codes of practice. Hence, a dental care service for the youth has been discontinued allegedly because of problems arising from the distribution of the list of participating dentists in schools; the Social Welfare Department cannot give Senior Citizen Card holders*

a list of the doctors providing preferential treatment for the elderly; and there are complaints against some doctors for their participation in the concessionary scheme for patrons of a telecommunications company. In this connection, will the Government inform this Council:

- (a) of the existing policy on public access to information on medical services, and the measures adopted to implement this policy;*
- (b) whether it has assessed if the public's right to information on medical services is restricted by the existing legislation and the relevant codes of practice; and*
- (c) whether the practices of some doctors and dentists who post the lists of service items and charges inside or at the entrance of their clinics, or have information about their professional services printed on the publicity materials of various concessionary medical schemes are in breach of the policy on public access to information on medical services and the relevant codes of practice?*

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

- (a) The public's access to information on medical services provided by doctors and dentists is in accordance with the relevant ordinances and the Professional Codes. In accordance with section 15 of the Medical Registration Ordinance (Cap. 161) and section 13 of the Dentists Registration Ordinance (Cap. 156), the names, registered addresses, the qualifications and date of qualifications of medical practitioners and dentists are published in the Gazette annually.

The Professional Codes of the two professions allow doctors and dentists to exhibit signboards on their premises of practice to identify their practice to the public. The hours of attendance and the approved field of practice may appear on the signboards, in addition to the names and qualifications of the doctors or dentists concerned.

Patients have the right to information of the fees and charges prior to the consultation and prior to receiving any procedure or treatment. In cases where the doctor or dentist refuses to provide the relevant information, patients can lodge a complaint to the Medical Council of Hong Kong or the Dental Council of Hong Kong respectively for investigation and disciplinary inquiries, where appropriate.

- (b) The Professional Codes of doctors and dentists have laid down guidelines on dissemination of information on medical and dental services by the professionals to the public. It has been emphasized that the information provided to the public must be honest, accurate, and not exaggerated. The Codes disallow advertising and canvassing by the individual doctors and dentists or by others on their behalf.

It is not the intention of these Codes to restrict the public's right to access to information on medical services. Instead, they are meant to ensure the quality of information provided to the public and to avoid dissemination of misleading information.

- (c) The Professional Codes of doctors and dentists contain provisions that any doctor or dentist associated professionally with an organization should use his/her best endeavours to ensure that the information provided to the public by that organization should not constitute advertising on behalf of the doctor or dentist concerned and conforms to the principles underlining the dissemination of information set out in the respective Codes of the two professions.

The Professional Codes do not prohibit the provision of information inside the premises in which doctors and dentists practise for the purpose of setting out their field of practice, fee levels and the necessary information clients of concessionary schemes needed to access the practice. However, it should be noted that whether or not a particular act is in breach of the relevant Professional Codes of practice will have to be determined on an individual basis taking into account all relevant factors and circumstances.

MR MICHAEL HO (in Cantonese): *Madam President, the Secretary mentioned in the main reply that doctors could exhibit a series of information on signboards. Madam President, if a doctor voluntarily sets out fees and charges, as shown in the photograph I have in hand, by posting a note on the glass of his clinic stating "\$130 for basic consultation and medicine for two days", will he be considered breaching the Government's policy though the information provided by him is accurate?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, whether he is in breach of the relevant Professional Codes should be decided by the Medical Council responsible for exercising professional supervision. However, as far as I know, the Medical Council allows doctors to provide the public with information on their consultation fees in their clinics.

MR MICHAEL HO (in Cantonese): *My supplementary question was rather clear. I asked about the Government's policy, not how the Medical Council interpreted the Professional Codes. The question I raised just now was very clear: Is the abovementioned practice in breach of the Government's policy? This is totally unrelated to how the Medical Council views the issue.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, of course, it is the Government's policy to let the public acquire adequate information and have a good understanding of their course of treatment, including consultation fees. As regards how to provide such information, the Medical Council should decide which method is appropriate in accordance with its Professional Codes.

DR YEUNG SUM (in Cantonese): *Madam President, the public must be given adequate information before they can make a reasonable choice. Does the Government consider it necessary for the doctors to take the initiative of providing patients with the information on charges and services so that the patients can be prepared psychologically before receiving treatment and select their required services? Will the Government ask doctors to do something like that?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, of course, the Government hopes that every patient or member of the public can acquire such information before receiving treatment. We are also aware that the Medical Council is now reviewing its Professional Codes to find out the best way for providing the public with such information. As far as I know, the Medical Council is now consulting the doctors' opinions.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, according to the relevant legislation and Professional Codes, the public should have access to information on the medical services provided by doctors and dentists. Does such information include the patients' medical history as provided by the doctors upon the patients' requests? At the moment, if a patient wants to photocopy his medical history, it will cost him \$300 for copy of just one page. If he wants to have his medical record, it will cost him \$6,000. Will the Government inform this Council whether it will take measures, including enacting legislation, to provide for the patients' rights to ask for their own medical records so as to prevent them from being blackmailed or "overcharged" by doctors?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, we will make sure that patients will be able to get what they want and the information on their illnesses. Insofar as formal charges are concerned, the Medical Council will act as a regulatory body and examine whether or not the fees charged by doctors for providing such information are reasonable. We will discuss this point with the Medical Council.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, my question was: Will the Government enact legislation to prevent patients from being "blackmailed" or overcharged by doctors upon their requests for information on their own medical history? Will the Government deal with this situation by way of legislation? I was not asking what the Medical Council would do.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the Medical Council is responsible for the doctors' Professional Codes and their regulation. Amendment of relevant legislation will also be dealt with by the Medical Council.

MR FRED LI (in Cantonese): *Madam President, I hope the Secretary will not repeat that the Medical Council will take charge in answering my supplementary question, which is actually related to the Government. The Government has issued several hundred thousand Senior Citizen Cards to elderly people over the age of 65. By virtue of the Cards, they can to enjoy concessions when consulting private medical practitioners who have joined the concession scheme. However, owing to the restriction on the release of information, they often have no idea as to which clinics in the districts they live have joined the concession scheme. As the scheme has failed to produce any effect, the release of such information has done nothing to help the elderly. Insofar as this point is concerned, will the Government — not the Medical Council — inform this Council how it can let the Senior Citizen Card holders know clearly which clinics in the districts they live have joined the scheme of providing a 20% or 30% discount, without the need for the elderly to call the Social Welfare Department for inquiry when they fall ill? This arrangement is simply not satisfactory.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, it has now been decided that we can directly provide the elderly with information on every doctor who has joined the scheme.

DR LEONG CHE-HUNG (in Cantonese): *Madam President, as a professional, I have absolute respect for our Professional Codes. Furthermore, I need to stress that the Codes are in fact meant to safeguard the dignity of our profession. Under such circumstances, will the Government inform this Council how it can strike a balance between the patients' right to know and regulation as specified in the Professional Codes?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I believe our starting point is, most importantly, to protect the interests of the patients and their right to access the information they need. As I have mentioned before, the legislation relevant to doctors is mainly aimed at ensuring the quality of information provided to the public and to avoid dissemination of misleading information, rather than restricting the public's right to access information on medical services. In this case, what is the difficulty? Madam President, in providing information for the public, such as producing an advertisement, we will more often than not focus on publicizing the scope desired by the public. It is therefore difficult for us to provide the public with comprehensive messages. Such being the case, some members of the public may feel that they made the wrong decision for they have been misled. Our starting point is to protect the rights and interests of the public, not to take side with the doctors.

MR ANDREW CHENG (in Cantonese): *Madam President, the Secretary has behaved in a hesitant manner in giving both written and oral replies to the question about information on consultation fees. But insofar as the public is concerned, information on consultation fees is actually very important. The Secretary has all along been saying that it is most important to ensure the information carries no misleading element, while we have all along been hoping that the Secretary can, on behalf of the Government, give us a clear message that information with no misleading element, such as information on consultation fees, can definitely be incorporated into the Professional Codes of doctors so as to give the public information in a fair and transparent manner. Will the Government inform this Council whether it will carry out consultation or legislative work in this area to protect the public?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I have mentioned earlier that we are well aware that the Medical Council is now examining the relevant Codes for the purpose of making improvement in the hope that the public can have more information on consultation fees before receiving treatment.

DR TANG SIU-TONG (in Cantonese): *Madam President, as we are aware, both doctors and lawyers are professionals. There is now a relaxation on the restriction imposed on lawyers. We can note from the newspapers the fees charged by lawyers for handling divorce cases, making a will and so on. However, doctors are not allowed to do likewise. Will the Government inform this Council whether it will consider relaxing its restriction on doctors with respect to giving publicity through the media?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Madam President, I believe the respective professional body should be responsible for holding discussion to see what is most appropriate according to its relevant Professional Codes, and the starting point must be to examine whether the relevant practice is reasonable and in line with the interests of the public or patients.*

PRESIDENT (in Cantonese): *We have spent nearly 16 minutes on this question. Although a number of Members are still waiting for their turn to ask questions, I suggest them to follow up this question through other channels.*

Toll Adjustments for Vehicle Tunnels

6. **MR LEE WING-TAT** (in Cantonese): *Madam President, will the Government inform this Council*

- (a) *whether it has received any applications for toll increases from the operators of Tai Lam Tunnel, Tate's Cairn Tunnel (TCT) and the Western Harbour Crossing (WHC); if it has, of the guiding policies and principles as well as the factors to be taken into consideration in deciding whether approval should be given to such applications;*
- (b) *how the daily average traffic volumes of the three tunnels projected at the time of their construction compared with the figures at present; whether it has assessed the impact of toll increases of these tunnels on the current traffic volumes of Tuen Mun Highway, the Lion Rock Tunnel and the Cross Harbour Tunnel (CHT); if so, of the results; and*

- (c) *whether it will formulate measures to cater for the situation in which, even with the increases in tunnel tolls, the revenues of the three tunnel companies concerned are still inadequate for repaying their loans?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the operators of the TCT, the WHC and Route 3 (Country Park Section) (Route 3) have separately notified the Government of their intention to raise tunnel tolls. The mechanism for toll increases for Build-Operate-Transfer (BOT) tunnels are governed by their respective ordinances. These proposed toll increases will therefore be dealt with in accordance with the relevant provisions.

For the TCT, section 36 of the Tate's Cairn Tunnel Ordinance (Cap. 393) provides that tolls can be revised by agreement between the Chief Executive in Council and the TCT Company. Failing an agreement, either party could submit the case for arbitration under the Arbitration Ordinance (Cap. 341). In case of arbitration, the arbitrator shall be guided by the need to ensure that the discharge by the company of its obligations and the exercise of its rights under the Ordinance are reasonably but not excessively remunerative. If the arbitrator rules that the tolls should be varied, the Commissioner for Transport will give effect to the new tolls by a Gazette Notice.

As regards the WHC and Route 3, the Western Harbour Crossing Ordinance (Cap. 436) and the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) both provide for a specified toll adjustment mechanism. Under the two Ordinances, the franchisees are allowed to effect toll increases on certain specified dates spread over the 30-year franchise period (1 January of 2001, 2005, 2009, 2013, 2017 and 2021 for WHC; and 1 January of 2003, 2010 and 2017 for Route 3). If the actual net revenue in respect of any year before the specified dates is less than the estimated minimum net revenue for that particular year as specified in schedules to the Ordinances, the franchisee is allowed to advance the toll increase.

On average daily traffic volumes, the TCT has been in operation for eight years since June 1991, the actual throughput in two years (that is, 1993-94 and 1994-95) were higher than the original forecast whereas those for the other six years were lower than the forecast. The WHC commenced operation in April 1997 and the actual daily throughput was lower than the projection during its two and a half years of operation. As for Route 3, which commenced operation in May 1998, the actual throughput was below the forecast for 1998 and 1999.

Maximum toll increases for all classes of vehicles in respect of the WHC and Route 3 are specified in the respective Ordinances. I would however like to point out that a franchisee, even if entitled to in law, may decide not to raise tolls to the fullest possible extent or not to effect any increase at all, after taking into account the impact on traffic throughput and toll revenue. Until the franchisee has come to a conclusion on any toll adjustment, it will not be possible to work out a meaningful assessment of the impact on the traffic throughput. As for the TCT, the levels of toll increase are not specified in the Ordinance and are subject to the agreement between the Chief Executive in Council and the TCT Company. One of our considerations will be the impact of the proposed level of increase on the traffic throughput and possible diversions as a result.

BOT tunnels operate under clear commercial principles. We trust that the tunnel companies, in considering any toll increase, will take into account factors such as the traffic throughput, the affordability of tunnel users, and the financial position of the company. The recent economic downturn clearly has an impact on the tunnel throughput. This is unfortunate and unexpected. Moreover, the tunnels are still in their early years of operation, it would be premature to come to any conclusion on their viability at this stage.

MR LEE WING-TAT (in Cantonese): *Madam President, it is said in the third and fourth paragraphs of the Secretary's main reply that under the existing arrangements, the WHC and Route 3 can really increase their tolls. However, as we all know, if these two tunnels really increase their tolls, their throughput will certainly go down and the traffic congestion along Tuen Mun Road and around the CHT will certainly re-emerge as a result. So, on the one hand, the Secretary has to deal with the mechanism of automatic toll increases applicable to private tunnel companies, but on the other, he has to consider the problem of traffic management. How is the Secretary going to deal with such a dilemma?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, as I pointed out in my main reply, until the various tunnel companies have decided whether to increase their tolls, it will be difficult to work out an accurate assessment of the impact on the traffic throughput along other roads. However, in the case of the WHC and Route 3, since maximum toll increases are specified in the respective ordinances, we can work out an assessment by assuming that maximum toll increases are to be effected. That way, up to a certain extent, we are able to assess the impact on the traffic throughput along other roads. If, for example, the WHC is going to increase its tolls at the maximum rate specified in the relevant ordinance with effect from January next year, we estimate that about 6 000 vehicle trips will be diverted from the WHC to other tunnels, basically the CHT and the Eastern Harbour Crossing (EHC).

And, if Route 3 is also going to increase its tolls at the maximum rate specified in the relevant ordinance, we estimate that it will lose about 6 000 vehicle trips. Where will these 6 000 vehicle trips go? We predict that about half of them may be diverted to Tuen Mun Road, while 2 000 of them may go to the Lion Rock Tunnel and the remaining 3 000 to other tunnels such as the TCT and the Shing Mun Tunnel and other roads such as Tai Po Road.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the fourth paragraph of the Secretary's reply states clearly that the throughput of several tunnels has been lower than the original forecast, and the situation is rather serious. In the case of the TCT, for example, it was able to attain satisfactory throughput volumes for just two years, and for the remaining six years, the situation was much worse. And, a similar situation is also found in other tunnels. What is the reason for this? Why is there such a huge discrepancy between the original forecasts and the actual throughput? It is said in the third paragraph of the main reply that if the net revenue is less than the estimated minimum net revenue, the tunnel company will be allowed to advance its toll increase. That being the case, will tunnel companies simply give an exaggerated figure for their minimum net revenue, so that they can advance their toll increases? Is this possible? Will the Secretary please tell us how the Government has tried to ensure the accuracy of the original estimated figures given by tunnel franchisees?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, before we invite the commercial sector to bid for the management of a tunnel, the Government itself will of course make a kind of forecast on the throughput of and demand for the tunnel. Such a forecast must be made on the basis of a series of assumptions, and the most accurate methods will be used to forecast the throughput and the growth rate of vehicles. Besides, the prospective operators or bidders themselves are also required to commission experts in the field to make similar throughput forecasts. For the tunnels I have mentioned, if we look at the forecasts made by the successful bidders and the initial forecasts made by the Government, we will see that the forecast results were basically the same. This tells us that we simply should not think that the Government and the successful bidders were just making any one-sided forecasts of their own. Rather, we should realize that anyone who sought to make a forecast on the basis of the available information and existing professional expertise at that time would have come to largely similar conclusions. Of course, if one ever wants any forecast which is forever accurate, I think one really has to ask a fairy to do the job; but, sometimes, even a fairy may fail to do this.

And, what can we say about the actual throughput of these tunnels? In the case of the TCT, for example, the discrepancy between its actual throughput and the estimated throughput over the past few years is largely attributable to the removal of the Kai Tak Airport. When the management of the TCT was opened to bidding, the impact of the removal of the Kai Tak Airport was not yet very clear. So, this is clearly a significant factor. Besides, the economic downturn in 1997 and 1998 also produced an immense impact on the growth of vehicles, and no one could have predicted this beforehand.

As for the WHC and Route 3, as I said a moment ago, they are still at the initial stage of their operation; it is only one or two years into their actual operation. So, it will take quite some time before their throughput can stabilize. But in retrospect, we may be able to identify a possible reason for the discrepancy between the estimated throughput and the actual throughput — the delayed completion of Container Terminal No. 9 in Tsing Yi. Since the WHC and Route 3 both serve this particular area, the delayed completion has affected their actual throughput to a certain extent.

MR LAU CHIN-SHEK (in Cantonese): *Madam President, I am not sure whether fairies can do the job, but I am certain that members of the public do want the Government to have such an ability. One reason for the WHC toll increase is related to the CHT toll increase. But from the fifth paragraph of the main reply, we can notice that the Government is completely passive in respect of traffic diversions. In a way, it is suggesting all will have to depend on the effectiveness of toll increases. As mentioned in the main reply of the Government, toll increases will reduce the throughput of the WHC by 6 000 vehicle trips, and this is about one fifth of its existing throughput. That being the case, may I ask the Government whether it has ever considered the idea of asking the WHC operator to abandon toll increases and try instead to increase its throughput by toll decreases? This will not only increase throughput, but will also increase revenue. And, if this proposal is not feasible, can we ask the CHT to reduce its tolls, so that the WHC will have no more excuses to increase its tolls?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, let me say that the relationship between the CHT toll increases and the WHC toll increases are not as straightforward as Mr LAU has described. And, this is in fact not the first time that Mr LAU puts forward such a proposal for the consideration of the WHC. Over the past 12 months, and on many different occasions, Mr LAU has repeatedly raised this idea, and I have faithfully relayed Mr LAU's proposal, and indeed other Members' similar proposals, to the WHC, asking it to consider the matter very seriously.

MR LAU CHIN-SHEK (in Cantonese): *Madam President, the Secretary has not answered the second part of my supplementary question. If the WHC refuses to reduce its tolls, will the CHT reduce its tolls then?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, as I said a moment ago, we still need to look deeper into the question of how the toll increases and decreases of the WHC and the CHT are related. Ever since Members gave their approval for the CHT to increase its toll by \$10, very good results have been achieved in respect of diverting traffic from the tunnel. In fact, as we originally estimated, its daily throughput has really gone down by as many as 10 000 vehicle trips. And, basically, these 10 000 vehicle trips have

been diverted to two other tunnels. So, as we can all see, with this throughput reduction of 10 000 vehicle trips, the traffic condition at the CHT has seen very marked improvements.

MRS MIRIAM LAU (in Cantonese): *Madam President, since their actual throughput is lower than the original forecasts, all the three BOT tunnels have sustained losses. Apart from the reasons mentioned in the Secretary's main reply and those given by him just now, that is, all those reasons related to our economic conditions, are there any other reasons? Are the different tolls charged by tunnels serving similar areas one of the reasons for the lower-than-expected throughput, as in the case of the WHC? If yes, will the Government consider the idea of standardizing the tolls of all tunnels?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, this again is a frequently repeated proposal, one which we have already considered and studied. However, so far, we have still not reached any conclusion. The reason is basically that we must consider many different factors, such as tunnel operators' shareholders, their respective operating costs and their background. Besides, we also need to consider the apportioning of returns once standardized tolls are introduced. Honestly speaking, and in theory, we can conduct further studies. But in practice, we must consider many different factors. We are still looking into this proposal, and we must examine it very carefully and in detail.

MRS MIRIAM LAU (in Cantonese): *Madam President, the Secretary has not answered the first part of my question. Is the low throughput of the WHC a result of the different tolls charged by other tunnels?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I do not think that I can possibly answer this question with a simple "yes" or "no". But as far as throughput is concerned, I do agree that it is more desirable to see more vehicles using the WHC. As for whether or not tolls are one of the reasons affecting the levels of throughput, I would say that this is certainly one of the reasons.

PRESIDENT (in Cantonese): Last supplementary question.

MR NG LEUNG-SING (in Cantonese): *Madam President, it is said in the sixth paragraph of the main reply that the recent economic downturn is very much an unforeseeable factor. Well, before approval for the construction of a tunnel is given, the Government will always commission a consultant to conduct a feasibility study. That being the case, and in connection with the tunnels now in question, may I ask the Government whether it has ever tried to examine the original feasibility studies in the light of the figures after actual implementation? Can one say that the consultants concerned did not do enough in respect of their sensitive forecasts?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, it is only natural that we should refer to our past experience while we move along. At present, none of our new roads belongs to the BOT category. But obviously, if ever we are going to have any similar projects, and when we try to work out any forecast, it will certainly pay off many times over for us to refer to the methods of estimation and forecast adopted by us in the past. And, precisely because of this reason, in the recently completed Third Comprehensive Transport Study, our expert consultant does not give one single figure on throughput forecast; instead, he makes a series of forecasts on three possible scenarios — the scenarios of high, middle and low throughput. In the future, whenever we construct any road or railway, we will also make different forecasts on the basis of all available information.

PRESIDENT (in Cantonese): End of question time.

WRITTEN ANSWERS TO QUESTIONS

Building Safety Inspection and Building Safety Improvement Loan Schemes

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

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- (a) *whether it has estimated the number and geographical distribution of buildings with potentially dangerous building elements, and the number of such elements; among these buildings, of the number of those already on the list of target buildings compiled by the Home Affairs Department;*
- (b) *given that only 12 inspection reports were received in response to the Buildings Department's invitations to the owners of 884 buildings to participate in the Building Safety Inspection Scheme (BSIS) last year, whether it has assessed the reasons for the BSIS not being widely accepted; if so, of the assessment results; if not, of the reasons for that;*
- (c) *of the quarterly figures for the following between January 1997 and September this year:*
- (i) *the number of buildings enrolled in the BSIS; and*
 - (ii) *the number of building investigation orders issued by the Building Authority under section 26A of the Buildings Ordinance (Cap. 123);*
- (d) *of the following:*
- (i) *the number of buildings involved in the Building Safety Improvement Loan Scheme (BSILS) applications received by the Buildings Department;*
 - (ii) *the amount of loans applied in respect of each building;*
 - (iii) *the amount of loans granted and the interest rate charged in respect of each building; and*
 - (iv) *the reasons for the Buildings Department refusing some of the applications,*
- since the implementation of the BSILS in March 1998; and*

- (e) *whether it has reviewed the implementation of the BSIS and BSILS; if it has, of the results?*

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

- (a) We do not have statistics on the number and geographical distribution of buildings with potentially dangerous building elements. If the Building Authority finds any imminent danger in a building, he will require by order the owners' corporation/flat owners to carry out investigation and remedial works. This will be done under section 24, section 26 or section 26A of the Buildings Ordinance (Cap. 123) as appropriate.
- (b) The response to the BSIS has not been enthusiastic. We have so far received 32 inspection reports. The main reasons for the slow response are:
- (i) it is a voluntary scheme;
- (ii) some flat owners may face practical difficulties in organizing themselves for participation in the scheme; and
- (iii) flat owners are worried about the cost of engaging a building professional to carry out the work.
- (c) The quarterly figures in respect of BSIS enrolment and section 26A orders, from January 1997 to September 1999, are as follows:

<i>Year</i>	<i>Quarters</i>	<i>Buildings enrolled in the BSIS</i>	<i>Building served with s26A orders</i>
1997	1	0	0
	2	0	0
	3	2	63
	4	5	84

<i>Year</i>	<i>Quarters</i>	<i>Buildings enrolled in the BSIS</i>	<i>Building served with s26A orders</i>
1998	1	5	88
	2	12	97
	3	11	106
	4	15	102
1999	1	20	96
	2	32	36
	3	35	12
		137	684

- (d) (i) Since the launching of the BSILS in August 1998, the Buildings Department has received 78 applications from flat owners involving 35 buildings.
- (ii) Of the 78 applications received, 18 were rejected. The remaining 60 applications were from 19 buildings. The details are set out in the Appendix.
- (iii) Both low-interest (currently at 6.5% per annum) and interest-free loans are available. The details of the loans made are set out in the Appendix.
- (iv) The Buildings Department rejected 18 applications because the eligibility criteria of the BSILS had not been met, for example, no Authorized Person (AP) had been appointed or the AP did not intend to follow the established procedures in making the required inspection.
- (e) We are reviewing the BSIS and the BSILS with a view to introducing a new statutory scheme of preventive maintenance of buildings. We will shortly consult the public on our proposal.

Building Safety Improvement Loan Scheme

<i>Building No.</i>	<i>No. of Applications Received for the Building</i>	<i>No. of Applications Approved</i>	<i>Amount Applied For</i>	<i>Amount Approved</i>	<i>Remarks</i>
1	3	3	\$41,600	\$38,600	1 interest-free application
2	1	1	\$39,900	\$39,900	
3	5	5	\$382,500	\$382,500	
4	2	Not Applicable	\$27,000	—	2 applications withdrawn
5	3	3	\$133,000	\$107,000	
6	1	Not Applicable	\$40,000	—	application withdrawn
7	3	2	\$264,000	\$176,000	1 application withdrawn
8	2	2	\$200,000	\$200,000	
9	4	4	\$200,000	\$200,000	
10	2	2	\$37,244	\$36,600	
11	19	Pending Approval	\$648,000	—	2 interest-free applications
12	7	6	\$132,734	\$110,900	1 interest-free application 1 application withdrawn
13	1	Pending Approval	\$20,000	—	
14	1	Pending Approval	\$20,000	—	
15	1	1	\$25,000	\$16,000	1 interest-free application

<i>Building No.</i>	<i>No. of Applications Received for the Building</i>	<i>No. of Applications Approved</i>	<i>Amount Applied For</i>	<i>Amount Approved</i>	<i>Remarks</i>
16	1	1	\$10,000	\$10,000	1 interest-free application
17	1	Pending Approval	\$50,000	—	
18	1	Pending Approval	\$50,000	—	
19	2	1	\$48,500	\$10,500	1 application pending
Total	60	31	\$2,369,478	\$1,328,000	

Treatment of Medical Waste

8. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, will the Government inform this Council whether it has decided that the Chemical Waste Treatment Centre (CWTC) on Tsing Yi Island should treat clinical waste by incineration; if it has:*

- (a) *of the justifications for the decision;*
- (b) *of the proposed implementation schedule;*
- (c) *how the respective annual levels of dioxin and other toxic substances emitted into the air by the CWTC after it has adopted this treatment method compare with the present emission levels; and*
- (d) *of the implications of this treatment method on the recurrent expenditure of the CWTC?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Chinese): Madam President, clinical wastes are potentially hazardous and infectious. They should be handled and disposed of properly to safeguard the public, health care workers and waste management operators.

- (a) The Government intends to modify the CWTC to incinerate clinical waste because:
 - (i) Incineration is the best approach to treat all types of clinical waste. Unlike other alternatives, it can completely destroy infectious pathogens, and deal with body parts, as well as reduce the waste residues that require final disposal at landfills. Proper separation of wastes prior to incineration, together with high temperature combustion and filtering facilities in modern incinerators can effectively minimize the emission into the atmosphere of harmful substances.
 - (ii) The CWTC is equipped and designed to meet the most stringent air emission standards imposed worldwide. It is operated by an experienced and highly competent contractor. It has sufficient capacity to handle all the clinical waste projected to arise over the next 10 years.
 - (iii) By modifying the CWTC, rather than building a new facility, significant resources and development time can be saved.
 - (iv) Land can be saved as there is no need to find another site for the incineration facility.

The incineration of clinical wastes will be implemented together with a package of regulatory and management measures. These measures, now being finalized, will be in the form of a code of practice and regulations made under the Waste Disposal Ordinance (Cap. 354).

- (b) The Government will brief Members of the Legislative Council on the proposals at a joint meeting of the Panel on Environmental Affairs and Panel on Health Service on 3 December 1999. We intend that funding approval would be sought from the Finance

Committee in early 2000. Subject to availability of funds, and taking into account the time required for the modification works to the rotary kiln at the CWTC, we expect that the CWTC can start to treat clinical waste in 2001.

- (c) During the past three years, the average concentration of dioxins in the stack emission of the CWTC has been around 0.03 nanogramme per cu m. This is well below the emission standard of 0.1 nanogrammes per cu m imposed on the CWTC. The corresponding quantities of dioxin emitted from the stack so far has been on the average of about 4.3 mg each year. When clinical waste is incinerated, the additional amount of dioxin that may be generated is forecast to be less than 1 mg. Most of this and other toxic substances will, however, be removed by the filters. The emission requirements of the CWTC will not be exceeded.
- (d) The additional recurrent expenditure related to the proposed incineration of clinical waste at the CWTC is estimated to be around \$22 million on the average per annum.

Impact of Cyberport Project on Residents in Southern District and Pok Fu Lam Area

9. **DR RAYMOND HO** (in Chinese): *Madam President, will the Government inform this Council whether the permitted heights of the buildings at the Cyberport were specifically listed and whether an assessment had been made regarding the impact of the whole project, including the heights of the buildings thereat, on residents in Southern District and the Pok Fu Lam Area when the Planning Department submitted to the Town Planning Board in August this year the revised Pok Fu Lam Outline Zoning Plan in connection with the Cyberport Project; if so, of the relevant details; if not, of the reasons for that?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Chinese): Madam President, the proposed heights of the buildings for the six sub-areas of the Cyberport development, in terms of number of storeys, were shown on a preliminary layout plan in the Planning Report supporting the request for rezoning the Telegraph Bay area to provide for the

Cyberport development. The Planning Report also included information on the relevant assessment studies of the impact of the Cyberport development, including Traffic Impact Assessment, Environmental Impact Assessment, Drainage Impact Assessment, Sewerage Impact Assessment and Visual Impact Assessment which, among other things, employed the photomontage technique to present the possible visual impact of the Cyberport's building profile on the surrounding areas. After considering the request and the information in the Planning Report, the Town Planning Board approved, on 9 April 1999, the gazetting of the proposed amendments to the Pok Fu Lam Outline Zoning Plan. The gazetted amendments stipulated the permitted building heights of the Cyberport development, in terms of metres above Principal Datum for sub-areas 1, 2, 3 and 4 and in terms of number of storeys for sub-areas 5 and 6.

On 6 August 1999, the Town Planning Board gave preliminary consideration to the 14 objections received during the exhibition period of the amendments to the Pok Fu Lam Outline Zoning Plan. Some of these objections were concerned about the impact of the permitted building heights for the Cyberport development. To assist the Board with the consideration of these objections, the Planning Department extracted the relevant information from the Planning Report and also presented an additional photomontage image showing the possible visual impact of the Cyberport development from a particular angle as raised in one of the objections. The Board decided not to uphold any of the objections, and subsequently confirmed this decision at its meeting on 29 October 1999, after giving further consideration to the objections in the presence of the objectors.

Target of Requiring All Teachers to be Professionally Trained and Degree Holders

10. **MISS EMILY LAU:** *Madam President, it was stated in the Government's Policy Objectives this year that "the long-term target is to require all new teachers to be professionally trained and degree holders". In this connection, will the executive authorities inform this Council:*

- (a) of the current respective numbers and percentages of teachers in kindergartens, primary and secondary schools who have been professionally trained and are degree holders; and*
- (b) of the expected date for such long-term target to be achieved?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, according to the 1998 Teacher Survey, the number and percentage of teachers in primary and secondary schools by qualifications are as follows:

<i>School Levels⁽¹⁾</i>	<i>Total No. of Teachers</i>	<i>No. of teachers who are professionally trained (percentage)</i>	<i>No. of teachers who are professionally trained and degree holders (percentage)</i>
Primary	21 187	18 233 (86.06%)	5 095 (24.05%)
Secondary	23 913	19 056 (79.69%)	15 465 (64.67%)

Note (1): excluding English Schools Foundation Schools and international schools.

It is the Government's long-term target to require all new primary and secondary school teachers to be professionally trained and degree holders. While we have not set a specific date for the completion of the target, we are taking active measures to work towards the target. As a first step, we will develop the Hong Kong Institute for Education (HKIEd) to a degree-awarding teacher training institution. Starting from the 1999-2000 academic year, we are progressively upgrading the pre-service sub-degree training places for primary and secondary school teachers at the HKIEd to degree or above levels at the Institute or other tertiary institutions by phases. When the phased upgrading is completed by 2004, all graduates of pre-service training programmes for primary and secondary school teachers will be degree holders.

To underline the importance we attach to teachers' qualifications, we are continuing with the following on-going measures:

- (i) In considering the appointment of teaching staff, schools are asked to give preference to persons who, in addition to the minimum qualifications, possess a professional qualification in education; and

- (ii) Untrained teachers are required to undergo in-service professional training as a condition of promotion and progression over salary bar.

Both measures are set out in the Codes of Aid.

The Government's long-term target to require all new teachers to be professionally trained and degree holders does not apply to the pre-primary sector. According to the 1998 Teachers Survey, 147 (about 1.7%) kindergarten teachers are professionally trained and degree holders. However, the Government has been introducing various measures to upgrade the training and qualifications of kindergarten teachers. The percentage of trained teachers will be raised from 50% in September 1999 to 60% by September 2000. We have also advanced the target of requiring all newly recruited kindergarten principals to have completed the Certificate in Education (Kindergarten) course from September 2004 to September 2002.

Certain Secondary Schools Barring Boys or Girls from Access to Some Subjects

11. **MISS CHRISTINE LOH:** *Madam President, the Equal Opportunities Commission (EOC) found that about 85% of co-educational schools had restricted the study of Design and Technology to boys and Home Economics to girls, and informed the schools concerned in July this year that such restrictions contravened the Sex Discrimination Ordinance (SDO) (Cap. 480). In this connection, will the Government inform this Council:*

- (a) *of the current number of secondary schools which still practise such restrictions; and*
- (b) *whether the Education Department has taken any follow-up action in this respect; if not, of the reasons for that?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President,

- (a) According to a survey conducted by the Education Department in early November this year, out of 240 co-educational secondary schools offering the subject of Design and Technology, 109 schools, or 45% of the total, allow only boys to study the subject. On the other hand, out of 253 co-educational secondary schools offering the subject of Home Economics, 111 schools, or 44% of the total, allow only girls to study the subject.
- (b) It has always been the policy of the Education Department to provide equal education opportunities to students of both sexes. Moreover, all subject syllabuses recommended by the Department for use in schools are not gender specific. The Department does not agree with the practice of streaming students into different subject classes by gender, as this would bar boys or girls from access to the same curricula and would reinforce gender stereotyping.

Some schools may have been following traditional idea and practice, and are restricting the studies of Design and Technology and Home Economics to boys and girls respectively. In this regard, the Department is taking the following actions:

- (i) From time to time, the Department issues circulars and organizes workshops reminding schools to ensure that all students are given equal opportunities for participation and learning. The Department issued a circular to all schools in May 1999, reminding schools, in planning their school curriculum, to ensure that boys and girls have equal access and opportunities to study all the subjects offered. When selecting teaching and learning materials such as case studies, examples and illustrations, schools should exercise care to avoid any form of discrimination.
- (ii) When conducting school inspections or visits, officers of the Department will see if any form of discrimination exists in the schools' arrangements for curriculum planning and streaming of students. If discrimination is found, the Department will

urge the schools to make rectification. For the schools mentioned in paragraph (a) above which restrict the study of Design and Technology to boys and the study of Home Economics to girls, the Department will follow up by drawing the attention of these schools to the relevant provisions of the SDO, and asking these schools to rectify the arrangements.

In addition, the Education Department uses different channels to explain to schools the importance of providing equal opportunities to students of both sexes for receiving education. For example, the EOC organized a workshop on Design and Technology and Home Economics in secondary schools on 30 October 1999 and invited representatives from the Education Department and schools to attend. In that forum, the representative of the Department once again reminded schools to provide equal opportunities for both boys and girls to study the two subjects.

Use of Mobile Phones and Pagers by Medical Staff while Performing Operations

12. **MR LEE WING-TAT** (in Chinese): *Madam President, Will the Government inform this Council whether it knows:*

- (a) *the regulations made by the Hospital Authority (HA) on the use of mobile phones and pagers by its medical staff within the bounds of public hospitals; and*
- (b) *if the HA will consider reviewing and tightening up the relevant regulations, including strict stipulation that medical staff must not use mobile phones and pagers while performing surgical operations?*

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

- (a) The HA has formulated and issued guidelines to public hospitals for controlling the use of radiofrequency (RF)-transmitting devices,

including mobile phones, on hospital premises. Concerned about the possible interference by radio transmissions to the normal operations of medical equipment, the guidelines, which apply to patients, visitors as well as hospital staff, caution against the use of mobile phones within one metre of medical equipment, especially in such areas as patient wards, operating theatres, emergency rooms and clinical laboratories. The guidelines do not cover pagers, which are not RF transmitters.

- (b) Mobile phones and pagers are essential communication tools which make it possible for important, and at times, urgent patient information and messages to reach the medical staff when they are working in different parts of the hospital. To avoid interference to the operations of the medical devices in the operating theatres, medical staff should avoid using mobile phones when performing surgical operations. The HA is at present reviewing the guidelines, including clarifying procedures to ensure that the patient's interest is always safeguarded.

Safety of On Ning Garden in Tseung Kwan O

13. **MR LAU KONG-WAH** (in Chinese): *Madam President, it was reported that cracks had recently been found at various places in On Ning Garden (ONG) of Tseung Kwan O and such cracks were allegedly caused by the construction works on the Mass Transit Railway (MTR) Tseung Kwan O Extension project of the MTR Corporation in the vicinity of ONG. In this connection, will the Government inform this Council:*

- (a) *whether the Housing Department has held meetings with the Owners' Corporation of ONG to explore the possible solutions to this problem and offered assistance; if not, of the reasons for that;*
- (b) *whether it has investigated the causes of such cracks; if so, of the outcome; and*
- (c) *where the causal relationship between the cracks and the MTR Tseung Kwan O Extension project works nearby is established, of the remedial measures that it and the MTR Corporation will adopt?*

SECRETARY FOR HOUSING (in Chinese): Madam President, the Owners' Corporation of ONG and the MTR Corporation held a meeting recently to discuss the alleged claim by owners that the cracks were caused by the MTR Corporation's engineering works outside the estate. As this is a private matter between the Owners' Corporation and the MTR Corporation, the Housing Department was not involved.

Staff of the Buildings Department have inspected the cracks on the ground in the external areas near Towers 2 and 3 of ONG in the presence of representatives of the Owners' Corporation and the MTR Corporation, and have concluded that they are minor defects which do not affect the structural safety of the Buildings. The MTR Corporation has been asked to take positive steps to minimize the effect of its works on adjoining buildings. The Buildings Department will continue to monitor the situation closely.

The relevant parties are still investigating the cause and the extent of the problem, and will consider the appropriate remedial actions.

Subsidence Problem in Tseung Kwan O

14. **DR TANG SIU-TONG** (in Chinese): *Madam President, it was reported that unusual soil settlement occurred recently in Tseung Kwan O and Chai Wan. Some academics pointed out that such unusual settlement might be related to the underground water wastage resulting from Stage I construction works of the Strategic Sewage Disposal Scheme (SSDS) currently in progress or the fact that parts of the districts concerned were situated on reclaimed land. In this connection, will the Government inform this Council:*

- (a) *before the commencement of the SSDS, whether it had evaluated if the SSDS would cause soil settlement; if it had, of the estimated average monthly settlement in the districts concerned, and the impact of the SSDS on buildings and public utilities such as underground mains and road surface; and of the related remedial measures formulated;*
- (b) *of the respective numbers of reports received every month concerning cracking of underground mains and road surface subsidence in the year before and after the commencement of the SSDS;*

- (c) *of the normal average settlement of the reclaimed land in each of the first five years after the completion of the reclamation works; the respective impacts of soil settlement exceeding the normal extent on the structure of buildings constructed before and after mid-1970s;*
- (d) *of the expected time of completing the investigations being conducted into the unusual soil settlement in Tseung Kwan O and Chai Wan; whether it has planned to report to this Council the results of the investigations; and*
- (e) *how the public can claim compensation for losses incurred by the soil settlement as a result of public works programmes?*

SECRETARY FOR WORKS (in Chinese): Madam President,

- (a) Before the commencement of the sewage tunnel works under Stage I of the SSDS, a detailed assessment of the potential risk of ground settlement due to the tunnel works has been made on the affected districts. If the works take place in the established areas or districts with strategic structures, the contractor is required to strictly limit the water inflow in the tunnel to lower the possibility of ground settlement resulting from underground water wastage. This is to ensure that the buildings, roads and public utilities in the districts concerned will not be affected. According to our assessment, when the tunnel works are proceeding beneath these districts, the settlement normally will not exceed 20 mm, which will not bring about adverse impact upon the buildings, roads and public utilities.

The tunnel works have been 65% completed. A length of 2.5 km of the section from To Kwa Wan to Stonecutters Island has been excavated. No sign of settlement has been recorded by the monitoring stations at those densely populated areas like To Kwa Wan, Ho Man Tin and Mong Kok that lie above this section of the tunnel. Similarly, buildings and facilities situated above other sections of the tunnel, such as from Kwai Chung to Tsing Yi, Tsing Yi to Stonecutters Island and Kwun Tong to To Kwa Wan, have not been affected by the works.

With regard to the settlement found at Ka Yip Street, Chai Wan in March 1999, we suspect that it was caused by the inflow of underground water to the tunnel (Chai Wan — Kwun Tong section) of the SSDS. This led to the consolidation of the soil layers and therefore the subsidence of the ground surface. Soon after the subsidence, we instructed the contractor to carry out grouting in the tunnel to reduce the wastage of underground water. We also directed the contractor to build several recharge wells on the ground to prevent further consolidation of soil layers. Such measures have been in place since late March and have proved to be effective. The subsidence at Ka Yip Street was soon brought under control and had been more or less stabilized. Apart from the need to resurface a section of the pavement, there is no report of public utilities being affected by the settlement. In the case of Tseung Kwan O, since the investigation is in progress, the cause of the unusual settlement has not been confirmed yet.

- (b) According to information available, in the year before and after the commencement of the tunnel works under Stage I of the SSDS, there was no significant change in the number of reports concerning cracking of underground mains in Chai Wan and Tseung Kwan O districts. In respect of the section of Ka Yip Street in Chai Wan which was affected by the settlement, apart from the need to resurface part of the pavement, there is no report of public utilities being affected by the settlement. Similarly, no such report has been received for Tseung Kwan O town centre.
- (c) The design of a reclamation should take into account the planned use and the schedule for development, and particularly the characteristics of settlement arising from the consolidation of marine mud and filling materials. Various factors such as the thickness of marine mud, whether marine mud should be dredged, depth of filling materials, and whether settlement should be accelerated by the installation of vertical drains have to be considered. As such, each reclamation area exhibits individual characteristics and design, the extent of settlement at reclamation areas cannot therefore be generalized.

Settlement occurs in two stages — initial and secondary settlement. Initial settlement, constituting a substantial part of the total settlement, occurs before the reclamation area is handed over for development. Further settlement is expected within three years of handover. Thereafter, the extent of settlement will decrease progressively. But the process of settlement needs five to 15 years to complete and cannot be speeded up.

Piled foundations of all buildings, whether before or after the mid '70s, should have been designed to allow for normal settlement within the marine mud and fill. As regards the unusual settlement, it causes no danger to completed buildings or buildings under construction. However, we are now investigating its impact on these buildings.

- (d) We are investigating the cause of the unusual ground settlement in Tseung Kwan O and need four months to complete the investigation. We will inform the Members once the result is available.

With regard to the settlement found at Ka Yip Street, Chai Wan in March 1999, we suspect that it was caused by the inflow of underground water to the tunnel (Chai Wan — Kwun Tong section) of the SSDS. This led to the consolidation of the soil layers and therefore the subsidence of the ground surface. Soon after the subsidence, we instructed the contractor to carry out grouting in the tunnel to reduce the wastage of underground water. We also directed the contractor to build several recharge wells on the ground to prevent further consolidation of soil layers. Such measures have been in place since late March and have proved to be effective. The subsidence at Ka Yip Street was soon brought under control and had been more or less stabilized. Besides, the Highways Department had already resurfaced the affected section of Ka Yip Street.

- (e) Provisions of claims relating to sewage tunnel works are laid down in the Sewage Tunnels (Statutory Easements) Ordinance. Section 12(1) of the Ordinance states that:

" Subject to this section, the Crown shall be liable to pay compensation to any person who has suffered loss or damage to land (including any diminution in the value of the land) or property situated on land as a result of the creation of rights, or the exercise of rights created, under this Ordinance."

If the settlement caused by tunnel works has eventually inflicted loss or damage to a person's land or his property situated on it, a claim for compensation can be made under the Ordinance. A written notice of the claim must be delivered to the Director of Lands within a specified period. Please refer to the Ordinance for further details.

Besides, one may institute civil action for compensation if the settlement is caused by other public works programmes and has eventually inflicted loss or damage to his property.

Adoption of Sustainable Development Perspective in Planning

15. **MISS EMILY LAU:** *Madam President, regarding the adoption of sustainable development perspectives in planning, will the executive authorities inform this Council whether:*

- (a) *they will review if the roads and highways planned for the next decade tie in with the concept of sustainable development; and*
- (b) *they will consider revising the population consideration for the building of railways in new towns so that more railways, which are more environment-friendly, can be built early?*

SECRETARY FOR TRANSPORT: Madam President, sustainable development is a cross-sectoral concept for application to planning and decision making in both the public and private sectors. In the area of transport, our Policy Objective has pledged to support the sustainable development of Hong Kong.

In October this year, the Government issued a new transport strategy "Moving Ahead: A Transport Strategy for the Future" based on the findings and recommendations of the Third Comprehensive Transport Study (CTS-3). The strategy provides the framework for the planning of transport infrastructure in a manner which contributes to the sustainable development of Hong Kong.

On road projects, they will only be built when their need is firmly established. Under the framework set out in the transport strategy, we will regularly review the need and the implementation programme of each road project to ensure that it dovetails with the most up-to-date land use and the latest population and traffic parameters.

On railway projects, we are committed to the policy of encouraging the use of railways, which are efficient mass carriers and are environmentally friendly. This means that we will use railways as our first choice to meet passenger traffic demand wherever practicable. We will also integrate railway development with land use and planning targets, such as clustering intensive developments around rail stations to maximize the use of railways.

Apart from the projected population intake, the implementation of a rail project will also take into account factors such as the extent and pace of development along the railway corridor, the availability of sites, the delivery capability of the rail corporation undertaking the project and the long-term viability of the project. The catchment population to be served by a railway line is important. However, this does not mean that for the short term, particularly in the start-up period, we would need the full population intake. For example, the population in the Tseung Kwan O New Town was 150 000 during the planning stage of the Tseung Kwan O Extension. When the line becomes operational in 2002, the population intake will only be slightly more than half of the ultimate projection. Similarly, while the population intake is continuing in North Lantau, and this has yet to reach its full capacity of 320 000 people, a heavy rail link is up and running since 1998-99.

Measures to Defer Plan to Build a new Power Plant in Lamma Island

16. **MISS CHRISTINE LOH:** *Madam President, regarding the measures that will defer the plan of the Hongkong Electric Company Limited (HEC) to build a new power plant on Lamma Island, will the Government inform this Council:*

- (a) of the current peak demand on electricity supply in the HEC's service area;*
- (b) of the peak demand which will necessitate the building of a new power plant; the estimated year in which such peak will be reached and the demand side management (DSM) measures that need to be taken in order to contain the peak demand in the estimated year at the current level;*
- (c) of the amount of reduction in current peak demand required in order to defer the building of a new power plant by one year;*
- (d) of the amount of reduction in current peak demand required of the commercial and industrial users only in order to defer the building of a new power plant by one year;*
- (e) whether it has compared the financial gains to the HEC in each of the following two scenarios:*
 - (i) implementing DSM measures and thus deferring the construction of a new power plant; and*
 - (ii) the building of a new power plant to sell more power; and*
- (f) of all available energy saving measures, together with their costs and potential energy savings, and provide a comparison of the costs of such measures with the cost of building a new power plant?*

SECRETARY FOR ECONOMIC SERVICES: *Madam President, my replies to the six parts of the question are set out in seriatim below:*

- (a) The peak demand on electricity supply in the HEC's *de facto* service area in 1998 was 2 316 megawatts. As advised by the HEC, taking into account the Listing Rules of the Hong Kong Stock Exchange and in line with its past practice, the peak demand in 1999 would be made available to its shareholders and the public on publication of its annual report for the year.
- (b) As regards the peak demand that will necessitate the building of a new power plant and the estimated year when this occurs, the Administration is currently examining these issues in the context of its consideration of the HEC's proposed Financial Plan. As to the DSM measures that would need to be taken in order to contain future peak demand at the current level, the Administration is not in a position to quantify the effect of all possible DSM measures. This is because apart from the DSM Programmes drawn up by the HEC where the company is committed to achieving a target saving of 10 megawatts in peak demand in the HEC's system in three years, the Planning, Environment and Lands Bureau has advised that the effect of other DSM measures like the energy efficiency measures described in item (f) below could not be quantified at this stage.
- (c) Current peak demand is adequately met by current installed capacity. Additional generating capacity would be required in a future year when the installed capacity at that time is inadequate to meet the forecast peak demand in that year at the reliability level desired. Generally, the magnitude of this shortfall could vary depending on the reserve capacity and the forecast growth in peak demand in the preceding year. The HEC currently assessed that a reduction of some 100 megawatts in future peak demand should enable the deferral of its proposed new power plant by one year.
- (d) The same considerations as set out in (c) above would apply.
- (e) Such a comparison has not been made because the proposed DSM Programmes by the HEC are under review in the light of views and concerns expressed by members of the Legislative Council Panel on Economic Services. Furthermore, as explained in (f) below, the cost and effect of other DSM measures under consideration by the Administration cannot be quantified at this stage.

- (f) Apart from the proposed DSM Programmes by the power companies, the Planning, Environment and Lands Bureau is working on a number of energy efficiency and conservation initiatives. These initiatives include lowering the Overall Thermal Transfer Value requirement on new commercial and hotel buildings, improving the energy efficiency of existing public buildings through energy audit surveys and retrofitting them with energy efficient equipment, expanding the existing voluntary Energy Efficiency Labelling Schemes to more electrical appliances and introducing new labels for office equipment starting from 2001, and promoting gradual conversion of existing air-cooled air conditioning systems to water-cooled air conditioning systems in non-domestic buildings starting from 2002-03. Most of these measures are voluntary and the potential energy savings would largely depend on the public's acceptance of these initiatives. The Administration does not have information on the costs of these initiatives and consequently is not in a position to provide the comparison requested.

Total Ban on Driving Duties Performed by Foreign Domestic Helpers

17. **MR ERIC LI** (in Chinese): *Madam President, the Immigration Department will implement on 1 January next year a new stipulation to only process applications for employing foreign domestic helpers (FDHs), made in accordance with the new standard employment contracts for FDHs which stipulate against FDHs undertaking any driving duties. Upon the implementation of the new stipulation, FDHs will not be allowed to drive to purchase daily necessities for their employers or to drive their employers' children to and from school. In this connection, will the Government inform this Council:*

- (a) *of the legal basis for imposing a total ban on FDHs performing driving duties;*
- (b) *whether it has assessed the impact of the new stipulation on families residing or with children studying at schools located in areas where convenient public transport is not available;*

- (c) *of the measures that will be put in place to prevent employers and employees from reaching private agreements for the FDHs to continue to undertake driving duties; and*
- (d) *whether sample checks will be conducted on foreigners who are driving, to see if they are FDHs undertaking driving duties for their employers; if so, of the measures that will be put in place to avoid causing unnecessary nuisances to foreigners at the wheel?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) It is our long-established policy on entry for employment that, in allowing foreign workers to work in Hong Kong, the job opportunities and wages of local workers should not be adversely affected. Under the Immigration Ordinance, all persons who enter Hong Kong for employment are subject to the condition of stay that they shall only take such employment as may be approved by the Director of Immigration. Other conditions of stay may also be imposed by the Director as appropriate. To implement the ban on FDHs performing driving duties, a new condition of stay to this effect could be imposed by virtue of the power conferred under section 11 of the Immigration Ordinance.
- (b) The Government has not been able to assess the impact of the new stipulation on families residing or with children studying at schools in areas where convenient public transport is not available because there are no available data on the number of such households. However, it is believed that the impact would not be significant because there are other viable alternatives such as making use of school bus and taxi, the performance of driving by family members, or the hiring of a local chauffeur.
- (c) Approval of applications for FDHs to come to work in Hong Kong is based on information, including the employment contract, provided by the employer and the FDH. If the employer and the FDH give false or misleading information, they are liable to an offence under section 42 of the Immigration Ordinance punishable summarily with a maximum fine at level 6 (\$100,000) and

imprisonment for two years. At the same time, those FDHs who breach their condition of stay commit an offence under section 41 of the Immigration Ordinance and are liable on conviction to a maximum fine at level 5 (\$50,000) and imprisonment for two years. The employer or any other person procuring the driving duties is also liable to an offence of aiding and abetting the FDH to breach the condition of stay and is punishable with the same punishment.

- (d) In enforcing the ban, the Government would act on complaints and would pursue cases of FDHs who are subject to the ban. It is not envisaged that cars driven by foreigners will be stopped on the streets for the purpose of undertaking random checks.

It should be pointed out that the ban will be imposed only when new contracts are drawn up. FDHs permitted to work under existing contracts will not be affected. Nor does the ban apply to FDHs driving vehicles during their rest days for their own pleasure.

Manpower Planning for New Infrastructural Projects

18. **PROF NG CHING-FAI** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *with regard to the various infrastructural projects, which will cost \$240 billion, to be carried out in the coming five years as revealed in the policy address this year, of the estimated annual progress and expenditure of each project;*
- (b) *of the other infrastructural projects to be carried out in the coming 10 years and the estimated annual progress and expenditure of each project;*
- (c) *of the estimated numbers of job vacancies and man-years that will be created in each of the coming 10 years by various large infrastructural projects, broken down by trade and type of work; and*

- (d) *whether the Works Bureau, Transport Bureau, Education and Manpower Bureau (EMB) and other Policy Bureaux has set up a co-ordination mechanism to ensure a proper balance between the supply and demand of construction workers of various types of work in Hong Kong when the construction of various large infrastructural projects are under way; if so, of the details of the co-ordination mechanism?*

SECRETARY FOR WORKS (in Chinese): Madam President,

- (a) As the Chief Executive mentioned in the policy address, the Administration will continue to invest heavily in physical infrastructure. This is essential to the long-term interest of the Hong Kong Special Administrative Region. In the short term, this will create employment and help economic recovery.

The indicative figure of \$240 billion covers the Government's investment in capital infrastructure as well as investments by major corporations on railway projects for a five-year planning horizon. The actual government capital expenditure for 1997-98 was \$25.7 billion and that for 1998-99 was \$27.6 billion. For the coming few years, the forecast annual government works expenditure is estimated to be in the rough order of \$30 billion on average. In broad terms, therefore, we expect government capital expenditure to total around \$140 billion within the five-year planning horizon.

In addition, there are four key railway projects that are under way or under planning, estimated to cost around \$100 billion. These include:

- (i) the Kowloon-Canton Railway (KCR) Ma On Shan to Tai Wai and Hung Hom to Tsim Sha Tsui Extensions (estimated at \$15.1 billion);
- (ii) the KCR Extension to Sheung Shui/Lok Ma Chau (estimated at \$8.5 billion);

- (iii) the KCR West Rail Phase I (estimated \$51.7 billion); and
 - (iv) the Mass Transit Railway Tseung Kwan O Extension (estimated at \$30.5 billion).
- (b) Since we normally earmark funding for capital works projects based on a five-year planning cycle, it is difficult to itemize the estimated annual progress and expenditure for each of the projects to be carried out in the coming 10 years. Nevertheless, we do provide quarterly reports on Public Works Programme to the Public Works Subcommittee and the Finance Committee on the programming and expenditure details for all major projects in the Public Works Programme. The last report was issued to Members in September 1999 and the next one is due in December 1999.

At the moment, there are over 1 000 government capital work projects already in Category A of the Public Works Programme. About 100 new projects are to start in the coming financial year. Some examples of major projects to start are:

	<i>Five-year Expenditure (\$B)</i>	<i>Total Project Cost (\$B)</i>
South East Kowloon developments	1.4	8.3
North Lantau phase 3 development in Tung Chung	2.3	4.0
Science Park at Pak Shek Kok — phase 1	1.8	2.4
Route 9 (Tsing Yi to Cheung Sha Wan and Cheung Sha Wan to Sha Tin)	2.6	21.4
Route 10 — North Lantau to Yuen Long Highway	2.4	24.8

- (c) For the coming five-year planning horizon, we expect some 230 000 labour man-years will be required from the Government's works related capital expenditure during this period. For the railway works, we expect some 57 000 labour man-years to arise in 1999 to 2002.
- (d) In August 1998, the EMB set up the "Working Group on Training and Retraining for the Construction Industry" to monitor the demand and supply in the construction labour market. The Working Group comprises representatives from relevant Policy Bureaux and departments, the construction and real estate developers associations, trade unions and training bodies.

One major task of the Working Group is to examine how to redeploy retraining places in various training organizations efficiently, and to improve the training and retraining programme, so as to meet the demand of construction labour in Hong Kong. The Working Group holds meetings, updates demand and supply assessment in the construction labour market on regular basis with a view to formulating corresponding measures.

Procedure and Monitoring Mechanism for Clinical Trials

19. **MR MICHAEL HO** (in Chinese): *Madam President, regarding the clinical trials of new medicines or new medical technologies conducted by public and private medical institutions, will the Government inform this Council whether it knows:*

- (a) *the respective numbers of clinical trial applications approved and rejected by the relevant authorities in each of the past five years; the considerations taken into account by the relevant authorities in making their decisions; and the respective numbers of cases in which patients had adverse reactions or died whilst undergoing the trials or thereafter; and*
- (b) *the existing application procedures for conducting clinical trials, the guidelines on professional conduct issued and the monitoring mechanism established by the relevant authorities in respect of such*

trials, as well as the respective numbers of cases in which the application procedures and guidelines on professional conduct were breached in the conduct of clinical trials in each of the past five years; how the relevant authorities have followed up such cases, and whether they have any plans to strengthen the monitoring mechanism?

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

- (a) In accordance with the "Professional Code and Conduct for the Guidance of Registered Medical Practitioners" (the Code) issued by the Medical Council of Hong Kong, medical practitioners have to consult and obtain approval from the relevant ethical committee with regard to the use of new surgical procedures, grafts, implants or medications on patients. The Hospital Authority (HA), Department of Health (DH) and private hospitals have set up their own ethics committees for considering applications from their respective staff for biomedical research/clinical trials involving patients.

When determining whether an application for biomedical research/clinical trials should be approved, the ethics committees of the public and private institutions will consider whether the proposed biomedical research/clinical trial conforms to the principles enunciated by the Declaration of Helsinki of the World Medical Association. The Declaration stipulates the basic ethical principles and safeguards on experimentation on the patients, such as:

- (i) the design and performance of each experimental procedure involving patients should be clearly formulated in an experimental protocol;
- (ii) there should be careful assessment of predictable risks in comparison with foreseeable benefits to the patient;

- (iii) there should be good grounds to support that the clinical trial would yield equal or better results than alternative methods of available treatment;
- (iv) clinical trials should be conducted only by scientifically qualified persons and under the supervision of a clinically competent medical person;
- (v) informed consent of patients must be obtained; and
- (vi) concern for the interests of the patient must always prevail over the interest of science and society.

Based on information available, the respective number of clinical trial applications approved and rejected by the HA, DH and private hospitals in the past five years are provided at Annex.

Researchers are required to state all potential risks or hazards to the patients in their clinical protocol, and it is mandatory for researchers to report all unanticipated deaths of patients to the relevant ethics committees. In the past five years, the HA's ethics committees have recorded a total of two cases in which patients had died. The causes of their deaths were subsequently confirmed to be not attributable to the concerned clinical trials. The DH and private hospitals record no cases of such unfortunate occurrences in the past five years.

- (b) As stated in (a), medical practitioners of the public and private institutions have to consult and obtain approval from their respective ethics committees for conducting biomedical research/clinical trials. Guidelines on professional conduct are clearly set out in the Declaration of Helsinki and the Code issued by the Medical Council, which medical practitioners of the public and private institutions are all required to comply with.

It is the responsibility of the medical practitioner to ensure that the clinical trial is potentially of significant value and is ethically conducted. In Hong Kong, the medical profession must adhere to the guidelines provided in the Code issued by the Medical Council when using new surgical procedures, grafts, implants or medications on patients. The Medical Council will conduct investigations on receipt of complaints regarding medical practitioners failing in their care of patients while conducting clinical trials, and will take disciplinary action on those who fail to comply with the Code.

In the past five years, the HA, DH and private hospitals record no cases of clinical trials either breaching the application procedures or the guidelines on professional conduct. Also, no complaints have been made to the Medical Council in the past five years in respect of contravening the Code in the conduct of clinical trials. The monitoring mechanism will be regularly reviewed to further protect and enhance patients' rights and interests.

Annex

Number of clinical trials approved and
Rejected by HA, DH and Private Hospitals from 1995-1999

	<i>No. of applications approved from 1995-1999</i>	<i>No. of applications rejected from 1995-1999</i>
HA	1 687	68
DH	19	0
Private hospitals	3	0

Note 1: A breakdown by individual years of the number of applications approved and rejected is not available from the HA.

Note 2: The number of applications approved and rejected by the HA does not include those of the medical faculty of the Chinese University of Hong Kong.

Prompt Access to Information of the Bankrupt by Financial Institutions

20. **MR NG LEUNG-SING** (in Chinese): *Madam President, section 42 of the Bankruptcy Ordinance (Cap. 6) provides that during the period beginning on the day of presentation to the court of a petition for a bankruptcy order and ending with the vesting of the bankrupt's estate in a trustee, any disposition of property made by the bankrupt is void. During that period, banks handling the accounts of the bankrupt on his instructions and other institutions or persons having financial dealings with the bankrupt may incur losses if they are unaware of such a petition. In this connection, will the Government inform this Council whether:*

- (a) *it knows the existing channels through which the banks, institutions and persons concerned can obtain the personal data of a bankrupt when a petition is filed in court for a bankruptcy order; whether it has assessed if such data are released promptly and if the released data can fully reveal the identity of the bankrupt so that the banks, institutions and persons concerned may avoid incurring any financial losses; and if the assessment result is in the negative, of the improvement measures it will adopt; and*
- (b) *it has assessed if such channels are convenient, fast and low in cost, and if the assessment result is in the negative, of the improvement measures it will adopt?*

SECRETARY FOR FINANCIAL SERVICES (in Chinese): *Madam President, there are two channels through which the banks, institutions and persons concerned can obtain the personal data of a debtor when a petition is filed in court for a bankruptcy order, they are:*

- (a) *to make a search in the cause book of the High Court for bankruptcy proceedings; and*
- (b) *to make a search with the Official Receiver's Office (ORO).*

The information available at the High Court reveals the debtor's name and last known address, but his/her identity card number will not be disclosed to

preserve personal data privacy. The information can be made available on the day following the petition being filed. The ORO will, where data is available, provide a "matching" exercise for the searcher to confirm the debtor's name and identity card number. The identity card number of the debtor however would not be disclosed in the search report, again to preserve personal data privacy. The accuracy and comprehensiveness of records in the High Court and the ORO are dependent on the information supplied by the debtor/petitioner.

The above search channels are generally fast and convenient and have been frequently used. The fee chargeable at the High Court is \$8 per search and at the ORO is \$85 per search.

In response to a recent request made by the Hong Kong Association of Banks (HKAB), the ORO is considering ways to enhance the existing search service. For instance, it is considering the feasibility of providing to the HKAB on a strictly confidential basis a list of individuals against whom bankruptcy petitions are issued together with their identity card numbers, subject to there being no objection from the Office of the Privacy Commissioner for Personal Data; that the HKAB members would confirm that the information so obtained would only be used to identify whether the individual is their customer and not for any other purposes; and that the costs for such services would be met by the HKAB.

BILLS

First Reading of Bill

PRESIDENT (in Cantonese): Bill: First Reading.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1999

CLERK (in Cantonese): Dutiable Commodities (Amendment) Bill 1999.

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

Second Reading of Bill

PRESIDENT (in Cantonese): Bill: Second Reading.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1999

SECRETARY FOR THE TREASURY: President, I move the Second Reading of the Dutiable Commodities (Amendment) Bill 1999.

The Bill serves two main objectives: First, to strengthen the enforcement efforts of the Customs and Excise Department in tackling the problem of supply and use of illicit fuel; and second, to relax controls on home brewing.

Let me first deal with the proposal to tackle the problem of illicit fuel.

Under the Dutiable Commodities Ordinance, the supply and purchase of dutiable hydrocarbon oil are prohibited. Dutiable hydrocarbon oil comprises light diesel oil, petrol, and aircraft spirit oil, for which duty has not been paid. Anyone who contravenes this provision commits an offence and is liable on conviction to a penalty.

In enforcing such prohibitive provisions, Customs officers have encountered two major practical difficulties. One is proving the supply of illicit fuel, while the other relates to proving the use of detreated oil or dutiable light diesel oil as fuel by vehicles. These problems arise as certain illicit fuel is no different from the duty-paid ones in appearance. This makes it difficult for Customs officers to establish a case to take prosecution action.

To tackle the problem of proving the supply of illicit fuel, the Bill seeks to expand the scope of an existing presumption provision under the Ordinance. This provision currently presumes that hydrocarbon oil is dutiable if a person is actually transferring it to or from a vehicle's fuel tank at any locations other than those premises licensed under the Dangerous Goods (General) Regulations for storage of dangerous goods, including hydrocarbon oil. However, practical enforcement experience has revealed that the existing provision is too restrictive for effective enforcement of the law. This is because, in many cases, the supply of illicit fuel does not involve any fuel transfer to or from a vehicle's fuel tank on the spot. For example, illicit fuel may be sold in takeaway cans for drivers to

refuel their vehicles at locations other than the supplying station. In such cases, Customs officers are not able to invoke the presumption.

We, therefore, propose to expand the scope of this presumption provision to include the sale, supply, purchase and receipt of, as well as any other dealings in, light diesel oil or petrol in any locations other than premises licensed specifically for storage of diesel oil and petrol under the Dangerous Goods (General) Regulations. This means that the light diesel oil and petrol traded in the premises not licensed for storage of diesel oil and petrol is presumed to be dutiable unless the person carrying out these activities can prove otherwise. However, Customs officers cannot invoke the presumption unless they have reasonable doubt on the dutiability of the light diesel oil or petrol. Such a requirement is already in the existing Ordinance.

As for the problem of proving the use of detreated oil or dutiable light diesel oil by vehicles as fuel, it has arisen because of the increasing difficulty to detect detreated oil by chemical testing on the spot. Detreated oil used to be detectable through testing of the chemical marker of the oil on the spot. However, culprits have recently been able to remove the marker so completely that renders such testing ineffective.

To address this problem, we propose to add a presumption to the effect that, light diesel oil found in the fuel tank of a motor vehicle with a sulphur content in excess of the maximum sulphur content prescribed under the Air Pollution Control (Motor Vehicle Fuel) Regulations is presumed to be dutiable. The current maximum sulphur content level is 0.05% by weight.

Let me explain the rationale underlying this new presumption. The current Air Pollution Control (Motor Vehicle Fuel) Regulations prohibit the supply of light diesel oil with a sulphur content higher than 0.05% by weight for vehicular use. Therefore, only light diesel oil with a sulphur content at or below 0.05% should be available from legitimate sources. It follows that all light diesel oil used by vehicles with a sulphur content above 0.05% is likely to be detreated oil or dutiable light diesel oil. That is why we propose to add a presumption based on the sulphur content of the light diesel oil. This presumption will not apply to light diesel oil used by vehicles arriving from the Mainland. This is because such light diesel oil, which may or may not have a sulphur content above 0.05%, is currently exempted from payment of duty under the Dutiable Commodities Regulations.

The above two presumptions will not apply to marked oil. This is because, unlike normal light diesel oil and petrol, marked oil is not dutiable goods under the current Dutiable Commodities Ordinance. The Ordinance only prohibits the use of marked oil as fuel by vehicles on the ground of deterring tax evasion, since such marked oil has replaced the duty-paid light diesel oil which should otherwise be used as vehicular fuel. We, therefore, do not consider it appropriate to include marked oil in the scope of the above presumption provisions seeking to deter illicit sale and purchase of light diesel oil and petrol. Moreover, marked oil is easily distinguishable from normal light diesel oil and hence does not require such presumption to facilitate enforcement against its illicit use by vehicles.

As part of the package to combat the problem of the supply and use of illicit fuel, we also propose to increase the maximum penalty for illegal supply and use of marked oil and detreated oil from \$200,000 and imprisonment for two years, to \$1 million with no change to the imprisonment terms. This is to put it on a par with similar offences involving supply or purchase of dutiable light diesel oil.

Turning to the second objective of the Bill, that is, the relaxation of controls over home brewing. Currently, the Ordinance makes no distinction between alcoholic liquors manufactured for commercial purposes and those brewed for personal use. Both kinds of liquors are subject to the same level of licensing controls and duty.

The Bill seeks to relax the controls over home-brewed alcoholic liquors for personal use by exempting them from both duty payment and licensing controls, provided that they comply with certain conditions aimed mainly at avoiding abuse. The move is in response to certain public criticisms that the existing controls are too stringent and have been a disincentive for those who wish to manufacture liquors for personal use. They will also bring our legislation on home brewing more into line with international practice. In fact, many of our major trading partners such as Australia, Canada, New Zealand and the United Kingdom do not impose any licensing requirements or duty on home brewing and home-brewed liquors.

The opportunity is also taken in this legislative amendment exercise to introduce technical amendments aimed at improving the structure of certain provisions of the Ordinance, in order to reflect the relevant legislative intent more clearly.

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dutiable Commodities (Amendment) Bill 1999 be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Housing Managers Registration Bill.

HOUSING MANAGERS REGISTRATION BILL

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): Secretary for Housing, do you wish to speak?

SECRETARY FOR HOUSING (in Cantonese): Madam President, the Government believes that it is necessary to enhance the efficiency of building management, which is why this Bill proposes to introduce a registration system for housing managers. I know that the Honourable Edward HO has made a lot of efforts in this area, and I also know that other Members also support this Bill very much. But I still wish to point out that in connection with the

qualifications required under the registration system, some people still have a certain degree of doubt. Actually, as stipulated in the Bill, people other than members of the Hong Kong Institute of Housing are also eligible for registration. These people include members of other housing management bodies of a comparable standard and people with at least one year of relevant professional experience whose professional qualifications are recognized by the Housing Managers Registration Board. Therefore, there should be no doubt in this respect.

The Housing Bureau will pay close attention to the implementation of the ordinance. It will pay particular attention to the operation of the registration system and other incidental matters, and a review on them will be conducted at an appropriate time after the implementation of the ordinance. Once again, let me thank Members for their support. I am sure that all Members will support the passage of this Bill. Thank you, Madam President.

MR EDWARD HO: Madam President, I rise to support the Housing Managers Registration Bill. With the aging stock of buildings, and recent increasing incidents of defective building conditions leading to injuries and deaths, it has become imperative that there should be proper maintenance and repair of buildings. Proper maintenance and repairs of buildings under proper building management will prolong the economic life of buildings, reduce hazards and continue to provide acceptable living environment for inhabitants. Apart from maintenance and repairs, housing management also includes such services as security of buildings, the maintenance of hygiene and other estate services.

Good and proper building management requires professionals who have been suitably trained and experienced in the management of buildings. The purpose of the Bill is to ensure that only professionals who have attained the required standard of qualification and registered with the Housing Managers Registration Board (the Board) be allowed to perform such duties.

Similar to most other registration ordinances for professionals, the intention of the Bill is that professionals will be given the responsibility to regulate themselves. The Hong Kong Institute of Housing (the Institute), established in 1988, has the main objectives of promoting the standards of housing management and raising the professional status of housing managers. Under the provisions of the Bill, it will be the body to appoint members to the

Board, though the Chief Executive may appoint up to two members to the 16-member Board. Additionally, the Institute, through its participation in the Board, will be responsible to set standards for registration, and to regulate the conduct of registered professional housing managers.

Madam President, it should be pointed out clearly that my support for the Bill, and the support of my colleagues in this Council, is based upon an important feature of the Bill, which is, that the Bill will not create a "closed shop" situation monopolized by the Institute, or any other body. The Bill does not prohibit anyone from engaging in the work of housing management even though the person has not been registered under the ordinance. Also, eligibility for registration will not be limited to members of the Institute.

It is important for me to point out here that some members of the Hong Kong Institute of Surveyors (HKIS) are qualified and experienced in the management of buildings. Indeed, many buildings in Hong Kong are managed by general practice surveyors, and sometimes by building surveyors.

It is, therefore, understandable that the HKIS has expressed concerns about the Bill. Such concerns unfortunately only came to my attention when I received a copy of their letter to the Secretary for Housing dated 13 November 1999, that is, a few days ago. Some of their concerns were perhaps out of misunderstanding. A meeting at short notice was convened yesterday by the Housing Bureau attended by representatives of the HKIS, the Institute and myself.

It became clear that there were misconceptions as well as genuine concerns. The misconceptions were that only members of the Institute are qualified for registration, and that members of the HKIS would not have the right to continue to provide professional management services to the public once the Bill is passed into law. I hope that members of the HKIS now understand that both of these perceptions are wrong. On the other hand, I do have considerable sympathy with some viewpoints of the HKIS concerning their lack of participation on the Board, and the fact that relevant disciplines of surveyors are not given "as of right" recognition of requisite qualifications for registration with the Board.

Under clause 12(1)(a)(ii) of the Bill, the Board can accept for registration a member of a housing management body the membership of which is accepted as being of a standard no less than that of a member of the Institute. I urge that the

Board, when it is formed, would consider relevant disciplines of surveyors be within that category. The other valid request was that members of the HKIS should be adequately represented on the Board. Though this sort of arrangement is not present in registration ordinances for architects, surveyors and planners, there is a significant difference here in that both members of the Institute and relevant members of the HKIS do engage in housing management work, and possibly possess equivalent qualifications. Thus, I urge the Government to consider this point carefully when appointing members to the Board.

Madam President, I regret that the HKIS's concerns have only come to light after there was not any possibility to further deliberate on the Bill. I ask the Government to monitor closely the work of the Board to ensure that there is indeed no "closed shop", and that there is no barrier to professionals of sufficient standards to be registered. In addition, I ask the Government to take in the views of the HKIS, to review the working of the ordinance within a year and to propose amendments if they are necessary. With these words, Madam President, I support the Second Reading of the Bill.

PRESIDENT (in Cantonese): Secretary for Housing, do you wish to give a reply?

SECRETARY FOR HOUSING (in Cantonese): Madam President, I note the worries expressed by Mr Edward HO. When I spoke a moment ago, I already talked about his first worry, clarifying the registration qualifications required. So, Mr HO and the concerned parties need not worry about this anymore.

On his second worry, I wish to say that the objective of the Bill is to regulate the use of "Housing Manager" as a professional title; so, it will not forbid anyone to engage in the profession even though the person has not been registered. Following the passage of the Bill, other people, I mean, those who have not been registered, will not be forbidden to work in the field, and there will not be any "closed shop" situation. Therefore, Mr HO can rest assured. On the problem of appointment, both the Housing Managers Registration Board and the Government will consider the matter very carefully. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Albert HO, do you wish to speak? Before you speak, I wish to make one thing clear. I hope that when I invite Members to speak, those who wish to do so can raise their hands immediately to indicate their intention, or else the whole debate will drag on endlessly.

MR ALBERT HO (in Cantonese): Madam President, actually I wish to talk about some thoughts which are a glimpse into the things to come. The Democratic Party supports this Bill. One of the most important reasons is that the Bill affirms the principle that there should be professionalism in housing management and that the level of professionalism can be assessed by a statutory body.

As Mr Edward HO has said just now, we do not wish to see the passage of this Bill leading to any "closed shop" situation, that is, it will only benefit the practice of some people in the profession while imposing barriers on others. We do not wish to see this happen. Yet, on the other hand, we hope that with the passage of this Bill, the professionalism of housing management can be raised. Just now Secretary Joseph WONG has said that under the existing legislation, there is no provision which stipulates that a building management firm should have a certain number of professional housing managers or registered housing managers on its staff in order to provide management services and act in the capacity of managers. Nor do the laws specify under what circumstances a building management company will be barred from managing some private buildings if it does not have a certain number of housing managers.

I think in the future we ought to consider this matter carefully, that is, on the question of how to ensure that professional services are provided by these companies through the setting up of certain systems. This will ensure that private housing estates will have more confidence in choosing their building management companies. On the other hand, consumers will be given better choices. Besides, through the establishment of a professional standing for management companies, consumers can have a channel to lodge complaints should they think that there are some problems with a certain management company. In so doing, their interests can be protected.

In the past, we handled a lot of disputes between flat owners and management companies on the district level. In my experience, some of these disputes are caused by the lack of uniformity in the professional standard of the management staff of these building management companies. Many of these management staff have not received any professional training, nor do they know how to deal with the differences in opinions between the residents and they themselves. In many cases, these management staff have not undergone any training at all, let alone professional training, hence it is likely for them to be involved in disputes and conflicts with the residents. Many of these should not have happened at all. Under certain circumstances, the lack of professional training in housing management staff will lead to certain management problems which crop up later. One example is the problem of deficits. This is proof of the management standard of some of these management staff. There are certain managers with insufficient experience and training who may leave behind millions of dollars of deficits after they have managed a building for a few years.

I hope that with the passage of this Bill we can take a step forward so that we can establish clearer requirements on the professional standards required in housing management. When we have made some progress, we shall look into the question of how to regulate building management companies for the protection of more than 3 million people living in private housing estates.

The above is a glimpse into the future. I very much hope that after the Bill is passed into law, the Government will take further action in that direction to perfect our system and laws. Thank you, Madam President.

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

(No Member responded)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Housing Managers Registration Bill.

Council went into Committee.

Committee Stage

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

HOUSING MANAGERS REGISTRATION BILL

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

CLERK (in Cantonese): Clauses 1 to 31.

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.

HOUSING MANAGERS REGISTRATION BILL

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

Housing Managers Registration Bill

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

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Housing Managers Registration Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Housing Managers Registration Bill.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Industrial Training (Construction Industry) (Amendment) Bill 1999.

INDUSTRIAL TRAINING (CONSTRUCTION INDUSTRY) (AMENDMENT) BILL

Resumption of debate on Second Reading which was moved on 13 October 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 Industrial Training (Construction Industry) 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): Industrial Training (Construction Industry) (Amendment) Bill 1999.

Council went into Committee.

Committee Stage

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

INDUSTRIAL TRAINING (CONSTRUCTION INDUSTRY) (AMENDMENT) BILL 1999

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the following clauses stand part of the Industrial Training (Construction Industry) (Amendment) Bill 1999.

CLERK (in Cantonese): Clauses 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): New clause 7 Validation.

SECRETARY FOR EDUCATION AND POWER (in Cantonese): Madam Chairman, I move that the Industrial Training (Construction Industry) (Amendment) Bill 1999 be amended as set out in the paper circularized to Members. The Bill seeks to add a validation provision for the purpose of validating the voluntary skills assessment test and employers' subsidy scheme implemented by the Construction Industry Training Authority before the Bill comes into force.

CHARIMAN (in Cantonese): I now propose the question to you and that is: That new clause 7 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 7.

SECRETARY FOR EDUCATION AND POWER (in Cantonese): Madam Chairman, I move that new clause 7 be added to the Bill.

Proposed addition

New clause 7 (see Annex VI)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 7 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 will now resume.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

**INDUSTRIAL TRAINING (CONSTRUCTION INDUSTRY)
(AMENDMENT) BILL 1999**

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

Industrial Training (Construction Industry) (Amendment) Bill 1999

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

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Industrial Training (Construction Industry) (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): Industrial Training (Construction Industry) (Amendment) Bill 1999.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. The movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments. The mover of an amendment will have up to 10 minutes to speak. The mover of an amendment to an amendment and other Members will each have up to seven minutes for their speeches.

First motion: Education on media literacy.

EDUCATION ON MEDIA LITERACY

MISS CYD HO (in Cantonese): Thank you Madam President. I move that the motion on "Education on media literacy" as set out on the Agenda be passed.

Newspapers in Hong Kong are operating under such great competition that several of them have been forced to fold up. In face of the pressure of business competition, all newspapers are resorting to various weird tactics to cater to the demands of readers, in addition to competing at cut-throat prices. As a result, besides sex and violence, which have been in our press all along, now reports are played up or dramatized with vivid pictures and description to be so sensually stimulative that they become the sort of sleazy reports said to attract readers. In the process of covering a story, a reporter may even induce the occurrence of an incident. What the readers get is thus a distorted view of the world, so much so that the attitude and behaviour of the audience is influenced or even controlled. This situation is now spreading from the press to the broadcasting and television industry. News is given an entertainment twist, that is "cooking up a story", as is known in the industry. Such kind of reports, or the close-up format used to treat news stories, make the public worry that youths who are not mature enough mentally may, for example, romanticize or glorify gangland characters when coming into contact with such distorted message, thus having wrong values of things. The public is also worried that when the appearance, name or identity of a person related to a report is made known, whether he is the victim or the convicted perpetrator of a crime, he may be subject to unnecessary discrimination in the future and his normal life is affected.

These are the problems that the community is witnessing and causes for the criticisms against the media. The problems, however, do not stop here. The press is not the only medium affecting the community. Modern media technology is developing so fast that besides the print media, there are also radio broadcasts, movies, television, laser disks, video tapes, the Internet and government agents, including the individual Secretaries and Mr Stephen Lam, Information Co-ordinator, of Staff Grade D8, who disseminate information. They all have a broadcasting function, especially the Internet, which can transmit at surpassing speed and even across national boundaries. Many of the users are at the same time the audience, and they would change from being an audience to becoming information broadcasters at the flick of a button. Netizens around the world can exchange messages among themselves within a short period of time. Any content, good or poor, can be transmitted quickly and extensively to a large group of netizens, uncensored. The current information network has greatly shrunken the temporal and spatial distance and brought about almost absolute broadcasting freedom. Governments, schools and parents can no longer through censorship filter what youths may access. Given that it can even simulate the real world with audio effects and video images, electronic media has a greater appeal than print media and is more potent in influencing the ideology and values of the audience.

The way we live now differs greatly from that of our parents. Youths now spend a large part of their day receiving information. In its "Study on the Influence of Media on Youth", which was released in July 1999, the Commission on Youth found that youths had 3.91 hours of leisure time every day; 99.7% of the interviewees watched television for three hours every day, 64.1% spent two hours on the Internet, and those who read newspapers accounted for 91.1%, but the reading time was only 45 minutes. Besides controlling the practices of the newspapers, we also need to an all-round understanding of various media and the ability to receive information and promote education on media literacy. We have to have an open mind and make good use of information technology to acquire more new knowledge and learn about other cultures on the one hand, and we need to understand how a message is expressed in a certain media and how that media operates and see how the story-teller chooses his material, what angle he adopts and how the material is treated on the other. Only by so doing can we differentiate whether or not the world as depicted by the media is real, and whether the message as weaved in the news reports and information is good or bad. After we have a grasp on this technology, we can make wise judgment on any matter and develop good values.

Education on media literacy should seek to help students understand the nature of various media and know how to clearly filter the world that they witness with their eyes. Print language, for example, is a very cold media; its audience has to continuously make an effort to make sense of the words to understand the content. It is a media that allows repeated reference, and is more suited for data enumeration. Cognitive analysis is thus the strength of newspapers and magazines. Electronic media convey sensual messages through images, hence the saying a picture is better than a thousand words. Movies and video tapes can even give audience different sensual stimulation through the use of tempo and shots. These techniques can influence the audience's feeling and judgment. In fact, the media is like a piece of crystal lens, through which we can have a wider and longer perspective of the world and acquire more knowledge. However, we must know if this lens is smooth enough, if it can honestly reflect the facts, or if it is as uneven as a distorting mirror that only magnifies certain incidents but leaves things that do not have any commercial appeal unnoticed. We also have to know if this lens is tinted that would prevent the audience from making the correct judgment, if there is any chink in it that would lead to any distortion after refraction. We have to know if it is a one-sided mirror that only gives positive reports like the \$148 billion Disney investment would definitely be a sure-win business, or that only gives negative reports like, in the right of abode case, Hong Kong would sink in the stampede of 1.67 million migrants. If we want to learn about the things around us through this lens, but without running into any problem, we must know what sort of lens we have in our hands. We have to decipher the world, to know the real world, in accordance with the characteristics of this lens, especially that we must not rely on only one lens to look at the whole world. We have to use different lens and frame views from different angles. In this way, we can be able to have a more accurate view of what the facts were before being filtered by the lens.

The Education Department states that some of the primary and secondary schools have already started education on media literacy through the curriculum of social science, general studies, civic education, and economic and public affairs, and through extra-curricular activities. Teachers and bodies that are concerned about education on media literacy point out that the sort of education on media literacy being taught at schools now is mainly on giving an introduction to the current situation and on some experimental programme production, the content of which is for rote learning. There is little difference in content from the other textbooks. The curriculum, like others in the past, mainly requires rote learning and tend to be descriptive; there is little on analytical skills. And

there is nothing on skills of how to master the different media. On education on media literacy, Hong Kong still has a lot of work to do. We propose to the Government that:

- Subsidies be given to schools and bodies running education on media literacy by setting up a "Education on Media Literacy Fund" for the purpose, or by making special provisions from the "Quality Education Fund". I want to point out that there were 617 projects in the second call of the QEF, of which 149 were on information technology, accounting for \$93 million, but there were only three projects on education on media literacy. Can we only teach the students the skills to receive information but not the ways that help them develop an evaluation criterion? Are we doing them a disservice here?
- We also hope that the media agencies concerned can, on their own initiative, allocate funds to support education on media literacy.
- The Education Department (ED) needs to step up the training of serving teachers. The University of Hong Kong has organized a teacher training course, but in 1999-2000 only 30 teachers graduated. Given that there are more than 70 000 teachers in Hong Kong, this number is too small.
- We also hope that colleges concerned about education on media literacy and lecturers teaching journalism can express to the ED their wish for promoting education on media literacy, and help in producing the teaching kits.

The above proposals can all be carried out in mainstream school education. What about those people who have already left school? I hope that the media agencies can set up concern groups that hold regular meetings with the audience so that the audience can express their views on the style and the practices used by these agencies to pass on messages. These agencies should also release the content of such discussions and any conclusion publicly so that people who had not taken part in the discussions would also have a feel of the culture of commenting on the media. We also hope that more media agencies can follow the example of the Radio Television Hong Kong (RTHK) in producing more programmes on education on media literacy. At the moment, the RTHK is

producing a 10-episode programme on education on media literacy, which is tentatively scheduled for release in January next year. In the past, the RTHK also had a programme called "Media Watch", which, regrettably, has been stopped since last May. Perhaps, because this is an issue attracting much attention recently, that programme will resume next Sunday. I feel that this is a good beginning.

Compared with the great speed information technology is developing, it is a bit late to organize education on media literacy now, but this problem is closing on us fast. Mr TUNG said that he was waiting, and society was also waiting. If the media were not to take any action, then the Government would have to do something. If the Government really wanted to do something, we would like to give some homework to the Government so that it could start education on media literacy as soon as possible and stop thinking about using legislative means to rectify the current ills of the media.

While we are all dissatisfied with the media, the Privacy Subcommittee of the Law Reform Commission (LRC) releases a consultation paper, proposing the setting up of a council that has statutory powers. Some people think that with the setting up of this council, all the problems of improper practices of the media that we have been lambasting could be resolved.

While introducing his policy speech in a radio programme, the Chief Executive also prefaced it with a comment on the current exaggeration of sex and violence in the press as a response to the public's views on the council. This improper link would only lead to a very ugly misunderstanding, whereby the public might mistake that with the establishment of the council, all the worries about the improper practices of the media would be resolved immediately. Parents definitely would welcome this.

However, in fact, protection of personal privacy from infringement by the media is a matter totally different from the matter that has been the worry of every one of us right now. In protecting personal privacy from being infringed by the media, besides organizing education on media literacy to enable consumers to boycott or show their support with their consumption behaviour, thereby guiding the media to go down a more proper path, there are other ways, for example, the Legal Aid Department (LAD) may relax the means test in cases related to infringement of personal privacy. The LAD recently has expressed that a voluntary lawyer scheme will be organized. I hope that they can put

greater emphasis on cases related to privacy, defamation and freedom of speech so that people instituting such litigation can enjoy the service of the voluntary lawyer scheme. We may also consider levying a charge on the media, according to the advertisement proceeds or circulation volume, to set up a litigation fund so that people who need to initiate litigation but ill afford it may apply for assistance.

Why did the Government not consider other proposals but only consider whether or not to adopt the LRC's proposals at this stage? The Honourable Miss Margaret NG pointed out in her article in the *South China Morning Post* that what the LRC had proposed was not a press council but a press tribunal.

The press council as proposed by the Privacy Subcommittee of the LRC can, without hearing the case of the prosecution and the defendant, and without an independent judge hearing the case, judge that the agency concerned has infringed someone's privacy and passed penalty accordingly. The major member of the council will be appointed by the Chief Executive and that member shall appoint other members. The press and the public therefore are concerned that this council, which is to be given statutory powers, would become a monster that would eat up the freedom of speech, doing damage to freedom of the press.

Madam President, in democratic countries where their electoral systems are already well developed and the separation of powers is well in place, they still need to protect the independence of the press so that it can monitor the Government without any interference, let alone our Government which practises executive hegemony? Do we still think that it does not have enough powers? Are we going to go against the trend by clamping freedom of the press? The media in Hong Kong are already under great pressure. Political pressure makes them carry out self-censorship and dare not criticize the centre of power. Commercial pressure also makes them dare not criticize the business groups, fearing that they may lose their advertising revenue. Now they have to be careful with the defamation law, otherwise even if they give their opinions in good faith — and I need to read carefully here — they may easily be sued by others. If there were to be a statutory body, which performs both the prosecution and judicial functions, to monitor the press, then there is little room left for the media to monitor the administration of the Government. Hong Kong already has a high-handed government, and the composition of the Legislative Council, because of Article 74 of the Basic Law and the voting system, is not very democratic, making it unable to exercise checks and balances on the

executive. The judgment of the Court has to be referred to the Standing Committee of the National People's Congress for interpretation, and the Government does not have to comply with the judgment. Actually, the media is the only watchdog at the moment that has the "claws and teeth" to monitor the Government for the public. It is, however, an endangered species, which should be protected by every one of us. Now, playing on the psychology of the parents that their children might be led astray, the Government is trying to pull out all the claws and teeth of this watchdog and is considering the proposal of the LRC.

Would the public be worried that the Government would use privacy protection as an excuse, and stopping pornography, violence, fabrication as a smoke screen, to crack on the fourth estate which may pose public opinion pressure to the Government, so that it can manipulate the public opinion as it wishes? Today, we have the opportunity to discuss this topic. I greatly welcome the amendments proposed by two Honourable Members because I hope that we can all witness freedom of speech in action, that the truth would become clearer with continuous debate. This would set a good example to society. Thank you, Madam President.

Miss Cyd HO's moved the following motion:

"That this Council urges the authorities to promote education on media literacy across the board so as to foster media self-regulation, and at the same time safeguard freedom of speech and of the press."

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

Mr YEUNG Yiu-chung is to move an amendment to this motion. Mr Albert HO is to move an amendment to Mr YEUNG Yiu-chung's amendment. The two amendments have been printed on the Agenda. In accordance with the Rules of Procedure, the motion, the amendment and the amendment to amendment will be debated together in a joint debate.

I will first call upon Mr YEUNG Yiu-chung to speak and move his amendment to the motion. Then, I will call upon Mr Albert HO to speak and move his amendment to Mr YEUNG Yiu-chung's amendment. Members may

then debate the motion and the amendments. After Members have spoken, I will first put Mr Albert HO's amendment to Mr YEUNG Yiu-chung's amendment to vote. Then, depending on the result of the vote, I will put Mr YEUNG Yiu-chung's amendment, either in its original form or in the amended form, to vote.

I now call upon Mr YEUNG Yiu-chung to speak and move his amendment.
Mr YEUNG Yiu-chung.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, I move that Miss Cyd HO's motion be amended as set out on the Agenda.

Madam President, I seek to delete from the motion "so as to foster media self-regulation, and at the same time safeguard" and substitute with "and hopes that the media will expeditiously set up an effective self-regulatory mechanism which, at the same time as it safeguards"; and to add ", also protects personal privacy and preserves public morality" after "freedom of speech and of the press", out of the hope that the demand of society and this Council on the media can be more clearly reflected. The public hopes that the freedom of speech and the press can be upheld in Hong Kong, but also that the personal of every person not be infringed upon unreasonably and social morality safeguarded.

Why do I have to stress that the trade should set up a self-regulatory mechanism? The original motion proposes that education on media literacy be promoted across the board so as to foster media self-regulation. Hong Kong is a city brimming with all sorts of information media, transmitting different kinds of values — some are good and some are not — all the time. There is a need that media education should be done properly. We are fortunate that the educationists and youth workers in Hong Kong are working hard to ensure that this job is done better and better. For example, a media literacy teaching kit was published in October in which many of the recent phenomena as seen in the media were used to stimulate students to think about the situation. However, our society may have neglected educating the adults in this respect. Though there are television and radio programmes that comment on the operations of the media, it is doubtful how many adults have watched or listened to these programmes. We therefore have to be careful not to overestimate the change, especially changes that may come about in a short period of time, that education on media literacy can do to society. I must point out that education can be effective, but it is not omnipotent.

Media education is related to media self-regulation, I believe, through the choice of consumers, which would lead media move towards a higher level of quality. Nowadays, readers choose to buy a particular magazine or newspaper not purely for the more detailed news and information it provides, the choice may be based on its being cheaper and having a greater variety in content. There are also readers going for information about daily living or for discount shopping vouchers or breakfast vouchers. Mr Robert J Haiman, former Director of America's News Editor Association, pointed to other reasons in his speech in Hong Kong last January. He clearly pointed out that Hong Kong people are living under very great pressure and the pace of life is very hectic, with everyone working hard to make money, so they do not have much time to care about the quality of the press.

His observations are basically correct. Fortunately, through various opinion surveys, people in Hong Kong have a lot of opportunities to express their dissatisfaction about the media. The public feels that, as found in recent surveys, the freedom of the press has been abused, and the situation is especially serious with privacy intrusion brought about by showbiz reports. Since a few years ago, the credibility of the press has not been as good as those electronic media that are supervised by the Broadcasting Authority. The number of people expressing trust in TV news is double that of those having trust in the newspapers.

In the past few years, untrue reports had appeared in some newspapers, headlines were played up, artists and public figures were stalked, the identity of victims of some cases was revealed, details of some court cases, especially those related to public morals, were reported in great details, and guides on sexual services and entertainment places, which the public think should be ranked as Category II, were given detailed description. All these have made the public very worried and dissatisfied. These opinion surveys actually have sounded a warning to the press, which should give a response. The establishment of a press council is the most specific response to the public or consumers.

The Democratic Alliance for the Betterment of Hong Kong (DAB) has been very concerned about how freedom of speech and freedom of the press is implemented. I have just referred to the insufficiency of relying only on education on media literacy. We think there is a greater need to appeal for the setting up of a self-regulatory mechanism by the media. Only by so doing can media work be brought to go in a more professional direction. Through self-regeneration, the press can achieve for itself greater credibility, making Hong Kong better able to safeguard freedom of speech and the press.

A self-regulatory mechanism is a critical factor in safeguarding freedom of the press. This is not solely my personal thinking, the Journalism Departments of both the Chinese University of Hong Kong and the Baptist University also jointly made an appeal in October to the media to set aside any prejudice and stop caring only one's own business, but to work together in setting up an effective, independent and representative self-regulatory mechanism. Why did the two departments of the two universities, which are specialized in training journalists, make such an appeal? They solemnly pointed out that "if the media were not to make a swift and effective response, the situation may become even worse or may even put the freedom of the press and speech in jeopardy." They had hit the nail right on the head. If the media were not to protect their own profession, they were only working against themselves.

Is it a very difficult task for the press in Hong Kong to set up its own self-regulatory mechanism? Absolutely not, I think. Many of the professional bodies in Hong Kong have their own disciplinary committees, which are mainly made up of people within the profession as well as people without. The disciplinary committee of the Bar Association, for example, is made up of a senior barrister, a barrister with experience of more than seven years and a person not being of the legal profession. That lay member is meant to enhance the acceptance and confidence of the public in the monitoring mechanism. This is worthy of consideration by the media profession. The media not only plays a checks and balances role with the opinion it expresses, it can also influence the customs of a community. In the maintenance of the morals of a society, the media also has the undeniable responsibility of leading the society to truth, benevolence and beauty. Arguing with the logic of "whether we have chicken first or egg first", some people say that the media is only reflecting the reality of society, and gives what the public wants. Such an argument is only meant to shirk the social responsibility of the media. Some other people also say that

there is no unchangeable morality, so how can it be maintained? Having no unchangeable morality does not mean that morality cannot be kept at a relatively stable state, that there cannot be some criteria that we can all observe.

As to Mr Albert HO's amendment, I also understand his worries. He mainly opposes the setting up of a press council that is made up of members appointed by the Government, which is understandable. However, if the Legislative Council is to pass that a self-regulatory mechanism be set up by the media, the Government should also understand the intention of the Legislative Council. What the Government needs to do is to facilitate the setting up of a self-regulatory mechanism by the press.

I urge Honourable colleagues to support my amendment. Thank you, Madam President.

Mr YEUNG Yiu-chung moved the following amendment:

"To delete "so as to foster media self-regulation, and at the same time safeguard" and substitute with "and hopes that the media will expeditiously set up an effective self-regulatory mechanism, which, at the same time as it safeguards"; and to add ", also protects personal privacy and preserves public morality" after "freedom of speech and of the press"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr YEUNG Yiu-chung to Miss Cyd HO's motion, be passed.

I now call upon Mr Albert HO to speak and move his amendment to Mr YEUNG Yiu-chung's amendment. Mr Albert HO.

MR ALBERT HO (in Cantonese): Madam President, I move that Mr YEUNG Yiu-chung's amendment be amended, as set out on the Agenda.

Madam President, with the rapid development of Hong Kong's information industry, the press in Hong Kong is facing increasing competition. On the one hand, some newspapers engage in all sorts of price wars, on the other, some newspapers use the layout to play up and exaggerate some of the reports,

especially those related to sex and violence. To meet the curiosity of the public, some papers put great emphasis on reports about the private lives of public figures so as to attract greater readership and to increase the papers' circulation.

The public is getting more and more concerned about the way such reports is handled, and is worried that the improper messages conveyed may have a bad influence on the younger generation. Moreover, because the public is placing greater emphasis on one's own rights, society is more concerned about whether such reports would infringe upon one's privacy. Last August, the privacy subcommittee of the LRC published a consultation paper on media's intrusion into privacy, which proposed that, through legislation, a press council be established to protect privacy and to supervise if a newspaper or magazine has violated the privacy code to be drawn up by this council. This proposal immediately attracted attention of the press and the public. The press strongly opposed the proposal, fearing that the freedom of speech and of the press might be seriously affected.

The press council as proposed by the subcommittee is similar in operation to a tribunal, which has power to handle complaints, to initiate investigation and to make adjudication, and to fine a newspaper or magazine that has been ruled to have breached the privacy code.

The proposal also mentioned that the Chief Executive should appoint a person, who should then appoint a three-member committee to establish a press council. This is tantamount to having a government press tribunal appointed by the Chief Executive to regulate the conduct of the press. We are worried that this government appointed agency may use the investigation and adjudication powers to enact rules and regulations in relation to news reports, or may even direct the press as to what to report and how to report; or what cannot be reported. This may lead to gradual interference with our much-valued freedoms of the press and of speech.

In fact, the jurisdictions mentioned in the consultation paper, including the United Kingdom, the United States, Australia and Germany, also have their own self-regulatory mechanism to lay down controls. They also have press councils formed by the press industry, and the membership of such councils includes judges, senior lawyers, academics, clergymen and school headmasters. Besides ensuring the freedoms of the press and of speech, these self-organized bodies also accept and handle complaints about the press, which other than privacy

protection, include untrue and unfair reports. For an effective supervision of the conduct of the press, such an approach is more comprehensive and all-encompassing.

The major difference between a self-regulatory body and the legislative control as proposed by the subcommittee is that with the former approach, the self-regulatory body, after investigating a complaint and making its judgment, may only reprimand the violator and request the newspaper or magazine concerned to publish a statement or an apology. This is purely a moral duty, which is completely different from the statutory liability of paying a fine. The United Kingdom Government has also reviewed the practice of self-regulation by the press. The Young Report of 1972, which studied the privacy issue, opposed any legislation on protection of privacy. Though David's report in 1992 proposed establishing a statutory press tribunal, a report of the National Property Committee of the British Parliament four years later pointed out that "there is a need for balance between the freedom of speech and privacy, but such balance should not, and cannot, be achieved by any restriction on the press through legislation." In 1995, the British Government finally decided against the establishment of a statutory press tribunal, thinking that self-regulation would still be a the more desirable approach in the future.

In fact, the general trend is that any government would not lightly interfere with the content of the print media. Within the print media, the general practice is for the industry to regulate itself. The Democratic Party thinks that to ensure freedoms of speech and of the press, to protect privacy and to improve social morals, it is not only the responsibility of the media, but also that of the readers. They are cause and effect to each other. Readers have the ability to judge a report, would demand a higher order in taste and style and reports that do not aim only at sex and violence and infringe privacy. The press should make appropriate and reasonable adjustment. We therefore should now actively promote education on media literacy and educate readers of an understanding of newspapers and magazines so as to enhance the order of their taste and to enable them to play an active part in supervising the media.

As to the concerns of the public about the conduct of the media, the Democratic Party thinks that the industry should develop a non-government body to handle complaints, so that the public can play a part in supervising the industry. So doing would have the double benefits of educating the public and supervising the industry at the same time.

Today, we lack a democratic mechanism and the executive power of the Government is expanding without any checks. We are badly in need of space whereby we can exercise our freedom of speech and of the press to supervise the Government. It is therefore under such a situation that I propose my amendment, which I hope to have colleagues' support. Thank you.

Mr Albert HO moved the following amendment to Mr YEUNG Yiu-chung's amendment:

"To add ", opposes the establishment of a government-appointed press council" after "media literacy across the board"; to delete ", at the same time as it" after "effective self-regulatory mechanism which"; and to delete "also" from "also protects personal privacy"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Mr YEUNG Yiu-chung's amendment, be passed.

The debate shall now proceed.

MISS CHOY SO-YUK (in Cantonese): Madam President, before the reunification, many locals and people overseas worried about the future of the freedom of speech in Hong Kong. The facts have shown that the freedom of the press in Hong Kong has not been restricted or changed. The freedom of the press after the reunification has enjoyed an even wider space, which should be much welcome. However, instead of treasuring and making proper use of the freedom of the press, certain sector of the media abuse this freedom and resort to sensationalism in their reportage just for increased circulation and a greater readership. Not only is the privacy of public figures made to sacrifice, even the plight, hardship, embarrassment and helplessness of ordinary folks is also made stuff for the headlines for people to talk about in their leisure.

In fact, as many people have already pointed out, the improper practices of the media in Hong Kong can in the main be attributed to the supply and demand of the market. Television, the press and magazine are all commodities, which are governed by the law of supply and demand of the market. The demand in Hong Kong is that "entertainment" news must be made to be exciting. Probing into the privacy of celebrities and violence can help increase circulation. News and entertainment can all be given the same treatment and mix with cuisine

menus and prostitute guides. News is turned into a kind of entertainment, sensationalized and falsified. Such practices become indispensable. Under the law of the market where only the fittest survives, even the most traditional of the media has to change and follow suit and opt for sensationalism, just for the sake of survival.

Among most of the advanced cities, Hong Kong, I am afraid, is the only city with such a skewed phenomenon, which is symptomatic of a sick society where the public goes after low culture and makes no distinction between news and entertainment. This is certainly the result of a lack of any cultural policy on the part of the Government, but on the other hand, it may also be attributed partly to the lack of education on media literacy in Hong Kong. It is not hard to discover that many people are very dissatisfied with the unhealthy image of the media. Take the incident of CHAN Kin-hong as an example, it was learned that the Government had received a lot of complaints. Various sources have also shown that the number of complaints of gruesome pictures appearing as headlines in the newspapers is increasing. Some newspapers have also expressed that publishing such "shocking" pictures can no longer draw the attention of readers. This shows that though most people out of curiosity would keep buying the same entertainment newspapers and magazines, but out of a sense of responsibility and morality, also feel dissatisfied and even lodge complaints with the Government. It being the case, the Government should strengthen the education on media literacy by properly educating the public about the media. It is believed that so doing would correct the current improper practices of the media. The reason is very simple: raising the public's media literacy would have an effect on the market, thus instead of being treated as entertainment, news report would be more objective, accurate and serious. Through the market forces, the media market can be turned back into a healthy market.

To achieve this, the Government must make extensive promotion of, and work with the media to raise the public's ability in media literacy, and through basic education, impart more correct concepts to our younger generation. More importantly, the Government must lay down a long-term policy on culture so as to raise the overall cultural appreciation ability of the public, otherwise, even if Hong Kong has a first rate economy, a second rate environment (because we are beginning to become aware of environmental protection), with a ninth rate culture, we could hardly become an international metropolis or a hi-tech city as envisioned by the Chief Executive.

Finally, I want to express my views on the two amendments and the "press council". There is certainly some social basis for its establishment. It also provides the opportunity to remind the media that while safeguarding the freedom of the press and performing its monitoring function on society, it should also look squarely at its own moral conscience and social responsibility and correct any improper practice. The question is whether the establishment of the "press council" can really resolve all our problems now. Would there be more problems cropping up? This merits our careful consideration. The proposed press council is not merely to assess and debate, but has the power of a statutory body which can investigate, adjudicate and pass penalty. There is no other supervisory mechanism above such a powerful body. Should there be any problem arising in its operations, the victim may not only be those media that have violated the code of practice, but the freedom of the press in Hong Kong. Even if such a situation would not appear, who can guarantee that if this council, mainly represented by journalists and academics, would have sufficient ability, finance and time to deal with the ever changing and controversial problems of the media? This is certainly open to question.

As a well-developed society governed by the rule of law, the media is the fourth estate in addition to the executive, legislature and judiciary. They all have to perform the functions of transmitting information, reflecting the morality and conscience of society and supervising the government. Maintaining the professionalism within the industry is more important than maintaining the professionalism of any other professions. It is hoped that the Government can strengthen the education on media literacy and help the industry to formulate a comprehensive mechanism to weed out the improper elements within Hong Kong's media.

Madam President, I so submit.

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

MRS SELINA CHOW (in Cantonese): Mr Deputy, when Miss Cyd HO first proposed this motion, I thought that we would debate in depth about education on media literacy. With the amendments proposed by two Members, today's debate covers on a wider area, bringing into it a recent hot topic. I find this unfortunate as the focus of the debate is thus shifted to the question of whether a

mechanism should be set up in accordance with the LRC's proposal, or whether the media should have its own self-regulatory mechanism. The debate thus concentrates on whether the media should be left to regulate itself or be regulated by a mechanism set up by the Government. I feel that this in itself is already a topic worthy of a debate.

Anyway, as the debate is on this topic, I feel that we should also explore a bit more the issues involved. I think in this Council I am the only one who has been talking on this topic for the longest of time. In the 1980s, I already took part in a proposal made by Mr Michael Thomas, the Attorney General at that time. The proposal was for the press to consider setting up a non-government body to supervise the press. I remember that Miss Emily LAU (she was not yet a Member of this Council) had made scathing attack on this matter. Other journalists had also criticized it. Miss LAU had been kind to me, saying that I was misled. Though I might not be right, I did not intend to set any clamp on the freedom of the press. However, she thought that others did have such an intention.

Now, I believe that the view of society has changed. In recent years, perhaps because of the market force and other pressures, many of the media have gone too far in their behaviour. I believe that many people, especially the parents, are concerned. They want to know what effects such behaviour may have on their children. However, we have to be clear that while criticizing the media, we must take into account the fact that it is the commercial market forces that make the media go too far, which is meant to arouse public attention on them. This is the result of an interaction between the cause and effects. We see that the community in general has been dissatisfied with the press, which is reflected in some surveys and opinions expressed by many people. Such dissatisfaction also exists within the industry as some operators do not agree to such practice by their fellow operators, and, of course, they do understand why things have come to such a state.

Under such a situation, the view expressed by the privacy subcommittee of the LRC has given rise to much controversy. I personally feel that simply looking at the privacy issue cannot get us any closer to the crux of the matter. Though privacy is an important issue, what is at issue is what exactly is the social responsibility and morality of the media as a whole. Evidently this is too big an issue, and as we all treasure the freedom of speech, we are therefore very cautious in extending the area too wide for any fruitful discussion. In fact, we should consider the issues and bring them up for discussion.

It has been the position of the Liberal Party that freedom of the press is very important that we should try our best to safeguard it. However, the power and the force that exercise this freedom are held in the hands of the media, and they have the responsibility in safeguarding the public interests when they exercise such power. When problems arise within the industry in detriment to the interests of society, we should all voice our criticisms and point out ways to rectify them. In so doing, however, we should bear in mind the principle that the freedom of the press should not be tampered with. We cannot accept a government-appointed council, as proposed by the LRC, because no matter how good-intentioned it might be, the council suffers from the prenatal defect that it would be government-appointed or directly or indirectly appointed by the Chief Executive, thus engendering the community's prejudice against it. It is therefore hard for it to establish any credibility. We oppose such an appointed council and support Mr Albert HO's amendment.

However, the Liberal Party also supports Mr YEUNG Yiu-chung's amendment because we do need to consider the establishment of a self-regulatory mechanism. As to what such a mechanism can achieve, I feel that further discussion is needed. Moreover, should such a mechanism have any statutory powers? Some members of the media have already expressed that they should be able to claim some sort of exemption with respect to the things they publish so that they would not be troubled by such claims as libel. These are things that we need to discuss. So, in principle, we also support Mr YEUNG Yiu-chung's amendment.

As to Miss Cyd HO's motion on education on media literacy, conceptually, we do not oppose it as the proposal is educating the audience and the consumers on media literacy and how they can exercise their analytical power. But I would like to add one more thing here. We should be very careful in conducting this education on media literacy. Any misjudgment may easily make people feel that they are taught to criticize the media from a moral perspective. Just now I heard that Miss Cyd HO had also expressed that there might be such a danger, I therefore have reservation on this

DEPUTY PRESIDENT (in Cantonese): Mrs Selina CHOW, your time is up.

MRS SELINA CHOW (in Cantonese): Thank you, Mr Deputy.

MISS MARGARET NG: Mr Deputy, I rise to support the original motion. I would applaud the media setting up a self-regulating body to maintain a high standard of journalism and ethics, and I strongly oppose the so-called "Press Council" proposed by the Law Reform Commission, but both are implicit in the original motion. The amendments bring in complications which are, in my view, unnecessary.

For example, even if it is possible to know what "public morality" consists of at any time, it would be problematic to make it the media's duty to "preserve" it. If, say, a community considers homosexuality to be immoral, must the media uphold this view?

Mr Deputy, we must defend the freedom of speech and the freedom of the press in the strongest terms. Of course, freedom comes with a price. We may have to tolerate the publication of a great deal of materials we consider wrong and offensive. But it is always dangerous to seek remedy in restrictions. Even if restrictions can result in wiping out all intrusion into privacy, excessive reportage on sex and violence and all kinds of sensationalism, this does not necessarily leave Hong Kong with a strong or good press.

We do not evaluate the press only in terms of what it does not contain, but what it does contain, how independent and proactive it is, the quality of the news reports, the fairness and depth of its comments, and its effectiveness in safeguarding the rights and freedoms of the individuals. One cannot put in quality by imposing restrictions to keep certain things out. It is far better to have a strong independent press which contains some offensive materials, than to have an altogether inoffensive but also ineffectual press.

Mr Deputy, the free press is now taken for granted in Hong Kong. In fact, much is due to changes and developments over the last one and a half decades. I believe that the Honourable HO Sai-chu, the Honourable Miss Emily LAU and I are three of the Members in this Council who have had direct and long-standing connection with the Hong Kong press in different capacities. Apart from being a columnist on public affairs since 1979, I was employed with the *Ming Pao Daily News* from 1985 to 1990. I have watched, and in some way participated in, the development of the Chinese language press in Hong Kong.

Even at the time when I was working as a media person, independence was far from the norm. There were dubious practices, such as letting in publicity items disguised as news stories. "蠔稿" as they were called — were not uncommon. For fear of getting into trouble, some editors preferred official press releases to the independent reporting by their own reporters. There was altogether too large a proportion of press releases from the Government Information Services being published as "news". Some editors paid far too much heed to the wishes of government officials. But in those days, what sold a newspaper was entertainment and crime reporting. There were papers which survived mainly or entirely on pronography. Ladies directories were not new. Griff was regularly intruded into. Rather, "hard" news or commentaries were considered "box office poison".

"Political news" was a relatively new invention, officially born only after the Sino-British talks on Hong Kong. With this development, reporters' salaries increased substantially, because for the first time, Chinese newspapers needed bilingual graduates as reporters. With the new generation of editors and reporters came a new professionalism which took as its code of practice and ethics the standards of the international free press.

But the Government still held trumps, because it can give exclusives to favoured newspapers.

Further and the even more recent developments came from consumerism. Newspapers took on a new look. It is this new look and new consumerism that form part of the present controversy. The problems have been highlighted, but there is also an important positive significance. It resulted in a further freedom from government influence. Increasingly, it is the public who call the shots.

As always, where consumerism grows, the key balancing concepts are open competition and informed choice. So it is with the press, at least to some extent. If we want to see more good journalism, the thing to do is to encourage the consumer to be demanding in his choice. Every child knows that he is not to accept things at face value. Every child should learn how to tell what is true and what is not true, what is good and what is wicked. Learning to be discerning about the materials which come to him through the media is part of that process. The Honourable Miss Cyd HO calls it "media literacy". I have no objection to that. I have given courses on the subject myself, to adults, many years ago. It was not a mystery.

However, Mr Deputy, what I want very much to emphasize is that an independent press for Hong Kong is not something we can take for granted. It is relatively new and fragile. It needs the space to grow and sort itself out. It has not taken roots deep enough in this community. Although there are many blemishes and inadequacies, the Hong Kong press has on the whole done an effective job safeguarding the freedoms of this community. If we allow a blight to be cast on the free press, it is not unthinkable that the press will wither and lose its nerve.

The only thing I have reservations about the motion is the suggestion that promotion of media literacy be relegated to "the authorities". I think the far better promoter is the media itself, particularly those members of the media who believe that high standards should win the day.

Thank you, Mr Deputy.

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

MR ANDREW CHENG (in Cantonese): Mr Deputy, in his policy speech this year, the Chief Executive worriedly expressed that the media had fallen into a very despicable state, and that the problem of exaggerated sex and violence in the newspaper contents should be looked at seriously. I am fully in agreement with the Chief Executive with his worries. However, I could not accept this as the reason for the Government to advocate the setting up of an official press council.

In the past few years, the Democratic Party has been voicing its views on the proliferation of sexual content in our press, and indeed, for the sake of circulation, a number of newspapers really have recklessly overlooked the effect of played up sexual content may have on the youths. However, is it because of this reason that we need to have this official press council? The Democratic Party thinks that using this mechanism to tackle the proliferation of sex in our press is a wrong prescription for the malady. The official press council would only become a weapon for the Government to control the media, and is not conducive to changing a society reeked with the filth of sex and violence.

In fact, we already have a mechanism to deal with the problem of played up sexual content in the press. We can invoke the Control of Obscene and Indecent Articles Ordinance to exercise control, and there is also the Obscene Articles Tribunal, which is formed by members from various sectors of society and adjudicates on individual cases. Of course, how satisfactory the community may find with the content of the Ordinance and the operation of the tribunal, it is still a matter open for discussion. At a joint meeting with the Information Technology and Broadcasting Bureau and the Registrar last September, the Democratic Party put forth its views to the Government on the content of the Ordinance and the operation of the Registry. The Democratic Party has never intended to request the establishment of any quasi-government body, like the proposed press council, outside of those already in place to deal with the problem of sex in the press. We think that this would only complicate the supervisory structure, and is a move that treats every one as the culprit. Of course, sleazy papers may be weeded out with such a mechanism, but the good ones may not be able to survive too.

Mr Deputy, what is more worrying is that though the LRC's proposal for a press council is still at the consultation stage, the spokesman of the Home Affairs Bureau has already expressed that they will study how the work would be divided between the press council and the Office of the Privacy Commissioner for Personal Data, how to deal with overseas complaints, and how the costs of the press council would be shared. I hope that the Secretary can correct me if I have misquoted anything, but if it is true, I request that the Government should stop such a study immediately. This study and move by the Government would only make one think that the Government has already consented to the LRC's proposal and begins dealing with the specific. So doing undoubtedly would make one suspect that the consultation is merely a show, and that the Government would in the end establish a press council to control the media.

Mr Deputy, I have referred to various opinion surveys and found that a large part of the community agrees to the setting up of an official council to control the media. However, I also find it strange that the few newspapers that have the highest circulation are also the ones being criticized the most. All issues with media conduct, intrusion of privacy and the promotion of pornography are related with these few papers. I have therefore come to the conclusion that the community just keep lambasting these papers while reading them, so the proprietors of these papers would unashamedly keep on printing gory pictures of the dead and reporting which nightclubs are the best and which

massage parlours offer the best bargain. The community therefore should also consider whether they should stop buying such papers. I think that the most effective way is for the community to challenge these proprietors with their action. Parent and teacher associations, interested social groups and churches have been making various appeals and carrying out plans to stop buying these papers, while a form of social pressure is taking shape. I urge the LRC to give the community some room to regulate the media themselves. This is the best self-regulation measure for the media.

With these remarks, Mr Deputy, I support Mr Albert HO's amendment.

MR JASPER TSANG (in Cantonese): Mr Deputy, I would like to talk about the DAB's views on the self-regulatory mechanism of the media.

The proposal by the Privacy Subcommittee of the LRC to establish a press council to control the media's intrusion into privacy has attracted strong reaction from various sectors, especially the media. From the views expressed by the community in the public debates, we see that while being dissatisfied with the media, the public is also concerned that if a government-appointed supervisory body were established, it would very likely become a tool for the Government to interfere with the freedom of the press.

The DAB thinks that to prevent any abuse of the freedom of the press, the media must regulate itself to enhance its professional conduct. However, we think that self-regulation also requires an effective mechanism and mere appeals and undertaking is not enough. In fact, for some time the public has been appealing to the media to regulate itself, but the conduct of the Hong Kong media has not shown any improvement, which every one can see.

At the moment, the Hong Kong press does not have any effective self-regulatory mechanism. Neither is there a code of conduct which the industry recognizes and is prepared to follow, nor is there a professional body that is formed by people of the trade and is able to effectively enforce such a code. The Hong Kong Journalist Association has laid down a professional code of conduct, and has also set up a conduct committee to deal with any violation of the code. The committee, formed by people from the industry, however, only has

very limited control over the industry. Its investigation and hearing of any complaint are done behind closed doors. Therefore, credibility can hardly be established with such a system. Moreover, compared with similar codes of other places, the Hong Kong Journalist Association's code is very simple and cannot cover all issues and acts related to journalistic work. The code also lacks clear definitions on such concepts as "correct means" of reporting and "public interests". What is more, over 80% of Hong Kong's journalists are not members of the Association, and they are not subject to the control of the Association. Other bodies of the press industry cannot have any effect on safeguarding the professional conduct.

Some people would think that any supervision of the media should also rely solely on market forces, for example, what makes the readers makes the press. This seems to have shifted all the problems about the quality of the press onto the readers. Some people also think that the media monitoring body should only function like the Consumer Council, which would publish the names of those media operators that violate the ethical conduct so that the public can make their own choice.

However, if we were to rely on market forces, I think we should see that the media is different from other ordinary merchandise. If the Consumer Council publishes that a certain model of electrical appliance is unsafe, a certain pharmaceutical is toxic or a certain toy is dangerous to children, consumers naturally would not use these products. However, if a monitoring body publishes that a certain newspaper has intruded the privacy of a certain person, would you stop reading that newspaper? On the contrary, readers could be even more eager to read it. The facts therefore have told us that using market forces to control the quality of the media seemingly would not work.

To enable the media to effectively regulate itself, we think that there must be in place the following conditions: Firstly, a comprehensive professional code of conduct that is accepted by the industry and the general public; secondly, a responsible monitoring body to enforce the code; thirdly, the monitoring body must operate with such transparency that the public can have confidence in its professional judgment and credibility; fourthly, effective penalty, acting as a deterrent, must be imposed with respect to any serious violation of the code.

Mr Deputy, the DAB hopes that the media will set up its own effective self-regulatory mechanism as soon as possible. We support Mr Albert HO's amendment and oppose the establishment of any government-appointed press council. Thank you.

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

MR ERIC LI (in Cantonese): Mr Deputy, I would like to say a few words. It is not surprising that there are "black sheep" among the media people. In fact, I have heard of even more vivid description of the situation. At a gathering of businessmen, I heard them say that the cultural circle seemed to have been infiltrated by a group of businessmen who cared more about profits than ideals. Using the commercial practice to compete with their more gentle counterparts, they are just like tigers among a flock of sheep. There is a great difference between them and the weaker side is no match for the other. Under such a situation, the media, which have been seen as a social instrument, become a profit-making tool. This is the crux of the matter, impacting on the traditional mode of operation and product of the media. All these are indisputable facts, which, I think, need no further elaboration.

On the other hand, I feel that since time immemorial scholars tend to scorn each other, and people within the cultural circle are so shrewd and subtle that they would put up walls surrounding themselves, posted up with this message: you may say what you like, but I would stick to mine. This has long been the tradition. However, in face of the current situation, the media have been very "bold" and have made enormous changes. The media have been actively considering a regime of treatment for the current ills of the industry, which is commendable and worthy of our support. At the present stage, we should make the message clear that there should not be any official monitoring framework, rather, the industry must be encouraged to take the opportunity to try to regulate itself properly.

I am completely with Mr Jasper TSANG in that for there to be any self-regulation, there must be a comprehensive professional code of conduct, there must be a monitoring framework with high transparency — best of all if they can invite other experienced professionals to exercise such monitoring with them. The monitoring framework must also allow easy access and use by the public for it to be a truly successful monitoring framework.

I still have some other expectations of this monitoring framework. I feel that a great obstacle must be overcome before the framework can operate effectively, otherwise any self-regulation would easily become a sheer superficial exercise. Firstly, I feel that this monitoring framework must be able to monitor the proprietors of the media, otherwise a framework that only monitors the front-line workers but is unable to stop the behind-the-scene interference from the proprietors would still leave the workers with no other option but to follow the wish of the proprietors. Such a framework can achieve only very limited effect and the media, I am afraid, cannot achieve any comprehensive change.

Secondly, what makes me even worried is that if such a framework, instead of being a statutory body or an organization with authority, was only a body with voluntary participation of the media workers, it is not hard to imagine that not many people would join such a body. Should many heavy-weight media agencies shy away from joining, the body would only have control over a very limited number of members. In that case, no matter how good the control might be, the public would still find the control not true of its name and the change not thorough enough.

Thirdly, we should also look at it from a practical point of view. Setting up a self-regulatory framework needs sufficient preparation and resources, including finance, because I am worried that this self-regulatory framework might get involved in litigation with media agencies having big bucks to spend. As professionals joining the monitoring framework, we also loath to have to deal with such litigation. A litigation case may easily make a party lose millions of dollars. A framework without such financial capability is like one without any fighting weapon, so how can it deal with anything? Even when faced with an unfair situation, they may not have the ability to defend themselves.

If these points cannot be dealt with adequately, the self-regulatory framework may not achieve the desired effect, no matter how good the proposals may be. In spirit, therefore, I am very in support of Mr Albert HO's amendment, but at the present stage, I feel that a clear message must be given that they should try to set up this self-regulatory framework themselves. However, we hope that in organizing this self-regulatory framework, the media would not let the public down, and we also hope that they would not give the critics an excuse for requesting more public or government participation in the future. Thank you, Mr Deputy.

DR YEUNG SUM (in Cantonese): Mr Deputy, we should thank Miss Cyd HO for proposing this motion, and many Honourable colleagues have also expressed their views on the recent condition of the press. I am in agreement with most of the views and would like to say a few brief words on it.

The press in Hong Kong faces great competition. In order to increase their circulation, some papers play up their content in sex and violence. However, I would like to say that if we were to support the proposal of the LRC to set up a press council, which would be a body with statutory powers, with powers to conduct investigation or even to impose penalties, it would be very dangerous. I hope that the community could be careful with this, even if they have any dissatisfaction and, they should not entrust such powers to a body appointed by the Government. We can have many ways to tackle the matter, but the power should never ever be entrusted to the Government, which would appoint a group of people to deal with privacy related to news and the standard of the freedom of the press. So doing is very dangerous, as water thrown out cannot be retrieved. This is something we should never tinker with. If we were to support the LRC's proposal, it is tantamount to strangling the freedom of the press ourselves, handing over the freedom of the press of Hong Kong to this council ourselves, allowing the council to become the means, tool or even the murderer that strangle the freedom of the press. I hope that the community should be wary about this, otherwise our precious freedom of the press would be gone forever. If we were to use what we think to be the swiftest means to deal with things that we do not feel happy about, then such swiftest, easiest means could be the most dangerous means. I hope that the community can pay special attention to this.

Just now I listened very carefully to Miss Margaret NG's speech, which makes me think deeply about such issues as the so-called independence of the press and the independent press. A number of recent incidents make one question if there is any independence of the press in Hong Kong. The effects of these incidents could in fact mean more than the harm caused by sex and violence. The controversies over sex and violence would never go away. We may have different views towards Michelangelo's statue of David, and the squabbles over it will come and go all the time. There have been a number of incidents recently, for example, Mr CHENG An-kuo's elaboration on the "two state" theory, the transfer of Miss CHEUNG Man-ye, the former Director of Broadcasting of the RTHK, the withdrawal of advertisement by a certain consortium because of the criticism made against the consortium by the paper

concerned. Some people have even said that the Government manipulated the views of the public on a number of occasions, saying that a lot of public opinion work have been done, for example, on the right of abode, the Government's intervention in the stock market and the construction of the Disney theme park. These last three incidents have caused me the greatest worry. They make me question where the independence of the Hong Kong press is. The influence of a rich businessman can be so great that he can withdraw all advertisements just because of some criticisms against some of his business activities. Running a newspaper is not to promote culture, rather it is just a business. If all advertisements can be so withdrawn, then would the paper concerned give any independent comment on anything related to the economy?

On matters about politics, the "two state" theory I mentioned just now was first put forth by President LEE Teng-hui. The Chinese leadership said that it is something that "must not be or is not fit to be" discussed. When Mr CHENG An-Kuo elaborated on this theory in the RTHK programme "Letters from Hong Kong", would you think that I may not agree to Mr CHENG's view, but I should protect his freedom of speech? I saw that not many people have seen things from this angle. When the Chinese leadership said "no", everyone would dare not mention anything about it. In fact, even if we do not agree to Mr CHENG's views, we can still protect his freedom of speech. However, the press in Hong Kong has given a very low-key treatment to matters related to the "two state" theory. Nothing of the independent speech as guaranteed under the "one country, two systems with a high degree of autonomy" formula is seen. After checking all the commentaries on this incident, I felt very worried. I am much more worried by this incident than the sex and violence that Members have all referred to.

As to the work of the Government, the TUNG Chee-hwa clique is very shrewd in making use of public opinion. Cast your mind back on the right of abode incident. When faced with the figure of 1.67 million, you dare not put forth any opinion. Even among ourselves within this Council, whoever put forth any view would be seen as making himself an obstacle to others. Everyone had only one thought in mind: "quick, let's pass the government proposal quickly, and do not be an obstacle to others". This in fact is a well-intentioned evil deed. The recent Disney proposal was also treated similarly. Whenever someone mentioned that there was insufficient financial arrangement — as reflected in the fact that it might take 40 years to make \$10 million, or when someone raised any doubt at the special meeting, other colleagues, I

noticed, would have a look of disdain on their faces. They seemed to say, "Hey, stop this meddling. Do not create problems for the sake of creating problems. You're putting obstacles in every one's path." Not only is it the thinking of the community, even people within this Council act like this. Things have already come to this state, with some of us giving up the legislature's power of monitoring the Government. It seems that every convenience must be accorded to the Government, for fear of obstructing the passage of government motions.

However, have we noticed that the Government itself is also making use of the public opinion? It is also creating public opinion, and using it to obstruct us in our monitoring work on the Government. For example, in the three incidents of the Disney Park, Government intervention in the stock market and the right of abode case, the TUNG Chee-hwa clique was making shrewd use of public opinion. Instead of concerning ourselves with things that happen outside, we should pay more attention to our ability to independently monitor the Government. It is the same with the independence of the press. How many of the editorials can really independently comment on the operation of the Government?

Members of the Legislative Council are subject to much pressure of public opinion, so are the newspapers. Because of the strong public opinion, those writing editorials or reporters of news may tend to be non-committal in their writings! Actually, I have great admiration for many of the journalists in Hong Kong, who have been striving hard to defend the freedom of the press. I would like to put on the official record my admiration for them. Their job is no easy task. We all have to face great economic pressure, political pressure, and even the social pressure as a result of the Government's manipulation of public opinion. As Members of this Council, we can feel such pressure, and the press is also subject to the same pressure.

So, while discussing sex and violence, we should pay special attention to the independent status of the Hong Kong press. They should be allowed to transcend all political, economic and government pressures so that they can speak out of their conscience. I feel that this role as an alarm bell should be played with unceasing effort by the press. Thank you, Mr Deputy.

DR RAYMOND HO (in Cantonese): Mr Deputy, I think no one would disagree that there is something wrong with certain members of Hong Kong's media. Violence and sex have been played up, report exaggerated. There is total neglect of the sort of conduct that is expected of the media. What they go after is profit, and so doing only brought about undesirable influence to society. On the other hand, intrusion of privacy by the media is also very serious and the situation is turning for the worse. The victims include social celebrities, people in show business as well as the general populace. The situation has developed to such a worrying state that it covers a wide area and we should look squarely at it.

Under the premise of "market demand", some of the press would make up news and use violence and sex to attract more readers. A survey of newspaper readership done by AC Nielsen Hong Kong found that between July 1998 and June 1999, the readership of a number of newspapers that did not follow the practice of playing up sex and violence fell. The result reflects the reality of the market. Of course, to resolve the problem associated with the conduct of the media, the best way is for the readers to show their dissatisfaction through market demand. However, in practice, there is great difficulty with this approach.

Though I concur with the Chief Executive's view that "no one should use 'freedom of the press' as an excuse to neglect the conduct that the media should have and aim mainly at making a profit, or as an excuse to hawk sex and play up violence, or even bend the truth," I do not think it is not the right moment now to establish the "press council", which was advocated by the LRC in its consultation paper. It is a very sensitive issue, which, if handled improperly, may give rise to doubts that the Government is interfering with the freedom of the press. At the present moment, the media should establish as soon as possible an effective self-regulatory mechanism to enhance and supervise the professional standard of the trade, safeguard the freedoms of the press and of speech, protect personal privacy and maintain social morality. It has been my position that the conduct of any profession should be a matter of the profession and the responsibility of the professional bodies concerned, without any interference from the Government. At the same time, the authorities should also promote general education on media literacy so as to ensure the achievement of the desired result. To ensure the effective operation of the self-regulatory mechanism, we must study carefully its mode of operation, composition, representation and source of finance.

After the self-regulatory mechanism has been in operation for a period of time, we should review its effectiveness. It is not too late to establish a "press council" if we find that the mechanism is still fraught with problems. In the press council there should also be a sufficient number of democratically elected members in addition to government-appointed members, in order to ensure its representativeness and impartiality so that its operation would not do any damage to Hong Kong's freedom of the press and its international image.

With these remarks, Mr Deputy, I support the motion.

MR BERNARD CHAN: Mr Deputy, the proposal to set up a Press Council has triggered a fierce debate in the society. This should come in with no surprise, as topics like freedom of the press and individual privacy have always been controversial.

I believe that many members of the public do possess a love-hate feeling towards our media. This feeling is not only shared by television artistes or business tycoons but also by people from all walks of life, as media publications are reaching millions of readers. The *paparazzo* tactic, which is gaining popularity with many newspapers and magazines, only bitters the feeling.

Education on media literacy as proposed by my Honourable colleague is indeed a good idea, by which our reading public is to be inculcated with a more conscious and critical mind to judge for itself what is right and what is wrong, and what information it should receive. I would not hesitate to render my support to the effort in upgrading the knowledge of our younger generation on media quality.

However, I cannot be convinced that education alone would solve the whole problem. The gravity of the issue, which amounts to an abuse of press freedom on a scale rarely seen in Hong Kong, requires an immediate solution. We simply cannot wait five to 10 or even 20 years for an education to take effect, while what is happening day in and day out is eroding our confidence in the media as a whole.

Freedom is of paramount importance in a democratic society. We must do what is in our power to safeguard press freedom. Yet, press intrusion upon privacy, gross exaggerations and so on are all against public interests. We have

to strike a balance and make sure that people in the community, regardless of their positions and social status, have their freedom protected.

While we should undertake to achieve longer-term media literacy for members of the public, we should not, nevertheless, lose sight of the need to resolve our immediate problems. Many thanks to the Research and Library Services Division of our Legislative Council Secretariat for its study on the Regulation of Media Intrusion of Privacy, which has given us a more comprehensive picture of how other countries or places handle the problem of unruly news reporting.

From what have been found in the study, there is a National Press Council in Taiwan, a Press Complaints Commission in the United Kingdom and the Minnesota News Council in the United States. They are all self-regulatory bodies which are not empowered to issue sanctions on the media. In the case of the United Kingdom, the establishment of a statutory press complaints tribunal, which is similar in nature with our proposed Press Council, had been opposed in 1993 by a Parliamentary Report. The British Government eventually adopted a self-regulation approach by the media itself and regarded it the most practical way forward. In the United States, it relies mainly on the media itself to take the role of mutual monitoring regarding the practices of their profession.

We have to admit that our media profession has still some distance to catch up with the quality of professionalism compared with our foreign counterparts mentioned. At this early stage, I would propose a self-regulatory body which consists of both laymen and senior representatives from across the newspaper industry, similar to the practice adopted in the United Kingdom. This body is empowered to censure unethical practices, on the other hand, it will serve as a safeguard against unwarranted suppression of press freedom and free speech by the government. Those suffering from unjust treatment by the media may take their cases to this body. At the same time, members of the media may resort to this body for rectification of the wrongs done to them.

I have earlier conducted a survey within the insurance sector on the proposal for a Press Council. Preliminary results show that 57% of the respondents supported the recommendation. Among them, 13% said that the Council should include members appointed by the Government directly or indirectly, while 9% thought that the Council should include only media representatives. 34% opted for other forms of composition. As much as 75%

of the interviewees believed that press freedom was being abused in Hong Kong. What worries me, however, is that there are over half of the respondents — about 55% — who are worried that freedom of speech would be undermined with the existence of a Press Council, and Hong Kong's image as a free city would likewise be impaired.

Some might doubt that if self-regulation would work, the problem would have long been resolved and we would not be having this debate in this Chamber today. Intrusion on privacy is not the only form of questionable practices among our media organizations. Unethical practices occur in other areas, such as pornography and violence. The present state of affairs seems to be most unfair to players who are scrupulous with ethics.

Operators of media organizations should always bear in mind that they are in a business where social responsibility and ethical standards are indispensable. They should have been aware of the society's outrage towards the present situation. If they want Hong Kong's well-established freedom of speech to remain intact, they should first learn to respect the right of privacy of members of the public.

Mr Deputy, I think we have come to a time when a mechanism is needed to bring order to the chaotic state of media operation. Failing that amounts to a surrender of our social responsibility for the common good. Mr Deputy, I support the original motion and the amendments. Thank you.

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

MR MA FUNG-KWOK (in Cantonese): Mr Deputy, in recent years, Hong Kong's media industry is operating in an extremely competitive market environment. Some of the media operators have not observed the conduct that is expected of the media and resort to sex, gore, violence, celebrities' privacy and falsification to boost their circulation and attract audience. Despite the endless criticism, the community in general still chooses to receive such information. There is no sign of the problem diminishing, rather sex, gore, violence and intrusion of privacy have become important factors in establishing a foothold in the market.

Unfortunately, we feel that other media agencies have also succumbed to market pressure and move with the trend and gradually change their style and line, thus spreading the problem further afield and starting it on a worsening trend.

The Consultation Paper on Media Intrusion released by the Privacy Subcommittee of the LRC has started widespread discussion among the public and the media. However, the discussion of the LRC, the media and the society are too concentrated on privacy intrusion by the media and the press council, to the neglect of the playing up of sex and violence in the media.

I am glad that Miss Cyd HO has proposed the motion on "education on media literacy" so that we can all have a more positive and in-depth discussion on the problems of Hong Kong's media, and find ways to enable the public, especially the youths, to adopt a more critical attitude towards the media while receiving all sorts of information.

An earlier survey found that 83% of the youths interviewed have had contact with sexual information in the newspapers, and close to half of them even have had contact with such information every day. We can no longer take the problem of sex and violence in our media lightly. We must face and deal with it quickly.

Mr Deputy, to effectively keep the youths from the poisoning of sex and violence information, the best way is for the media to exercise self-regulation and stop spreading such information. This, however, is a more difficult way out. We are now in an age where information travels far and wide, making it impossible for us to restrict its circulation. Even if we could make the local media regulate themselves, we would still find it difficult to prevent improper information coming from overseas or reaching our youths via the Internet.

The most effective way to protect our youths from the influence of improper information, therefore, is to change the practice of "take whatever that is given", which has been the attitude of youths and even people from various strata of society towards the media. They should treat everything with a more critical attitude and pick and choose information that meet their personal needs, instead of going after the sensual stimulation that information provides. They have to be a proactive audience and make good use of the function and value of the media.

I cannot agree more that the Government should provide more resources to promote "education on media literacy" so that the public, especially youths, can know how to choose information with great care and be more questioning or critical towards the content of information.

I want to stress that the prime targets of "education on media literacy" should be the students and youths, as well as the general public. Just imagine if the parents would allow improper information circulate within the family every day, how can the students and youths know the difference between good information and the bad?

On the strategies and ways for promoting "education on media literacy" on a comprehensive basis, I think further discussion is needed. However, there is one thing that we can be sure of: curriculum reform can wait no longer. I hope that officials at the Education Department will look into the related issues as soon as possible.

Mr Deputy, just now many colleagues talked about what effective self-regulatory and monitoring mechanism for the media should be, I would also like to say a few words on this.

I believe it is the expectation of the public that while enjoying the freedom of the press, the media should protect any individual's privacy and maintain good social customs. At present, however, the community generally feels that the behaviour of the media has not been as satisfactory as expected. If the media can respond positively to the voices of society by setting up an effective self-regulatory mechanism as soon as possible to monitor the trade's performance, this certainly would be what we are all looking forward to. However, the community is very doubtful whether this self-regulatory mechanism as set up by the media industry itself can effectively monitor the behaviour of the trade, simply because not all media agencies are willing to subject themselves to monitoring by this mechanism. If certain media agencies were not part of this self-regulating mechanism, how would it be monitored? So while considering the establishment of a self-regulatory mechanism, this is, I think, a major issue the media must explain to the public.

I expect that the various bodies of the media industry can come to a unanimous view as soon as possible on the establishment of an effective self-regulatory mechanism. As to whether there should be a press council established by the Government, I think it is too early to come to a decision now; what is more, society has not yet come to a consensus. I have great reservations on such an arrangement.

Mr Deputy, our society respects and treasures very much the freedom of the press and the freedom of speech and publication. We certainly do not want to have anything that might restrict the freedom of the press. The actual situation, however, is that the media industry has not been able to regulate itself effectively, irrespective of the source of monitoring. Two years ago, at a Panel meeting of the Legislative Council, I expressed that the media industry must regulate itself. However, how the industry has performed over these two years is there for us all to see. I therefore think that at the present stage we should not dismiss any possibility for a mechanism that would safeguard the interests of society. In fact, the past performance of the media industry has already put itself in the defence stand. Should there be any relaxation in social pressure, would a wrong message be sent to the media industry that it could ignore the social demand for a genuine reflection of itself?

Moreover, the media industry has not yet reached a consensus on a self-regulatory arrangement. With no details on the regulation mechanism, nothing can be said about its effect. It is therefore not appropriate for us to completely repudiate any other proposal.

Mr YEUNG Yiu-chung has talked about the responsibility of the media to uphold the social ethics. I think that there can hardly be any consensus on ethical standard. People of different cultural background would have different understanding towards ethical standards. However, if we were to premise our work on protecting the mental development of our youths, it would not be hard for us to come to a consensus on what standard to be set for journalistic practices.

Mr Deputy, the various media are sending an avalanche of information at us. How should we deal with such information? How should we react in this era of information? Are we to take in whatever thrown our way or to turn them all away? Neither of the attitudes is desirable. Through an integration of self-regulation by the media and "education on media literacy", the public, like a

fish, can enjoy a pleasant swim in the sea of information, instead of being drowned in its wild currents.

These are my remarks and I support the original motion of Miss Cyd HO and the amendment of Mr YEUNG Yiu-chung. Thank you.

MISS EMILY LAU (in Cantonese): Mr Deputy, I support the original motion moved by Miss Cyd HO. We must thank Miss HO for proposing a debate on "education on media literacy". Mr Deputy, I do not know whether you know what this is, but I believe not many of us know what this is, and even people within the Frontier need to be educated on this. I am not sure if the reporters outside know what this is. However, after Miss HO has raised it, I think many that knew nothing about it previously know about it now. This is a very important concept, and it is something that merits our efforts. Maybe Mr LAN, the Secretary for Home Affairs, can tell us later whether he knows about this concept. I believe he will be very frank with this.

What exactly is "education on media literacy"? This is a very important concept. Mr Deputy, I used to work as a reporter. I remember that during the eighties, Mr Michael Thomas, the Attorney General then, proposed setting up a press council. Mrs Selina CHOW at that time had also taken part in the proposal. Today's reporters may be too young to have any knowledge of this. Being a bit senior in age, I remember that it sent the media into an uproar, especially because, unlike the current proposal which was ostensibly made by the LRC, it was proposed by the Government. It was undisguisedly proposed by the Government and the reaction of the media at that time was certainly opposition. Moreover, society at that time was not supportive of the Government.

Now, more than a decade later, with the proposal made by a Subcommittee of the LRC, it seems, as revealed in surveys after surveys, that the public is more receptive of the idea. Mr Deputy, we can see that things have changed over these years. At that time, the public was doubtful whether there was a need for such a thing, and the media was making all sorts of noise against it. Thus, people felt that the proposal should not be implemented. Now, the media is also making all sorts of noise, but how come the surveys show that the public think there should be such a thing. Not many of us have spoken today, and those who have spoken are not very strong in their rhetoric, but I am very glad there are

still many opposing voices. We in the Frontier are certainly against it. However, after listening to Mr MA Fung-kwok, I am shocked. He said that it is too early now to say if there is a need for a government-appointed press council. I do not see why he said that it is too early. I thought we had already agreed that this matter would not proceed further. Maybe I have got him wrong. Mr Deputy, please give him the opportunity to clarify his point later.

I really thought that we have already come to a consensus and would together raise our objection to the proposal. Despite that we may not be very happy with the media, but having previously been a member of the media, I have some understanding of the industry. I really hope that the media industry can regulate itself by establishing its own council. From various newspapers, I understand that at present there are four bodies which have been conducting some sort of discussion, and it is said that some kind of agreement will be made known tomorrow. I really hope that they can achieve something. I also hope that all the newspapers will accept the regulation. Very often we said that if the largest newspapers (that means those against which people have strong views) are not members of such bodies, then there must be something wrong with these bodies. I am very glad that a newspaper with large circulation has stated that it would subject itself to the regulation standard. I hope that they can lay down a standard recognized as fair by both the industry and the public. With agreement by all parties, it should command compliance by the media, and actions should also be prescribed for non-compliance. This is the greatest concern of Honourable colleagues. If they did not comply, could the self-regulatory mechanism itself take any disciplinary action against them? I hope that the media industry can achieve something on this. Moreover, I would also like to remind the industry that within this mechanism must be people not from the industry. They must not make this a closed-shop arrangement, as so doing would only make their acts lack credibility. Last week a number of bodies of the newspaper industry came to the Legislative Council. They said that we might not have time to take part in their affairs, how about letting them do it themselves. I said that they should not go about it on their own, as this would make what they did lack credibility. They should get some independent individuals to join them, which, I think, is very important.

Mr Deputy, it is equally important that the media industry should provide some training to the reporters. If you take a look in the press room, you will find that most of the reporters are very young. They begin work with little knowledge of many things, and they have to start on an assignment once it is given to them. No wonder they do not know how to begin or that they may get their writings wrong. I believe that some papers do not set a very high requirement on standard. Sometimes, a report is for filling the gaps between advertisements. I think this is sad for our society.

On this, I would like to say a few words. The Chief Executive often says that he would like to see Hong Kong use London or New York as an example. However, can we be like those international cities, where we can have one or two famous, quality papers? We do not have such papers. Whenever someone asks me on this, I say we cannot help and have to read a few more papers. We really do not have a paper that can achieve that level of quality. Why cannot any company or some people put up some money to run a quality newspaper? In fact, we as a society should ask ourselves why. Now, why cannot the proprietors of the newspapers provide a bit more training for their reporters? Why cannot the reporters be given a bit more information, or be filled in on the nature of an incident, or be told to check the library archive, before being sent out on an assignment, so that they would not be so ignorant at every interview or need the guidance of the interviewee? Many officials or businessmen have reflected their impatience to me, saying that the reporter who interviewed them knew nothing about the subject or had to be taught about the subject from the very beginning, which might take three hours. If the interviewee were made to do this by the media industry, they should be ashamed of themselves. Therefore I think that this is a very important matter.

Mr LAN went to Geneva with us recently. He probably still remembered the letter from the United Nations' Human Rights Committee. In the letter, the Committee said very clearly that it had the responsibility to ensure that the media can have the freedom to report what they like. I believe Miss Cyd HO has already put forth a very good way to safeguard the freedom of the press and the freedom of speech. That is through education. Miss Cyd HO has also mentioned other matters such as a fund, which I think Mr LAN should consider implementing. If not, next time at the United Nations — maybe Mr LAN has already retired and I do not know who would represent the Government — the Government would be caught having done nothing. If the Government were willing to spend some money and resources to educate the public so that when

they know that the freedom of the press is afflicted with problems, they know how to voice their opinions, how to uphold it. I believe this is very important. A number of Members have already mentioned that those media that exercise self-regulation now dare not report on many things. And the community also dare not raise their voice. If we were to uphold the freedom of the press, I hope that the public would raise their voice when they see any impropriety. For the media to lack any credibility is a very sorry thing, and what they said would not have the recognition of others.

With these remarks, I support the motion.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak? Mr MA Fung-kwok, do you want to clarify what you said earlier? Please speak.

MR MA FUNG-KWOK (in Cantonese): Thank you, Mr Deputy. Just now, Miss Emily LAU asked about the meaning of what I said. I would like to say it again. What I said just now is that it is still too early for us to decide whether the Government should set up the press council. This is what I want to clarify.

MR LEE CHEUK-YAN (in Cantonese): Mr Deputy, Miss Emily LAU asked just now what had happened in the past decade or so that made the community more receptive of the proposal for the establishment of a press council. I believe it is an indisputable fact that the community is very dissatisfied with the exaggeration of sex and violence or privacy intrusion. We all hope that through self-regulation by the media industry itself, the media can regain the acceptance of the community. I think this is worthy of a review by the industry itself. However, our greatest worry is that the Government is making use of the opportunity, by exploiting the dissatisfaction of community, to fix up the media in the name of a press council or some other bodies. This is our greatest worry.

At the bottom of our hearts, our greatest fear is that the Government would use a borrowed knife to kill, but end up killing the wrong guy. That is it is using sex and violence to cut out the monitoring voice on the Government, and using privacy intrusion to strangle the freedom of speech. Mr Deputy, you are a doctor by profession and know very clearly what chemotherapy and

radiotherapy are. They are used to treat cancer and kill the cancerous cells, but these therapies do not kill only the cancerous cells but also the healthy cells. What sends the media into an uproar is that any sanitization of the media industry would sanitize the voice of opposition, would sanitize the monitoring voice on the Government. This is the reason why there is such an outcry from many media workers. Put bluntly, our greatest worry is that the Government would use a borrowed knife to kill.

In fact, the thorn in the side of the person in power definitely would not be the pornographic columns and prostitute guide in the newspapers, rather it is the guide to all the faults of the Government that is most hurting. At the end of the day, what is being strangled is actually the monitoring voice on the Government. We think that if the freedom of speech, or the monitoring voice on the Government, was really strangled, and there were still the problems of sex and violence and privacy intrusion, then there would not be any more problem as the Government might think that there is nothing wrong with news that is meant to be entertainment. We are very suspicious of the Government's intention in the whole matter. I hope that the Secretary for Home Affairs can clarify what the Government's view is.

As to education on media literacy, it is not as simple as teaching people not to read the pornographic columns or violent columns, nor is it simply about moral education. In the final analysis, education on media literacy is about instilling in people, youths and the Hong Kong community the ability to think critically. True education on media literacy means that one must think critically about sex, violence, government policies and the councillors. That is we must think critically about the information we receive.

Not only do we have to be critical with the media, we should also be critical with the people who "leak the news". The most dangerous of all those who "leak the news" is the person in power. We should be most critical with such a person, especially when the Government is creating a situation or fabricating public opinion. I hope that everyone can think critically. When we hear the Government say that the Comprehensive Social Security Assistance (CSSA) Scheme nurture lazy bones, we should see that the Government is about to cut the CSSA payments, which is the true meaning behind it all. When the Government "leaks the news" that some civil servants have been quite tardy in their jobs, we should know that the Government intends to shake up the Civil Service. It is a shame that we have to see things this way. When the

Government says that the return on a \$148 billion investment is good, we have to examine how the figure is arrived at. When the revenue and expenditure are said to be balanced, we have to see if they are really balanced. When the Government says that the number of incoming tourists is encouraging, we have to ask if it is true. We have to look at the meaning behind the figure too. When the Government released the figure 1.67 million, we have to find out how this figure is arrived at.

Everyone must be very critical with those who "leak the news". I also hope that while safeguarding the independence of the press, the media industry can also give a balanced treatment to the onslaught of "news leaks" by the Government. The media should also be on the guard not to take in too much "news" when the Government or the person in power is "leaking news" to shape public opinion, especially when they are dining with the government officials, which is the time when one is least wary that one is being fed "leaks". I hope that in order to maintain the independence of the press, the media can remain steadfast in their post, especially when we see that the Government is putting up a posture for fierce attacks in this respect. The D8 post also comes out of this.

The media therefore must be critical and the community must be critical. I think this is what education on media literacy truly is. As to the establishment of a press council, we also have to be critical in finding out what the true intention of the Government is. I think the true purpose of the Government is to diminish the voice that monitors the Government, or put more horribly, to sanitize the monitoring voice on the Government.

Thank you, Mr Deputy.

DEPUTY PRESIDENT (in Cantonese): Miss Emily LAU, did you indicate that you want to speak again? I would like to remind you that you have already spoken once. *(Miss Emily LAU shook her head)*

DEPUTY PRESIDENT (in Cantonese): You do not want to speak? Maybe you have pressed the "Request to Speak" button by mistake.

PROF NG CHING-FAI (in Cantonese): Mr Deputy, the motion proposed by Miss Cyd HO is amended by two Members. Though the two amendments have retained the line "that this Council urges the authorities to promote education on media literacy across the board", the scope covered by the motion has been much expanded.

I would like to first talk about my view on the original motion proposed by Miss Cyd HO. I understand that in the motion she expressed to us her concern about educating youths on how to distinguish the good media from the bad. Miss HO has my greatest admiration on this. Miss HO also told us about her experience in education on media literacy. This certainly is very useful. However, I have read some material, which makes me doubt if we can deal with our present problem with the sort of education on media literacy proposed by Miss HO? I feel that this is still open to question.

Firstly, if the material I read is correct, we must make it clear to ourselves that education on media literacy is only a kind of education that targets at young students. Youths only represent part of the audience. However, Miss Cyd HO equated the youth audience as the whole audience. I think there is a problem with this. She seems to tell us that educating the youths on media literacy would make all the media audience and the citizens understand the techniques used by the media and know how to judge or even boycott them. In his speech just now, Mr LEE Cheuk-yan even made education on media literacy look so wonderful that it could achieve almost anything. I have great doubts about this.

Education on media literacy is a very good education topic and subject, but we need to make it clear what kind of education on media literacy is to be promoted. For the general direction, education can be done in a positive way by guiding youths to access healthy matter and develop noble interest. They would then refuse vulgarity and distance themselves from coarse and despicable material. If, instead of truth, good or beauty, youths are only given falsehood, vice or shame, they have no way to make the comparison, so how can they distinguish one from the other?

I think that education on media literacy is not only about being critical with information from the media. It is not a simple sanitization exercise. What is more important is that youths must be given access to true and good information so that they may have more healthy food for the mind. At the same time, we must not hard sell and didactically cleanse any media poison from the minds of the youths. In the long term, if our primary and secondary schools can adhere to the objective of developing students' moral, intellectual, physical, social and artistic potential and enrich the content of teaching, so that continuous improvement is made in the method of teaching, the students can then be gradually guided to develop a correct attitude towards right and wrong, noble ideals, elegant taste and broad vision. Then do we have to worry that they cannot distinguish the good from the bad in the media? Therefore I agree with Miss Cyd HO that the problem of self-regulation of the media and the freedom of the press need to be tackled through the education process. However, as Mr Bernard CHAN said just now, it is a slow remedy for an urgent situation.

In the time remaining, I want to talk about today's motion, which makes me feel like listening to music. When listening to orchestral music, some people might get a particular message, others might get another. Mr LEE Cheuk-yan said that what he worried was not the LRC. His fear was that the press council proposed by the LRC would become a tool for clamping the freedom of the press. I think that his worry is understandable. Now I would like to respond to the speech of Mrs Selina CHOW. We are all very clear that the problem with the media in Hong Kong is not only with privacy intrusion. Whether the press council proposed by the LRC is premised on a bad intention, I think this council cannot resolve the problems with the media. From this perspective, I also think that setting up a press council is not the best way to protect privacy.

However, if we say that this legislature represents the public opinion, why has the pressure of public opinion to be mentioned all the times? I thought that only the Government was afraid of the pressure of public opinion, so why do Members have to be afraid of such pressure? Given that Members represent public's view, why do they have to be afraid of public opinion? Just now Dr YEUNG Sum talked a lot about the pressure of public opinion, and mentioned that the press was under pressure too. I find it very ludicrous. The press should have been the mouthpiece of the people, so why could it feel that it is under the pressure of public opinion? I feel that we have too many confused ideas. I want to point out again that today's motion cannot solve the problem

under discussion. I think that if this is a responsible legislature, it should take more positive action and formally put forth a method, instead of just opposing a particular proposal.

Mr Deputy, I so submit.

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

(No Member responded)

DEPUTY PRESIDENT (in Cantonese): Miss Cyd HO, you may now speak on the two amendments. You have five minutes.

MISS CYD HO (in Cantonese): Mr Deputy, I am glad that so many Members have spoken on the motion. First of all, I would like to respond to Prof NG Ching-fai. Though the reference material I sent out to Members last week was concerned only about youths, I have referred to adults as well in my speech. I think that educating the adults is just as important. In every family, it is the parents who buy the newspapers, not the children. It is not logical that I made no mention of the adults. Perhaps Prof NG may refer to my speech again. I feel strange that why people from the education sector should have so little confidence in education. I have listened to more than 10 Members' speeches, the two from the education sector thought that education requires 10 or 20 years to produce any result. Maybe they have grown used to the saying "it takes ten years to grow a tree, but a hundred years to rear a person" that they think that this is not the right method to handle the current urgent situation.

However, Mr Deputy, mere legislation cannot solve all the problems concerning the conduct of the media, rather it would only become an interference to the freedoms of the press and of speech. At the end, not only would the freedom of the press industry be threatened, the right of the whole society to receive any information would also be threatened. This is especially so at the moment because we still cannot, through a representative system with universal suffrage, have any influence on administration. If even the freedom to receive information for the purpose of debate and discussion were restricted, it would be much harder for society to mobilize any social pressure on the Government. I

therefore hope that no parent would think that, with the media being subject to legislative regulation, he or she can hand over the responsibility of teaching his or her children to the Government and has peace of mind. In fact, when our children are not yet capable of receiving certain information, much of the information is not acceptable to society. Under the threat of being regulated by others, the media industry once again proposes that there needs to be a self-regulatory mechanism, which would be a council set up by people within the industry. We are very pleased with the determination shown by the industry in exercising self-regulation. This is the freedom of association, and freedom of speech. However, some people fear that when criticizing fellow journalists, they might be sued for libel. They therefore think of establishing a council with authority, or even propose amending the law so that the council can be exempted from being sued for libel. Mr Deputy, this is very dangerous. How can a body remain so aloof that it can be exempted from the control of libel law? What if this body had libelled anyone, how could we settle with this monster? I Therefore, I must stress that if there were to be a council that had the status of giving monopolistic assessment, then this might give rise to a situation that a small group of people would be in charge of moral judgments. This is not a desirable solution and it cannot exclude the possibility of private operations being monitored by the Government. On the surface, this council may be seen as a self-regulatory and private body, but would it be controlled by people of influence behind it?

As to the setting of ethical standards, instead of entrusting it to a group of people to make moral judgment, there must be all sorts of public discussion held on a variety of occasions so that the community will have the opportunity to gradually develop a standard that is acceptable to most people. I also hope that this standard is used only as a reference because in any society there would be people in the minority whose behaviour, like different sexual preference, may not be acceptable to the majority at that particular time and place. In Muslim countries, women have to be wrapped in cloth from head to toe, and to see things through a veil, before they would be considered meeting the ethical standards. Shall we do the same? Do we need to have an authoritative press council to require the Hong Kong media to unanimously promote one particular ethical standard? I think this is not what we want to see.

In fact, every society should treasure the space for public discussion. I hope that different views may find their own expression so that truth may emerge through continuous debates. However, no matter the monopolistic body is in

the form of regulation by others or of self-regulation, it will do harm to our freedoms of speech and of the press. I hope that the community can treasure the little freedom that is still left to us because public opinion and political debates do carry weight, and truth would emerge through continuous debates. If not, any dictatorship would not, on assuming power, exert pressure on the radio and the press. If we see that the Government is extending its hand of interference into the radio broadcast room and the press room, then the community must be on the alert and carefully monitor how the Government will act in the future.

Mr Deputy, may I thank the two Members who have proposed amendments to my motion, because their amendments have led to much discussion today. Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, Hong Kong is a place which highly values human rights. The protection of various human rights are expressly provided for in the Basic Law.

Among all human rights, freedom of the press and freedom of speech are linchpins which safeguard other human rights. The Government knows it very well that freedoms of the press and speech are edges contributing to our success. They have served as a driving force in our society and turn it into the world-class metropolis in which we are living. We will do our utmost to uphold these two freedoms.

The performance of individual media agencies in recent years has been rather disappointing. The public is dismayed at their reporting practice of intruding privacy and grossly exaggerating sex and violence. Many people are raising the issue of whether freedom of the press has been abused and whether there should be regulation of the media. Responsible people in the media sector have also sensed the need for self-regulation in order that the credibility of the media can be maintained.

At the same time, the Sub-Committee on Privacy of the LRC has recently released a consultation paper in which views are solicited the proposed formation of a Press Council for the Protection of Privacy (the Press Council). I wish to

reiterate that this proposal is not made by the Government. The proposal is presently at a consultation stage and we remain open and neutral on this. When we receive the final report on this from the LRC, we shall consider the views presented by the public and carefully examine the final recommendation from the Commission before arriving at any conclusions on the setting up of the Press Council.

We have always held the idea that the best way to improve media conduct is to have an effective self-regulatory mechanism formed by the press. Such has always been our stand on this issue. With regard to this point, we are, like Honourable Members, ardently hoping that a mechanism on this will be expeditiously set up by the press.

I would like to make use of this opportunity to respond to a few points raised by Honourable Members. Miss Cyd HO mentioned earlier that the Chief Executive had once remarked that if the media industry would not self-regulate, the Government would have to step in. Two days ago, I asked a colleague of mine to look at the records of remarks made by Mr TUNG on different occasions, including those made on the television and on the radio. We cannot say for sure, of course, that our colleague has made a thorough search of all the records. But he has certainly checked everything very carefully. Mr TUNG has said many times that he hoped that the media could regulate on their own initiative, but he had never said that failing this, the Government would intervene. As to whether or not other people have said such a thing, that is an entirely different matter. We have certainly checked every file available, and for that point in particular, but we have found no remark on this has ever been made.

Another point I may like to make is that it is quite likely a misunderstanding when Mr Andrew CHENG said earlier that the Government was ready to set up the Press Council. We have said that the Government remains uncommitted to the proposal made by the LRC. We will ask the Commission to clarify some of the technicalities found in the consultation paper. What are these technical points? Let me give one example. Suppose one of the registered publications does not belong to the press but is an organization like a chamber of commerce or the Hong Kong Trade Development Council, should it come under the same category of publications which in the opinion of the Commission, should be regulated? Another example is: Should some of the publications sold here in Hong Kong, such as some international magazines like the *Economist*, *Newsweek* and so on, be regulated as well? We would like to

get a clear answer from the Commission. Also, how are we to take the sales figures of these publications? Shall we just take its sales figures for Hong Kong or the regional sales figures for Asia? All these are technical problems. May I say once again, the Home Affairs Bureau or any other government department has never made any study on the proposal made by the Commission to set up a Press Council. I hope I have made myself clear on that point.

It makes no difference if this self-regulatory mechanism will ever come into existence or that how it is going to operate, we will strive to enhance media awareness among the public through educational efforts. That does not mean that we are to tell the public how to choose the publications and newspapers they should read, the television programmes they should watch, or the radio programmes they should listen to. Miss Cyd HO, I think, would certainly not like us to do such a thing.

What we can do is to let the public become more aware of the media influences in a modern society, and especially their role in shaping morale values and the outlook to life of the young people. We should also want parents and their children to know the importance of choosing media programmes and publications. Besides, we will work to provide the public with such information while sticking to the principles of protecting our youngsters and making no interference with the freedoms of the press and speech. We hope the information we give can serve as a reference to both parents and their children in making the right choice.

In terms of teaching students to develop an ability to understand and differentiate media information, the curricula we have, such as General Studies in our primary schools and the subjects of Civic Education, Economic and Public Affairs and General Education in our secondary schools, have all included messages on media education. Individual schools can also tailor-make some curriculum on media education to suit the specific needs of their students. Schools should also inculcate media literacy messages to students by way of extra-curricular activities. For teachers, there are courses in teachers in-service training programmes on media education offered by post-secondary institutions. At the same time, the Education Department has a series of media education courses for in-service teachers in which teachers may acquire the training they need on media education. As for the Quality Education Fund which has been mentioned in a question raised by Miss Emily LAU earlier, I would like to say that the Fund has approved of a funding valued at \$5.8 million to four schools

and youth organizations to hold activities on media education. The activities proposed include the making of teaching kits, studies on specialized topics and the holding of workshops and seminars.

Communications studies and journalism courses run by post-secondary institutions funded by the University Grants Committee have placed the topic of media conduct into their curricula. We earnestly hope that media workers can put the things they learn into practice.

Education on media literacy should not only be carried out in schools, it needs the co-operation and matching actions on the part of various groups and organizations outside the schools.

Among all forms of media, the television has the greatest influence. The Broadcasting Authority stipulates that the two local television stations cannot broadcast any programmes which are not suitable for children during the family hours (from 4 pm to 8.30 pm) or at any time slot when there are a lot of young viewers. Should any programmes aired at other time slots which are not suitable for children or adolescents, the stations are required to indicate clearly that they belong to the "parental guidance" or "adults only" categories.

The above restrictions and categorizations will serve to help parents to guide their children away from watching programmes which are not suitable for children or adolescents. The Broadcasting Authority often shows some publicity advertisement on the television to let the public know more about these restrictions and categorizations. Besides, starting from October this year, the Television and Entertainment Licensing Authority also sends its staff to schools and school and parent associations to give talks on the classification of television programmes and help them in choosing the programmes suitable for their children. Hopefully, it will help parents in helping their children to form good habits in watching television.

The above-mentioned restrictions and classification are only applicable to local wireless television programmes. As for other television stations and radios, they are required to give clear indications to listeners and viewers before they put any programmes which may cause uneasiness to people on air.

The Commission on Youth which Mr Eric LI is the Chairman has, over the years, been very watchful of the impact of the media on young people. The Commission conducted a survey in 1991 on the habit of young people in using the media and the influence of the media on values held by young people. In 1997, the Commission made another survey on the same topic and in this year it held a seminar on the findings with the young people, media representatives, academics, parents and teachers. The views gathered by the Commission will help us in giving further thoughts on devising strategies on media literacy. One of the major targets in the youth development activities organized by the Home Affairs Bureau and the Commission on Youth is to help young people to form positive values and this will also enhance their media literacy.

Lastly, I wish to thank Honourable Members for the valuable advice they have given. I will certainly pass these suggestions to the relevant Policy Bureaux so that we may do better in our efforts in education on media literacy. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Albert HO to Mr YEUNG Yiu-chung's amendment be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively 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.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment to Miss Cyd HO's motion, moved by Mr YEUNG Yiu-chung, as amended by Mr Albert HO, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively 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 amendment as amended passed.

PRESIDENT (in Cantonese): Miss Cyd HO, you may now reply, but you have 39 seconds only.

MISS CYD HO (in Cantonese): Madam President, the message today is very clear. This Council was elected in 1998 by 1.59 million voters. Today this Council passes the motion that opposes adoption by the Government of the LRC proposal on the establishment of a statutory press council. The message cannot be made any clearer. I hope that on his way back, Mr KAN Ka-ming on the public gallery would take along with him our views, which are also that of 1.59 million voters.

Moreover, I would also like to respond to the Secretary for Home Affairs. We do not want the Government to run any education on media literacy. I am afraid that the Government might take the opportunity to indoctrinate us with its own ideology. I hope that the Government can allocate resources for other organizations to do the job. However, in the \$200 million allocation from the Quality Education Fund last year, only \$5.8 million was voted for this purpose, which is far from sufficient.

PRESIDENT (in Cantonese): Miss HO, your time is up.

MISS CYD HO (in Cantonese): Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Miss Cyd HO, as amended by Mr YEUNG Yiu-chung and Mr Albert HO, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr Albert HO rose to claim a division.

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

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

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

Functional Constituencies:

Mr Kenneth TING, Mr Edward HO, Mr Michael HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Miss Margaret NG, Mr Ronald ARCULLI, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr SIN Chung-kai, Mrs Miriam LAU and Mr Timothy FOK voted for the motion.

Mr HUI Cheung-ching, Mr FUNG Chi-kin and Dr TANG Siu-tong abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr HO Sai-chu, Mr NG Leung-sing, Mr MA Fung-kwok, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted for the motion.

Mr David CHU, Prof NG Ching-fai and Mr Ambrose LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, 18 were in favour of the motion as amended and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 21 were in favour of the motion as amended and three abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion as amended was carried.

PRESIDENT (in Cantonese): Second motion: The Government's policy on the engagement of consultants.

THE GOVERNMENT'S POLICY ON THE ENGAGEMENT OF CONSULTANTS

MR NG LEUNG-SING (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

The motion before us today is "The Government's Policy on the Engagement of Consultants". The main objective of the motion is to bring the policy in line with the passing of the British administration in Hong Kong and the dawning of a new era with the establishment of the Special Administrative Region (SAR). The motion therefore aims at pushing and helping the Government to make improvements on the policy concerning the engagement of consultants in all areas. The main issue to be considered in this motion is: "That this Council urges the Government to review the policy on the engagement of consultants in order that it can better meet the social development and needs of the Special Administrative Region."

Madam President, the Government engages consultants to assist in its work over an amazingly wide scope of areas. These consultants include research consultants, engineering consultants, assessment consultants and there is a great diversity of policies and practical work involved. The engagement of consultants involves the expenditure of enormous amounts of public money. According to information provided by the Government, over the past three years, the value of consultancy contracts approved by the Central Consultants Selection Board, the Engineering and Associated Consultants Selection Board and the Architectural and Associated Consultants Selection Board amounts to more than \$3.9 billion. The figure does not include consultancy contracts valued at \$1.3 million or less which the departments are empowered to approve at their own initiative and consultancy contracts of individuals. The various policies, schemes and measures implemented on the basis of the findings of the consultancy studies involve an even more enormous amount of public resources. One may even say that this forms an important link in the social development of Hong Kong.

The transition from a colony to a SAR naturally entails an expectation in the public and the professionals on the Government. There is a concern about the question of whether or not the engagement of consultants is reasonable, the question of how to monitor the performance of the consultants and whether or not the policy on the engagement of consultants is a fair and reasonable treatment of the interests of the local consultancy sector, and whether the policy is beneficial to society as a whole, that is, its effects on local employment opportunities, the growth of the local consultancy sector and technology transfer. In the course of my involvement in the deliberations on Value for Money Report by the Director of Audit in the Public Accounts Committee, I have come across many examples in which the Government hires consultants when it is to carry out

certain policies or to engage in certain work. It is believed that a comprehensive and in-depth study made by this Council on the policy on the engagement of consultants will be useful to urging the Government to use public resources wisely.

First of all, the first recommendation made in the motion is that consultants should not be engaged to discharge the duties of government departments. Madam President, the first major principle of the policy on the engagement of consultants is that consultants should not discharge duties that should be discharged by the Government itself. As the body which formulates, implements and manages public policies, the Government has the ultimate responsibilities in this respect. Therefore, it must make the best use of resources such as the manpower and facilities which it possesses and which have been paid by public money to solve any problem which may arise and to make the right decisions.

The Stores and Procurement Regulations of the Government specifies that before consultants are engaged, the department concerned ought to consider the question of whether or not the staff and expertise in that department are able to cope with the research in question and whether or not professional advice from outside must be sought. However, the guidelines are too general and insufficient.

First of all, I think that guidelines should be issued to require the intending department to make an assessment of the benefits of hiring consultants. Factors to be considered include the objectives of the work in question, the kind of professional advice and expertise required and whether the hiring of consultants has any direct relationship with and help to the work objectives.

Second, the guidelines given to the departments should contain a reminder that they should not have any improper motives in hiring consultants. Such motives include the hiring of consultants for the sake of merely promoting a certain predetermined stand and plan concerning a policy issue. Examples include the hiring of consultants to undertake a study of the organization framework for the cultural, arts, sports and recreational services which has received much public attention. Another example is that consultants should not be hired to facilitate the explanation of a soon-to-be-implemented measure to the departmental staff and the public. One other example is found in the Report by the Director of Audit on the Water Works Department's hiring of consultants

merely to undertake a study on how meter-reading routes can be improved. Such work is clearly the duty of the departmental management.

On the point of whether there is a genuine need to hire consultants, the government department should improve and enhance standardized monitoring and assessment in this respect. The current guideline on the engagement of consultants specifically laid down in the Stores and Procurement Regulations does not apply to contracts of a value under \$1.3 million and the hiring of individuals to undertake consultancy studies. Even if the contract value in question exceeds \$1.3 million, in all areas apart from management and finance, the department head is empowered to decide whether there is a need to hire consultants. The Central Consultants Selection Board is responsible for selection work only and it seems that there is a lack of monitoring and assessment on the abusive engagement of consultants.

The second recommendation in the motion is that the reward and punishment mechanism should be strengthened so that the performance of the consultants engaged can be realistically and effectively monitored. Madam President, despite the set of requirements on the work of consultants as laid down in the Stores and Procurement Regulations, it is still deficient when viewed from an overall perspective.

The first deficiency is that emphasis is placed only on the process of consultancy work and not the findings insofar as monitoring is concerned. The department concerned can take monitoring action if the progress and efficiency of the consultants are not satisfactory. On those research findings whose effectiveness has to be tested by applications of government policies and practice later, there are no effective comparisons and assessment to serve as a reference for later selection. With the Strategic Sewage Disposal Scheme, for example, the Government plans to hire some foreign experts who have undertaken similar review and assessment work before and ask them to make another study and review. However, before these foreign experts are hired for the second time, has the Government assessed the effectiveness of the previous performance of these experts and their capabilities?

Since the Government is a client who purchases these consultancy services, there should be clear and binding contractual terms and conditions to regulate the services purchased to ensure that they are value for money. For example, in the recent case where public attention is caught in certain problems on the quality of

some Home Ownership Scheme flats which are caused by the negligence of the consultants supervising the projects, the authorities concerned should inform the public of the liabilities of the relevant party under sound contractual terms and conditions. Penalties should be meted out to the party found liable.

In addition, there are no commonly applicable guidelines in the existing Regulations on the prevention and handling of cases of conflict of interests while work is being undertaken by a consultancy firm. There is no prior preventive mechanism, nor any measure to deal with the emergence of conflict of interest in the course of the consultancy work. This will be detrimental to the impartiality and professionalism of the consultancy work undertaken. For example, there is a case in which a consultancy firm was hired by the Government to undertake a study on the liberalization of the market for power supply, when the same firm was hired by a power company to study the feasibility of its business development plans. Public criticism then ensued.

The third recommendation is ensuring that the expertise of the consultants engaged matches Hong Kong's actual circumstances so as to achieve the best value for money. Madam President, we should strive to achieve the best value for money so that the work undertaken by the Government can really be facilitated. When considering whether or not consultants should be engaged or what kind of consultants should be engaged, the actual circumstances of Hong Kong should be taken into account. These would include social, economic and cultural factors, and also the actual needs of the Government as well as the local professional, technological and academic standards.

It does not matter how advanced the technology from other countries is, the most important thing is that consultants from abroad can find solutions which can really solve our problems. This especially applies to those macroscopic policies affecting people's daily life, related to the socio-economic situation, and formed as a result of long-standing historical or traditional influences. If consultants are only equipped with theories of their profession but not practical knowledge of the local situation, they can never hope to solve our problems at root. Take the Harvard report on the health care system which takes two year to complete and at a cost of \$5 million as an example, it can only achieve the purpose of arousing debate on the issue, but its value for money result is doubtful in the eyes of the public.

The fourth recommendation is that regard should be paid to the interests of the local consulting profession and strive to effect technology transfer when engaging foreign consultancy firms, without violating the relevant international agreements. Madam President, many people have raised the point that during the British administration, too much favour was given to foreign companies, especially British ones, in contracting out consultancy projects. This resulted in a lack of opportunities and experience in local companies. They are hence unable to compete with foreign firms on an equal footing. The Government should therefore set up some specific mechanism to ensure that a fair competition policy is really adhered to, that the Government Procurement Agreement of the World Trade Organization is observed, and that the local consulting profession is treated in a really fair manner.

Apart from that, as the Government is keen on steering the local economy in a knowledge-based hi-tech direction, it has the responsibility to support the academic research efforts of our universities and the consulting profession. They should be given more opportunities of consultancy work so that their competitive edge can be enhanced.

I propose that measures should be adopted by the Government to match with the above-mentioned policy. At present, our saving clause in the Government Procurement Agreement specifies that all consultancy contracts are not subject to regulation. The Agreement only regulates contracts for architectural services with a value exceeding \$55 million and contracts for other services above \$14 million. The Government should make use of these provisions to provide more opportunities for local consultancy firms when it is to offer contracts outside the ambit of the Agreement, while taking into account factors like quality assurance and cost-effectiveness. In the technical management of such contracts, the relevant consultancy work should be broken down into small items on separate contracts so that consultancy firms of all sizes can be given opportunities.

In addition, the Government should act through the overseas trade offices to keep a close watch on the government procurement actions of our trading partners. This will enable us to study and learn from some flexible practices of other countries. Information shows that some organizations in certain states in the United States are free from the regulation of the Agreement. The state of Queensland in Australia puts the development of local employment opportunities as one of the objectives of government procurement policy presently under formulation. The Hong Kong Government should study these examples and take them as reference.

To protect the interests of the local consulting profession in a reasonable and legal way, the Government should consider putting the names of consultancy firms on a register and require the registered firms to provide information on the percentage of shares held by Hong Kong residents. This should be used as one of the criteria of assessment.

For some consultancy studies projects which help to promote areas of academic excellence in local universities and academic institutions, the Government should consider not adopting procurement methods and use subsidization instead as a means to give local academic research institutions the opportunity to take part in the provision of consultancy services. Finally, for consultancy contracts involving the use of advanced technology from abroad, the Government should clearly specify the terms and conditions of technology transfer so that the local consulting profession and other professionals will be able to upgrade their technology level. I believe this will definitely be beneficial to the long-term development of our consulting profession.

Madam President, the above is an elucidation on my motion. With these remarks, I beg to move.

Mr NG Leung-sing moved the following motion:

"That this Council urges the Government to review the policy on the engagement of consultants in order that it can better meet the social development needs of the Special Administrative Region; the policy should include the following considerations:

- (1) consultants should not be engaged to discharge the duties of government departments;
- (2) the reward and punishment mechanism should be strengthened so that the performance of the consultants engaged can be realistically and effectively monitored;
- (3) ensuring that the expertise of the consultants engaged matches Hong Kong's actual circumstances so as to achieve the best value for money; and

- (4) without violating relevant international agreements, paying regard to the interests of the local consulting profession and striving to effect technology transfer when engaging foreign consultancy firms."

PRESIDENT (in Cantonese): I now proposed the question to you and that is: That the motion moved by Mr NG Leung-sing, as set out on the Agenda, be passed.

MR AMBROSE LAU (in Cantonese): Madam President, the Hong Kong Progressive Alliance (HKPA) is of the view that the Government's policy on the engagement of consultants has always been questionable. The issue involves not only the question of whether public money is well spent, but also the more important question of the room for development of local talents and the consulting profession are subject to unnecessary restriction.

Local talents are one of the most important assets of Hong Kong. The cost of training talents at the local universities is one of the highest in the world. However, there is not much chance for them to put their knowledge to full use. Our Cross-Harbour Tunnel and the Mass Transit Railway have been with us for two or three decades already. The Lantau Link and the Airport Core Programme cost us more than \$100 billion. But our consulting firms and local talents have not been able to gain the technological experience from these giant projects, not to mention their export of technologies to overseas places or bidding for projects abroad.

Madam President, our Government is bold and generous in spending billions of dollars to build a great number of grandiose projects which have earned us international reputation. But our Government has never had the boldness to tell the world that the technologies involved in these projects are all our own. The main reason for this is, we are afraid, the long-standing negligence on the local consulting profession in government policy on the engagement of consultants. Many people from the consulting profession have told us that over the past years, most of the major public services from the Government and quasi-governmental organizations, and the consulting services for some mega-scale infrastructure projects are contracted out to some foreign consultancy firms. Many of the working procedures are not done in Hong Kong and most of the staff are recruited from overseas. There is no appropriate mechanism whereby the Government requires these foreign consultancy firms to

hire and train local talents at each level of their management. Nor are they required to engage in any substantial co-operation with local contractors. Contracting systems like these are unable to provide more business opportunities for the local consulting profession. They are also unable to provide adequate learning opportunities for local talents to acquire advanced technology.

The HKPA is stating these concerns not because we want to advocate protectionism, and there is not the slightest sense of discrimination on our part against foreign consultancy firms. Many of these firms have a lot of talents, they are financially formidable, their size is huge and they have excellent reputation and experience. But that does not mean that they should get all the major government contracts, nor should they be allowed to strangle the survival space of local consultancy firms. We should learn from our competitors around us, for they try their best to protect the interest of their local consulting profession.

In Taiwan, if local people own less than 51% of a foreign consultancy firm, these foreign firms need to enter into a joint venture with a local company. Failing that, these firms will be barred enter into bidding for government contracts. Singapore is a member of the World Trade Organization. The Singaporean Government also provides that even if a local company makes a tender with a slightly higher price-tag than a foreign company, its chance of getting that government contract may not be affected. This practice will ensure local consultancy firms can compete with foreign companies on a fair basis. Besides, when after a foreign consultancy firm has completed a certain project, other similar projects will be given to local companies.

The examples of Taiwan and Singapore serve to illustrate the point that the government should place the well-being of the local people and the companies first. At a time of economic downturn, when companies fight hard to survive, and when unemployment of professionals surges, this should be done all the more. If local professionals are not given a chance to give full play to their talents, how can they expect to improve themselves to compete with professionals from elsewhere? If this state of affairs is allowed to continue, how can Hong Kong become a centre of professional and technological talents in Asia and the best market for technology transfer as mentioned by the Chief Executive in his second policy address?

Madam President, the example of Singapore shows that without violating any of the relevant international agreements, the Government can still have some room to manoeuvre when formulating the selection criteria for consultancy contracts. The survival and room for expansion in the local consulting profession can still be protected. The objectives of technology transfer can still be reached. Admittedly, "hardware" is vital to the professional services in Hong Kong if they are to maintain an international competitive edge, and in this respect, "software" is the key to success.

Madam President, I so submit.

DR RAYMOND HO: Madam President, it has been a long tradition of engaging consultants in public works by the Government, particularly in the field of engineering. For building our massive infrastructure, we need foreign expertise in different aspects of public works, namely, design, contract documentation and construction technology. Consultants have been appointed in major important projects including the Mass Transit Railway, tunnels, bridges, airport as well as other trunk transport networks. Consultants are also appointed when the Government does not have the manpower to do the work and yet does not want to expand the size of the Civil Service. This is perfectly acceptable.

Undoubtedly, appointment of overseas consultants will bring in foreign expertise to Hong Kong. The practice improves not only the quality but also the cost-effectiveness of our projects. However, as I have pointed out in related motion debates at this Chamber, we cannot rely solely on overseas consultants. I am particularly referring to those who have never worked in Hong Kong before. It is important to develop our own expertise through technology transfer. Many countries requiring the services of overseas consultants have been paying much attention to the importance of technology transfer. Obviously, it is not the case for Hong Kong. I would like to take this opportunity to urge the Government to study the practice of other countries with a view to speeding up our technology transfer processes, for instance, by requiring such consultants to be led by local consultants or those who have been here for a number of years.

On the other hand, our Government should also refrain from engaging overseas consultants indiscriminately. Sometimes, overseas experience may not be directly relevant to Hong Kong. I quote a few examples to illustrate my

point. Normally, overseas transport experts may not be familiar with local traffic situation. Environmental professionals from other countries may not be too sensitive to local culture as well as lifestyles. Overseas geotechnical engineering consultants who have no local working experience are obviously not appropriate choices for local geotechnical works. The list goes on.

As we all know, bidding has long been the established basis for selection of consultants for government contracts. However, excessive emphasis being put on fees by the Government always encourages "cut-throat" bidding among competing consultants. Consultants will therefore suffer from ridiculously low profit margins. The quality of professional services could be affected in some cases. Consultants' efforts required to complete the work should be well reflected in their fees.

In saving costs, some of the consultants have to subcontract works to their associated companies based in countries where the operating and overhead costs are much lower than those in Hong Kong. Obviously, such practice is not in the best interests of Hong Kong. Therefore, the Government should review its bidding practice to ensure that other essential factors such as relevant experience, particularly local experience, and track records will also be considered. In addition, consultants appointed should be encouraged to hire more local professionals and provide adequate training to the younger professionals. Such arrangements will not only increase local employment opportunities, but will also facilitate the technology transfer.

As our Government has committed to downsize, it is natural that many of its projects or construction works are being contracted out to consultants. Such out-sourcing arrangement should pose no problems provided that good monitoring systems are in place. Works related departments have long experience in such practice and have kept a very good record. However, recent scandals in public or subsidized housing projects have revealed major weaknesses in the Housing Department. Without further delay, the relevant authorities must step up its efforts in strengthening their monitoring roles, adopting measures such as paying due attention to change management and employing enough qualified resident engineers on site to supervise the engineering parts of the works.

I would like to add in passing some comments on recent criticism on local professionals by the Government. Professionals from various disciplines including engineers found Mrs Anson CHAN's remarks most inappropriate. The Government is well aware that local professional bodies have always been striving to maintain the highest international professional standards. Any member in breach of professional conduct will be subject to disciplinary actions. Article 142 of the Basic Law permits professional bodies to continue to enjoy autonomy in monitoring professional practice. Therefore, government interference in the practice of the professionals is both unwarranted and harmful. Instead, the Government should give more respect to professionals.

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

MR EDWARD HO (in Cantonese): Madam President, first of all, let me thank Mr NG Leung-sing for moving this motion today. He is a banker, a professional. And, the functional constituency which I represent is also made up of professionals. So, I really wish to take this opportunity today to voice their opinions.

I think we must first of all understand what is meant by "consultants". Consultants can be divided into two categories. The first category includes all those consultants who are commissioned to conduct studies, write up reports and give advice. I doubt whether there is any need for the Government to have so many reports and to conduct so many studies. Or, is it possible that whenever there are any controversial issues, the Government will commission consultants to write reports, so as to ward off people's criticisms more easily? The fact is that government officials will always participate very actively while consultants are writing their reports, and I guess one reason for this is that they do not want these reports to contain anything which may embarrass them. In connection with this, I also agree that we should think more carefully to see if we really have to commission consultants to write reports on each and every issue.

Another category of consultants are indeed engineers, architects, surveyors and so on, who are usually commissioned to take charge of the implementation of individual projects. When it comes to this category, I think there should be two major principles governing the employment or otherwise of consultants. First, it is the principle of "small government". This means that if private consultants can do the job more efficiently and with more value for

money, then the Government should give the job to them instead of doing it itself. Second, private consultants should be commissioned whenever there is any sudden increase in the workload of government departments; the Government should not recruit more staff all of a sudden. I think these two principles must always be adhered to. The first point raised by Mr NG Leung-sing is that the Government should shoulder its responsibilities instead of employing the services of consultants. I have some reservation about this point.

Also, Mr NG Leung-sing proposes in the motion that the mechanism of rewards and penalty should be strengthened. I must make it very clear that under the common law, professionals are already subject to very strict "professional liability". If we professionals make any errors, either in design or in supervision, people may instigate civil proceedings against us, and we may go bankrupt as a result. The reason is that we are subject to very heavy accountability. And, Dr Raymond HO also says that our professional institutions also require us to observe a very strict code of conduct. If we fail to serve our clients well enough, our professional institutions will punish us very severely and we may even be disqualified. So, Mr NG Leung-sing really does not have to worry about this at all.

Madam President, last Saturday evening, at the 50th Anniversary celebration of the Department of Architecture of the University of Hong Kong, I came across many alumni who had long years of professional experience. I asked them whether the current conditions in the architectural sector were the worst they had ever seen in their long years of professional practice. Some of them who had graduated 45 years ago told me that the conditions now were the worst in 50 years. Nevertheless, we do not actually want the Government to give us any "favour", nor do we want it to do anything to protect us in particular. What do we in the professional sectors want then? We do not want the Government to discriminate against foreign consultants; we are not asking the Government to stop engaging them or to take any special action, nor are we asking the Government to engage us only. In other words, we are not asking the Government to take any "affirmative action". We just want the SAR Government to realize that it is a good thing to engage local professionals, because we have both the ability and local experience. And, we are also committed to the future of Hong Kong. This is a very important point, because our concern is not just one single project, but also all that we may lose in case anything goes wrong. We all work and live here, so we are naturally committed to the future of Hong Kong. In the case of foreign consultants, for

example, once they have completed the assigned project, they will just get the money and go home. The Chek Lap Kok Airport is a good example.

Therefore, when the Government vets applications from consultants, if it can attach a heavier weighting to local experience and contributions to the local community, local professionals will have a better chance of getting government contracts. Yes, sometimes, we may not be good at everything, or there may be something which are beyond our ability. That is why engaging foreign consultants can still be a good thing. But even when foreign consultants have to be engaged, local consultants and professionals should still be allowed to act as "lead consultants". That way, whenever we are unable to do some jobs, we can engage foreign consultants to work as members of a project team. And, as pointed out by Mr NG Leung-sing, we can benefit from the local experience of our own professionals while achieving the aim of technology transfer. In many past projects, there was no technology transfer at all after their completion.

MR CHAN KAM-LAM (in Cantonese): Madam President, in order to enhance administrative efficiency, to make the best use of public funds, and to match consultancy services engaged with the requirements of the community, the Democratic Alliance for the Betterment of Hong Kong (DAB) calls upon the Government to review expeditiously the current policy on the engagement of consultants as well as the criteria for their appointment.

At present, the Government engages consultants in various policy areas for them to provide professional advice or study reports, or even to draw up specific designs and supervise works launched. However, there is a strange phenomenon: the responsible government department, besides engaging consultants to conduct studies and draw up designs, often still has to engage another consultancy firm to help the department analyse the original consultancy report. As a result of this, the consultancy fees in many projects amount to 10% to 20% of the cost. Sometimes public funds involved in a single project might run into hundreds of millions of dollars. In fact, if government officials possess the ability to evaluate consultancy reports, then duplication in the engagement of consultants can be reduced and there can be enhanced administrative efficiency.

In particular, those departments which require professional knowledge, such as the Works Bureau, the Civil Engineering Department, the Territory

Development Department, the Housing Department, the Buildings Department and the Electrical and Mechanical Services Department, must strengthen their managerial echelons' professional knowledge and supervisory culture in monitoring works projects so as to reduce the possibility of omissions or errors in works projects. After all, the Government has the ultimate responsibility to monitor the design and progress of works projects, and to administer consultancy contracts.

According to quite a few members of the profession, the practice of "awarding the contract to the lowest bid" in works projects that are open to public tender is highly problematic. For example, in recent cases of housing projects showing poor construction quality, the contractors have to be held responsible, but to a considerable extent consultancy firms and the practice adopted by the Housing Department to engage consultancy firms must also be held responsible. In recent years, because of the sharp rise in the number of housing construction projects, the Housing Department has already briefed out to private consultancy firms part of its work of design and supervision. With many contracts entrusted to them all of a sudden, some consultancy firms just do not have enough manpower to cope. So they secretly cut supervisory staff or hire some professionals who are not well experienced. This is tantamount to compromising the quality of the housing projects. The Government should therefore review expeditiously the current policy on and the criteria for the engagement of consultants. The main criteria for award of consultancy contracts ought to be the firm's standard and track records. The practice of "awarding the contract to the lowest bid" should be discontinued. At the same time, the contract should contain provisions requiring the consultancy firm to assign academically qualified and experienced supervisory staff to monitor project progress.

The DAB holds that it is necessary to strengthen the reward and punishment mechanism so as to ensure that the performance of engaged consultants is subject to substantive and effective monitoring. We suggest that the Government draw up consultancy registers for different professional areas, note down comments by outsiders, rank the firms according to a points merit system, and have them graded on the basis of their standards to set their accessible project levels. A consultancy firm with disappointing work performance can be struck off the register.

Besides possessing professional knowledge, consultants engaged by the Government should also be familiar with the realistic local situations, and take into consideration the impacts on recipients. As a matter of fact, some foreign project consultancy firms often brief out the design and drafting work to other overseas consultancy firms in order to cut costs. However, given the fact that foreign consultants do not necessarily well versed in the local situations, skills or regulations, their proposals or designs often do not meet local requirements. The DAB holds the view that the Government should consider assigning some consultancy projects to local consultancy firms or tertiary institutions so as to foster local professionals, to facilitate their development into an innovative and practical force of professional talents.

Madam President, in recent years it has been a common practice for government departments to engage consultants to conduct policy studies. Every year, huge sums are spent on consultancy firms' professional fees, indicating that prior to making policies, officials of the departments concerned do not well understand matters requiring their attention and are not confident enough to make decisions. The most unfortunate thing is that consultancy firms often become "shields" for the officials. Before the launch of policies, consultancy firms are responsible for the work of consultation and opinion surveys. For instance, in the cases of medical reforms and project planning, consultation work was carried out by consultancy firms "single-handedly". Should the policies run into problems in the course of implementation, responsibility can easily be shoved off onto consultancy firms with the charge of dereliction of duty. The DAB urges the Government to overhaul such a culture of policy-making. Relevant officials' political accountability in making policy decisions should also be strengthened at the same time when their professionalism is upgraded.

Madam President, the DAB is of the view that when reviewing the policy on the engagement of consultants, we should also review our bureaucracy.

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, I support today's motion on behalf of the Democratic Party. Presenting four points, Mr NG Leung-sing's motion mainly urges the Government to conduct a review of consultancy services. I do not want to repeat them as his viewpoints have already been clearly written into the motion.

Some people say that the Hong Kong Government is run by Administrative Officers. However, as the Government has engaged many consultants to provide advice, some people say that the Hong Kong Government is run by consultancy firms. The offer of advice in itself is not altogether inexcusable. However, sometimes there come some unthinkably peculiar consultants. As a matter of fact, such examples abound in past records in respect of the engagement of consultants. I do not want to waste my time commenting on them one by one. Mr NG Leung-sing spoke against using consultants to discharge the duties of government departments. According to the information from the Finance Bureau, the Government holds one basic principle for the engagement of consultants: If there is no one suitable to perform the relevant task in the Civil Service, and, given the nature and requirements of the task, it is also deemed to be inappropriate to recruit or train staff particularly for it, government departments may then engage consultancy firm to provide assistance. Yet on close scrutiny, there are many ambiguities with this. I surely hope the Government can make a clear delineation to specify clearly under what circumstances it is appropriate to engage consultants.

Now the question of how to strengthen the reward and punishment mechanism probably involves many issues concerning assessment. However, it can be done in another way, namely, the method of disclosure, one commonly used now. In my opinion, the Government ought to disclose as much as possible materials and background information about consultants. It is likely that over the years government departments have engaged many consultants and compiled many reports. The Government should publicize these consultancy reports as far as possible. In the course of tendering, the Government may state that it certainly will disclose reports compiled by consultants. The transparency in respect of the engagement of consultants can be greatly improved by disclosing the reports, by openly identifying the consultants responsible for the compilation of those reports, and by consolidating those materials as far as possible so as to, say, render them retrievable on the Internet. The greater the transparency is, and the keener the competition is going to be; and the keener the competition is, the better the quality of consultancy work.

In my opinion, a point or two in Mr NG Leung-sing's proposal are well made. That is in connection with technology transfer. As Hong Kong is a member of the World Trade Organization (WTO), we must comply with the the WTO regulations, and must not discriminate against foreign bodies or organizations offering consultancy services. This the Democratic Party agrees.

However, in assessing foreign consultants, consideration might be given to factors like their willingness to actively effect technology transfer, and their knowledge about Hong Kong. Take the assessment of the banking industry as an example. The Hong Kong Monetary Authority might engage a world-renowned organization to conduct the assessment. The said organization must be familiar with the development of the local banking industry. Surely, this is not necessarily the best example. However, when the Government engages consultants to offer advice, it is often necessary for those consultants to be quite familiar with local situations.

Thirdly, I want to talk about the tender procedures. Currently, the Government has adopted a central tendering system, a computerized system that includes ways to invite tenderers to submit tendering documents via the Internet. What I want to bring up is that this system handles not only the tenders of some consultants but also caters for other tenders, such as some general transactions of the Government Supplies Department. A tender involving a contract value of more than \$1.3 million must comply with the WTO requirements, thus invoking stricter tender procedures. However, with regard to contracts valued at less than \$1.3 million each, departmental controlling officers may make their own decisions. They may make the decisions after collecting enough telephone quotations from just five or six companies. So, I think it is not good enough for the Government to aim at contracts valued at more than \$1.3 million each in developing the automatic tendering system. In this way, only these contracts can use the system to complete the tendering procedures. I think the system should also include tenders for contracts valued at less than \$1.3 million each because local companies stand a better chance or are most interested in winning those contracts. Given that "big fish do not go after small shrimps", big companies are not necessarily interested in those contracts.

If the system develops into a "centralized tendering system", then it would facilitate local companies in accessing information on matters such as the identities of companies having served as consultants in the past and the reports compiled by them. They can also learn of the consultants' standards and thus make comparison to see whether or not local companies are also qualified to take up the job. Furthermore, some smaller companies might consider bidding for smaller contracts. In this way, Hong Kong companies can take up consultancy work.

I think the situation can be more effectively improved by means of a good system. According to some Honourable colleagues speaking before me, in Singapore and Taiwan, when foreign and local consultancy firms are more or less on par, their governments will assign the contracts to local firms. I am of the view that such a rigid approach might draw criticisms. I believe that more tactful approaches which are favourable to local companies but fair systemwise might be more readily acceptable to all parties. Therefore, I hope that the Government can improve the central tendering system, which is currently on experiment, to expand its functions in order that it can disclose more information to local companies in the course of tendering, and thus make it possible for them to take up more consultancy work.

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

MR CHAN WING-CHAN (in Cantonese): Madam President, in recent years, many government departments have engaged consultancy firms to carry out works projects as well as to look into government policies. Examples are the restructuring of the health care system and its financing arrangement, the reorganization of municipal services, and the Housing Department's Private Sector Participation Scheme.

Most of the Administrative Officers in the Government are generalists, possessing no specialized knowledge in engineering or certain policy areas. It is not altogether inexcusable to engage consultancy firms to seek advice from specialists. In this way, assistance can be given to the Government to review policies whilst advice on how to improve current policies can be offered too.

Advice from consultancy firm is valuable in that it is professional and independent. Being an outsider, an outsider think-tank may point out what is wrong with the policy and prescribe the cure accordingly. But is this the motive or purpose of the Government in engaging consultants?

When the Government engages consultancy firms, there usually appear the following situations. The first is one in which consultants are engaged only after a position has already been taken in respect of certain policies; consultants are being asked to offer justifications to substantiate the Government's position or decision. An obvious example is seen in the scheme to bring in private sector participation in water supply services. Even before the report on private

sector participation in water supply services was "unveiled", several government officials including the Financial Secretary already unanimously stated that private sector participation should be brought in for water supply services. Is it not a "sham" for the Government to engage consultancy firms to conduct study?

Another example is the issue on the corporatization of the Housing Department. With regard to the services of the Housing Department, is corporatization the best and most efficient method? Why did the consultancy firm not put forward methods other than corporatization? It is in fact not difficult to understand these questions. The reason is that the Government has long been bent on taking the course of corporatization; services offered by the consultant were merely meant to "rationalize" the long-drawn conclusion in support of the Government's argument.

Whenever there is strong objection from members of the public, the Government will cite consultancy report as a "shield", and blatantly pronounce that it is the consultant's opinion. Should projects launched run into problems, the Government will then "shirk" the responsibility onto the consultants. Take a look at the Strategic Sewage Disposal Scheme. A sum amounting to hundreds of millions of dollars was spent on consultancy reports at that time to confirm the feasibility for the Government to launch the scheme. Now, not even works for the first stage can be completed and the Government has put the blame on the consultants. As the project has failed completion, consultants are again engaged to conduct another round of study. This practice of engaging consultants to look into consultancy reports is utterly absurd and probably peculiar to Hong Kong. If any of our government officials thinks otherwise, he may state later in his reply where on earth can this be found.

Another situation is exactly the opposite of what has been said above. That is to say, if the consultant's findings go against the wishes of the government department or public organization, the authorities concerned will just ignore the consultancy report. Let us cite an example. The Vocational Training Council (VTC) recently engaged scholar(s) to review the apprenticeship programme. According to the findings of the review, the apprenticeship programme is worthy of retention, but warrants an upgrading with the social changes. As the Council wants to phase out the programme, it just refuses to refer to the consultant's advice, thus meaninglessly wasting the money spent on engaging the consultants.

The question as to whether or not the Government has abused the use of consultancy services warrants our attention. It seems that the Government frequently engages consultants to conduct studies. It seems that the whole bunch of "well-paid" senior officials are totally at a loss as to how to approach almost all issues, thus the need to rely on consultancy firms to discharge duties for them. They need not shoulder any responsibility at all.

At present, almost every works project is designed by consultants hired from the outside, its building or construction is so monitored, too. I was particularly struck by a case that on 3 February this year, the Government submitted to the Public Works Subcommittee an application for funding in respect of a pedestrian subway. A sum amounting to more than \$5 million was for consultancy fee, some \$4 million of which was for hiring site staff.

Madam President, according to the information paper from the Government, only complicated works projects will require the hiring of site staff. The said pedestrian subway is only 4.6 m long. It is not a complicated works project. Yet a sum of more than \$4 million has to be spent to hire site technical staff. The extent to which the Government abuses consultancy services is evident from this. I can only make one additional remark: What a waste of public funds!

Madam President, I so submit.

DR TANG SIU-TONG (in Cantonese): Madam President, with regard to the question of technology transfer in connection with "Government's policy on the engagement of consultants", a lot of viewpoints have been expressed by a number of Honourable colleagues, Members, including Mr Ambrose LAU, our Party Chairman, who also advocates technology transfer so as to enhance local talents' knowledge and experience in order that they can eventually take up works projects or assignments of a larger scale.

I would like to speak on the issue concerning departments using consultants to shrug off responsibilities or justify predetermined policies.

Every year the Government spends hundreds of millions of dollars to engage all kinds of consultancy firms. Even though these consultancy services involve different policy areas, the reasons for the authorities concerned to engage

consultants are confined to the following ones: (1) to supplement existing resources or to speed up the progress of policies or works projects; (2) to conduct independent and objective assessments of current policies or works projects so as to determine the pros and cons of policies or the cost effectiveness of works projects; (3) to seek professional and innovative views on policies or works projects. These reasons sound logical and reasonable. However, in actual practice, the engagement of consultants is often made use of by departments to shrug off responsibilities or to justify predetermined policies. On top of all these, in the Government, there is neither effective monitoring of the work of consultants nor an equitable mechanism of reward and punishment. A lot of public funds are wasted and the community has to suffer the evil consequences of policies going astray or project slippage. Typical examples are those cases like shortened piling works in public housing estates, cost overruns and delays in sewage disposal projects, and the proposal to scrap the Municipal Councils.

In recent days, cases of shoddy work and inferior materials emerged in a few Home Ownership Scheme courts and construction sites of the Housing Department (HD). It is evident from these cases that there are loopholes of accountability and monitoring in the Government's engagement of consultants. The Government has all along exempted buildings of the HD from regulation by the Buildings Ordinance in the belief that the HD, being also part of the government structure, will strictly observe standards prescribed in the Buildings Ordinance. However, to save resources, the HD started the practice of contracting out the duties of monitoring building quality, with a corresponding unit set up to monitor consultants. Eventually, following further cuts in monitoring staff, the monitoring work has all been placed under a Project Manager. Finally, with every level of the department shrugging off and trimming down responsibilities, consultants have become the *bona fide* and ultimate monitors. Thus it has given rise to all these chains of problems concerning building quality. Structural problems cropped up, one after another, at Tin Chung Court, Tin Yuet Estate and Yau Tong Estate. Other issues, such as the spalling of concrete from external walls and ceilings and water leakage, are just countless.

The HD has abused the engagement of consultants, handing over its monitoring duties to consultants. It should have been held responsible for all the incidents. There can be no excuse for the troubles caused by its failure to monitor consultants effectively. But what happened ultimately? The Director

cried out much like of a victim, saying that he had been deceived, and then closed the matter by shoving off all responsibilities onto the consultants. The HD shrugged off its duties by abusing the engagement of consultants and then used the consultants to shove off its responsibilities. This is alarming! It is evident from the case that inherent in the Government's engagement of consultants are problems of unclear accountability and ineffective monitoring. Whenever problems crop up, no department will take them up.

Madam President, in addition to the points mentioned above, the Government's mechanism of reward and punishment for consultants is also questionable in many aspects. At present, unless a firm responsible for consultancy contracts of public works has been given three consecutive poor assessment reports, it may still tender for other projects even if its performance has been graded as poor. This is obviously too lenient. However, even if a consultancy has been disqualified, it needs only wait a few years before it can make fresh application for inclusion in the selection list to participate in tender. In the meantime, such companies might "re-enter the ring" with a new identity if they decide to have some restructuring. Apart from this, they can still obtain from successful bidders contracts briefed out by the Government by making use of the loopholes in monitoring inherent in the "sub-contracting" system. They simply need not worry about their business. The reward and punishment mechanism of the authorities concerned is just too lenient. It lacks deterrent effect, and in reality exists in name only. The authorities concerned should review it thoroughly.

Madam President, here comes the final, and, in my opinion, the most disgusting aspect of the Government's policy on the engagement of consultants, namely, the way the Government justifies predetermined established policies in the name of consultants at the expense of public funds. In July last year, when the Legislative Council was having a debate on the motion of "one Municipal Council, one department" proposed by a Member, the Administration made it clear that there was an established position on the issue of scrapping the Municipal Councils. Later the Administration perfunctorily engaged consultants, and dished out two consultancy reports. Made explicitly clear right on the first page of each report is the point that it is a report of "independent consultancy study". However, in reality, the two reports were written for the Government for the purpose of dodging criticisms behind the consultants as "shields".

Let us put aside the issue on "scrapping the Councils". As far as professionalism is concerned, those on the job surely understand and know the Government's current operations better than consultants! Why should they ask somebody else to "do" the study? Turning to independence and objectiveness, given that the Administration had already had an established position even before the consultant's study got started, a concept formulated for the new structure, how much room was there for the consultants? How objective were the consultants, one-time civilian officers nurtured by the influence of the existing civil service culture? On the other hand, however, the Health Services Panel wanted to commission professional and authoritative bodies — Food Management Boards of Australia and New Zealand — to conduct a consultancy review of food safety supervision work. However, nothing came of it for lack of funding. Indeed, money "does not go where it should go, but goes where it should not go". It is meaningless as well as wasteful to use consultants to justify established policies!

Madam President, I so submit in support of the motion. Thank you.

MISS CHOY SO-YUK (in Cantonese): Madam President, the Hong Kong Government all along is only too willing to spend public funds amounting to millions or even billions of dollars to acquire consultancy services from outside. After spending so much hard-earned money of taxpayers, has the Government ever availed Hong Kong people the opportunities to learn new technology from expensive consultancy services? Hong Kong's new airport has been honoured as one of the greatest construction projects of the century. Could the Government tell us whether or not it has helped local professionals to master the relevant construction techniques? Hong Kong's Tsing-Ma Bridge indeed embodies wonderful workmanship. However, how many items of this project were taken up by local consultancy firms? Again, could the Government tell us?

When engaging consultancy services, the Government has not only neglected arrangements in respect of the transfer of technology to local members of the professions, but also wasted resources by repeatedly engaging some consultancy firms of questionable standards.

According to the report of an environmental protection group, in January 1998, ERM, a consultancy firm commissioned by the Government submitted to the Environmental Assessment Sub-group of the Advisory Council on the Environment a report clearly showing that Finless Porpoise was found in the waters south-east of Tung Lung Island, which is to the east of Victoria Harbour. However, just a month later, ERM ventured to say that the population size and ecological data of the Finless Porpoise in Hong Kong were unknown, and advised that it was fine to dump mud in waters south-east of Tung Lung Island! In 1996, the Government again engaged ERM at a cost of \$40 million to conduct a Study on Sustainable Development for the 21st Century. However, ERM ventured to state that its study would not seek to verify the congruity of specified government plans or policies with the principles of sustainable development. Why did the Government repeatedly engage the same consultancy firm to prepare self-contradicting, ambiguous and useless reports?

Madam President, in many cases consultancy services not only cannot help the Government solve problems, but also often run into great troubles. On this point, the Government cannot say much to defend consultancy services. The Government probably has not forgotten the painful lesson learned last year when the new airport's Flight Information Display System broke down! The Provisional Airport Authority spent public fund amounting to hundreds of millions of dollars to engage a British consultancy firm to set up the relevant system, with the contract in question entrusted to another British consultancy firm for preparation. What did we, Hong Kong people, get in return for the huge sums spent? Would the Government let us know why it was those consultancy firms that pocketed the money "free of trouble"? Would the Government let us know whether or not the consultancy firm in charge was given due punishment following the breakdown of the Flight Information Display System? Did the Government disqualify consultancy firms responsible for the blunders from future tendering?

Madam President, in order that the effectiveness of consultancy services can be improved and in order that money used on consultants can be well spent, the Government must sum up all the lessons and expeditiously improve the selection system for consultants, otherwise major projects like the West Rail and Kowloon Bay Reclamation might also run into the blunders experienced by the first stage of the Strategic Sewage Disposal Scheme, which wasted manpower and money by repeatedly engaging the same consultancy firm, and repeating the same mistakes.

Here are my suggestions for the Government.

Firstly, the engagement of consultancy services which are poor or which might unnecessarily bring losses to the Government must end; if need be, the consultancy firms concerned should be asked to pay compensation.

Secondly, the selection criteria for consultancy firms must be reviewed expeditiously. Emphasis should not be placed solely on factors like size, experience, prominence, and the provision of international credit insurance. Instead, consideration should, as far as possible, be given to factors like technology transfer as well as rationality, openness and fair competition.

Thirdly, to improve acceptability, local members of the professions and neutral individuals from the community should be appointed to the relevant selection boards. In future, the work of selection and monitoring should be entrusted to independent statutory bodies that are familiar with operations of the professions.

Fourthly, whenever possible, mega infrastructure projects, consultancy or package deals (generally speaking costing more than \$1 billion each) should be broken down to encourage more local firms to take part in the tendering so as to help them gain and accumulate experience of working for major government contracts.

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

MR ERIC LI (in Cantonese): Madam President, there can be all sorts of justifications for the Government to engage consultants. There can be all kinds of assessment to be done in advance. Next, consultants can be engaged to monitor the assessment. After that, they can again be engaged to conduct investigation or to prepare audit or evaluation reports. All in all, wherever "guessing work" is needed, it can be sure that the Government will almost invariably engage consultancy firms to do it. So the engagement of consultants has almost become part of the civil service culture, or even a routine. Initially, I believe, it was necessary to engage consultants because at that time ours was a simple and small government. However, today can we still say that our government is very simple and small and that it has to rely on outside talents in all matters? I think this matter really deserves our deep reflection. However,

it does not matter whether or not there is an absolute need for us to engage consultants. To members of the Civil Service, it is only too convenient and handy for them to engage consultants. According to quite a few Honourable colleagues, consultants can serve as "shields" or even "political probes". Before presenting ideas to the Legislative Council, they can engage consultants to test our views or strength. It is indeed very convenient and handy. Here is another point that is very important, namely the fact that under the existing civil service system, there is no motive for them to save money for the people. To secure one more safety net, some civil servants are only too ready to shower generosity at the expense of taxpayers' money. That being the case, unless this culture is effectively rectified, that is, the continual engagement of consultants, it is going to remain part of the civil service culture as well as part of the routine.

Is the measure of engaging consultant still useful now? Today, Mr NG Leung-sing, a member of the Public Accounts Committee, brought up a very meaningful topic. On top of this, I also heard quite a few Members quoting from the conclusions of the Committee's reports. This shows that even though we spent a lot of time preparing very long reports, many colleagues did put in efforts to study them. This is most gratifying. Furthermore, we can note that the Director of Audit, Honourable colleagues and the Committee are paying close attention to the issue on the engagement of consultants. If the Government engages consultants in total disregard of actual need, it might turn into a political burden, one that can help us to determine whether or not there is squandering on the part of the Government. In my opinion, it is imperative for the Government to consider the necessity when engaging consultants. Clear explanation must be given to us when funding applications are submitted to us.

With regard to allocation of fund, it is worth mentioning that at present consultancy fee is embodied in the costs in the funding applications. It is neither visible nor detectable. In my opinion, the Finance Bureau can consider requesting all relevant departments to separately list out the cost required for engaging consultants, where really necessary, at the time of applying for allocations. The sum should not be incorporated into the allocation under application even if it is not to be listed out. I consider this to be good discipline.

With regard to the process used by the Government to select consultants, Honourable colleagues have also brought up many aspects that are open to criticisms. A Member even warned against discrimination in favour of locals after entry into the World Trade Organization (WTO). In fact that colleague

needs not worry too much. It seems that those now requiring protection are local consultants, not international consultants. Although we do not understand the Government's selection criteria, most of those recruited by them are "brand name" consultants. I just do not believe that the Government lacks confidence in its decision-making. The point is just that it seems that now in fashion is a myth, according to which things marked as independent or of international brands must be better. Several decades ago, it could be said that the Government had already gathered in the Civil Servicethe the cream of it all. The Government might not find other local consultants as reliable, or in a position to offer anything special from which the Government could benefit. I consider such a viewpoint understandable. However, by now Hong Kong has eight universities. We have also invited into our professions many overseas professionals. Even big companies enjoy an abundance of outstanding talents. Why can local consultants still cannot find favour in the Government's eyes?

There is another point which I want to make in particular. In promoting Hong Kong's services industry, the Financial Secretary over the past two years has been strongly encouraging us to recommend to overseas companies our local consultancy firms. However, when we turn around while telling foreign countries how good Hong Kong consultants are in a bid to recommend them to those countries, we notice that none of them is among the consultants engaged by the Hong Kong Government. Under such circumstances, what can local consultants say when they go abroad? Even their own government does not trust them, how can they gain the trust of foreign countries? I think the Government definitely should review this point. I am not telling the Government to be biased and to discriminate against others in favour of local consultancy firms unfairly. Local consultants are surely competent enough and they do not need such assistance. Take the Track Fund as an example. When selecting the consultants, we expected from them: firstly, definite back-up available locally; secondly, long-term local commitments. Once these conditions are met, then the situation in which consultants merely collect fees and brief out all assignments to local consultants while deploying just a few persons to deal with officials can be avoided. I definitely do not want to see such a situation. In future, when it is necessary to engage consultants, restrictions on briefing out should be stated in the contracts. I think that only by so doing can the situation described above be avoided. With regard to the value for money analysis, I do not want to repeat as Mr NG Leung-sing and some other Members have already said a lot about it. Madam President, I hoped that all consultants engaged by us in the future are all value for money.

PROF NG CHING-FAI (in Cantonese): Madam President, I know it is not a subject that can attract more votes, but I hope more Members can be present to listen to my speech. May I have your permission, please?

PRESIDENT (in Cantonese): Prof NG Ching-fai, I know what you mean. Please sit down first.

(The President asked the Clerk to ring the bell to summon Members to the Chamber)

PROF NG CHING-FAI (in Cantonese): I hope there can be a head count to see if we have a quorum.

PRESIDENT (in Cantonese): Since a quorum is now present, I will now ask the Clerk to switch off the bell first. Prof NG, you may continue.

PROF NG CHING-FAI (in Cantonese): Today is not the first occasion to request the Government to review its policy on the engagement of consultants. We have often heard similar requests over the past couple of years. I can recall that I expressed my views on the matter when scrutinizing the 1998-1999 Budget. I am very glad that Mr NG Leung-sing has moved this motion today. This is because, firstly, the Government has been oblivious to the criticisms leveled against it even though there have been voices of dissatisfaction regarding its policy of engaging consultant. It has never reviewed its past policies on the engagement of consultants, not to say introducing any fundamental reforms. So, it is necessary for this Council to hold a debate on the motion today to urge the Government to review its relevant policy. Secondly, Mr NG Leung-sing's motion has put forward a very strong argument in support of a review of the policy on the one hand, and made some very meritorious suggestions on the other.

Just now many Honourable colleagues have discussed, from various angles, the shortcomings of the Government's policy on the engagement of consultants. Now I should like to talk about the issue from the manpower training perspective. In the past I have mentioned that the Government should give preference to local engineering companies, professionals, and technicians in carrying out the massive infrastructure projects so that they can give full play to their talents. I have also mentioned that we should achieve three aims in making investment in massive projects: first, enhancing our business environment; second, creating more employment opportunities; and third, training up more local management and technology experts. It seems that the existing government policy on the engagement of consultants has not taken into account the need for technological manpower training or technology transfer. Mr NG Leung-sing has spoken on the motive of the Government in engaging consultants. Indeed, as mentioned by some Members, while there were some improper motives, the proper objective of training up local manpower was missing. The policy address this year has laid much emphasis on the Government's three general directions of investing more in infrastructure, strengthening technological development and putting more emphasis on environmental protection. However, if the Government should continue to rely solely on overseas companies, to look for expertise from outside Hong Kong, to spend money on engaging overseas expertise, overseas technology and overseas companies, rather than leaving room for local companies or talents to spread their wings; or if the Government should incorporate no terms and conditions in the contracts providing for technology transfer or the engagement of a certain percentage of local engineers and technicians, there would not be any guarantee that our competitive edge or the quality of our human resources could be enhanced.

Recently, I spoke to friends in the New Century Forum about these issues. We were all concerned about whether our massive investment in infrastructure, high technology and environmental projects could achieve the three aims of improving businesses, creating more employment opportunities and training up local manpower. In particular, manpower training and technological development have attracted most attention. As we all know, we train up many university graduates each year and our universities have a reservoir of experts. Our local development projects, however, have little room for their participation. Put it another way, we may say that our human resources have not been able to give full play to their potentials. Hong Kong has got too used to importation. We import technology from overseas companies and even rely on others for the supply of technological development and experts.

Of course, we need to learn from the experience of advanced countries overseas. But the question remains whether we can not achieve anything without overseas consultants? Must we obtain assistance from overseas consultants in every project? Are there any projects we could manage to complete successfully with our sufficient supply of local experts? It is said that what is imported is good. In Hong Kong, everything is imported. With only a few rare exceptions, our people seldom sell their expertise overseas. If that is the case, does it follow that Hong Kong is an advanced city, or that the economic foundation of Hong Kong is still very weak and fragile? In developing our high technology, we need to understand that to become really involved in this major trend of development, we can not simply rely on inviting some top international high technology groups or companies to invest or set up branches in Hong Kong. We need to go one step further and ask them to transfer their technology to us, learn from them and train up our own people. This is the way to lay a firm foundation. The report by the Commission on Innovation and Technology, chaired by Prof TIEN Chang-lin, has already made recommendations in this connection. It is recommended in the report that we should promote joint research projects between high technology enterprises and local universities, as well as setting up matching grant funds and so on for joint research efforts. These recommendations have all pointed clearly to the need to attach importance to nurturing and helping the development of local talents. However, to what extent has the Government considered giving assistance to local academic groups and consultants to help them develop and sharpen their competitive edge as it devises policies on promoting high or new-technology, environmental protection, and massive infrastructure projects, and in deciding on specific measures (such as the engagement of overseas consultants)?

Madam President, Hong Kong is no longer a colony after the reunification. We must train up a world-class team of experts in engineering, law and medicine. This is the only way to achieve comprehensive development in our economy and our community. This is the only way to unite our community. Madam President, I really believe it is time the Government had a serious review of the issue.

With these remarks, I support the motion moved by Mr NG Leung-sing.

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

(No Member responded)

SECRETARY FOR THE TREASURY (in Cantonese): President, I would like to thank Mr NG Leung-sing for moving this motion. I appreciate that Members are greatly concerned with the Government's policy, procedure and motives of engaging consultants as well as whether they are value for money. I will address each of the four aspects covered by Mr NG in his motion and make a comprehensive response to views put forward by Members. In some of the speeches delivered just now, some Members have, apart from focusing on the engagement of consultancy firms, touched upon the engagement of individuals as consultants. Therefore, I will respond to these two issues as well. However, I hope to clarify that my speech will not include such statutory bodies as the Housing Authority, the Mass Transit Railway Corporation and the Airport Authority for they have their own procedures which they deem appropriate for appointment, selection, supervision and technology transfer with respect to consultancy firms.

First, Mr NG Leung-sing proposes that consultants should not be engaged to discharge the duties of government departments. I can confirm that government departments would consider engaging firms for consultancy services only in limited circumstances, which can be broadly divided into three categories:

First, when services are required in areas in which the Government does not have the necessary expertise or qualified staff. For example, we engaged financial consultants to assist the Government in discussing the financial arrangements for the theme park with Walt Disney.

Second, when the qualified staff for the services are not available, or cannot be deployed for the purpose, within the required timeframe. For example, as pointed out by Mr Edward HO earlier, consultants were employed to help the Government in managing the implementation of public works projects.

Third, when it is more appropriate for the services to be undertaken by an independent third party, consultants of renowned academic credentials or expertise in the area. For example, we employed consultants to study the desirability of establishing an independent Legal Aid Authority.

In bidding resources for consultancy services to be provided by firms, departments need to provide details and justifications for the need to employ outside consultants. They need the support of their respective Policy Bureaux. For general management consultancies, the departments also need to clear with the Management Services Agency beforehand on whether the latter could undertake the assignments with their internal resources. The Government's expenditure estimate has also clearly set out sub-heads for engaging financial consultants and general management consultants. Apart from these, each of the papers tabled to the Public Works Subcommittee under the Finance Committee must set out clearly the estimated fees for engaging engineering consultants.

After funds have been secured, intending departments would still have to comply with the Stores and Procurement Regulations (SPR) in engaging consultancies. For consultancies with a value not exceeding \$1.3 million, the Controlling Officers concerned are responsible for the procurement in strict accordance with the SPR. For those with a value exceeding \$1.3 million, the selection and appointment of the consultancy firms need to be endorsed by one of the three consultants selection boards. They are the Architectural and Associated Consultants Selection Board, the Engineering and Associated Consultants Selection Board, and the Central Consultants Selection Board.

In short, the existing policy on the engagement of consultants allows the Government to tap various types of expertise not available in the Government in a timely manner. The engagement of consultants on an as required basis also helps maintain a lean Civil Service and a small government.

I now turn to the second point covered in the motion. Mr NG proposes that the reward and punishment mechanism should be strengthened so that the performance of the consultants engaged can be realistically and effectively monitored. I agree entirely with this concept. Indeed, the Government already has in place systems for monitoring the work and performance of consultants.

The client departments are responsible for overseeing the consultancy work. The three consultants selection boards which I have just mentioned are responsible for establishing guidelines and procedures for assessing the performance of the consultancies as well as the effectiveness of the work undertaken. In accordance with the monitoring systems established by the various boards, bureaux and departments are required to submit reports on the performance of the firms to the board on a regular basis, probably every three months or six months, and a report on overall performance at the end of the consultancy agreements. The reports cover such aspects as the competence of the consulting team, quality of deliverables, the practicability and effectiveness of the recommendations and proposals forwarded, the application of professional knowledge and the effectiveness of the consultancy.

Our monitoring system requires the bureau or department concerned to draw to a consultancy's attention any aspect of its performance which is less than satisfactory as soon as this becomes apparent, and step up liaison with the consultancy. When the performance of the consultancy continues to be unsatisfactory notwithstanding its being so advised, the department has to record the unsatisfactory performance and state the action taken, and the response from the consultancy, in the report. The department would also consider issuing a warning letter to the firm, making it clear that continued poor performance on the assignment may result in termination of the consultancy study and suspension of the firm from bidding for future government consultancy work. As a consultancy's reputation is heavily dependent on the quality of service it provides to its clients, a consultancy which receives adverse remarks would usually take steps quickly to rectify the problem.

In the past three years, of the consultancies endorsed by the three consultants selection boards, the Government has issued a total of 100 warning letters and suspended one consultancy from further consultancy appointment due to poor performance.

There are no rewarding mechanisms *per se* in our agreements with the consultancies, and we also do not consider it necessary to establish such a mechanism. Nevertheless, outstanding performance will also be recorded in the performance reports.

Through these performance reporting and monitoring systems, we are able to ensure the cost-effectiveness of the consultancies as well as the quality of the services provided by the firms. Moreover, the Government's interest is further protected by a number of safeguards. These safeguards include the provision of indemnity clauses in the agreements to prevent the Government from suffering losses as a result of the consultancy's poor performance or negligence. Another measure is that fees to the consultancy are normally paid according to the progress and by stages. That is, payment will only be made when the deliverables are completed to the satisfaction of the procuring bureau or department. Furthermore, a clause for the prevention of potential conflicts of interest is included in the standard agreement signed with consultancies. Of course, just as I mentioned earlier, when the consultancy fails to deliver the service, and in this case the Government may terminate the contract.

The third proposal covered in Mr NG Leung-sing's motion is for the Administration to ensure that the expertise of the consultants engaged matches Hong Kong's actual circumstances so as to achieve the best value for money. The Government agrees entirely with this. Value for money has always been our goal. It is also one of the fundamental principles of our procurement. To achieve this objective, we need to ensure that we are securing the required quality and output of the consultancy services at the best possible fee level.

We will take into account both the qualitative and price aspects in selecting a consultancy for the provision of services. In practice, we require consultancies to submit their proposals in two separate sealed envelopes, one for the technical proposals on quality aspects and the other for the fee proposal. Technical proposals normally include experience, capability and expertise of the consultancy as well as the proposed methodology and approach. Where local knowledge or experience is required, this would be included in the criteria for assessment. The technical proposals are assessed first, using a predetermined marking scheme and the technical bids are ranked in order of merit. Only bids which are assessed to be technically competent would be considered further. This is to ensure that the quality of services to be provided is acceptable. After the technical bids have been ranked, the fee proposals from bidders are opened. On the basis of a predetermined system of evaluation and weighting, the fee proposals are then combined with the technical assessments to determine the winning bid. Generally speaking, the weighting of fee will not exceed 40%. In other words, over 50% of the weighting will be put on the technical aspect in assessing the bids of consultancies. Members can therefore rest assured that we

will definitely not aim at choosing the lowest bid in selecting consultancy. This combined quality and price scoring method ensures that we are getting the best value for money in our procurement of consultancy services. Moreover, as the selection and appointment of consultants is conducted through a competitive bidding process, we are assured that the consultant fees are in line with the market trend.

In the course of service delivery, the user bureau or department is responsible for monitoring its progress and communicating with the consultancy to comment on its proposals with regard to, for example, the applicability of the proposals in the local context. Normally, a steering committee is formed in the responsible unit for the purpose. The consultancy is required to respond to queries raised by the Steering Committee to the latter's satisfaction before its proposals could be finalized.

The fourth proposal set out in the motion moved by Mr NG urges the Administration to pay regard to the interests of the local consulting profession and strive to effect technology transfer when engaging foreign consultants, without violating relevant international agreements.

The procurement of consultancy services by the Government is guided by the principles of transparent, open and fair competition; public accountability and value for money. We are committed to providing a level playing field to all consultancies invited to participate in a selection exercise. As and when we have established the need for a consultancy and secured necessary funding, we will invite all local consultancies in the field to participate in the selection exercise. In granting government consultancy contracts, we treat all bids on an equal footing. We do not, for any reason, favour or discriminate against any firms, local or overseas. We choose the best consultants, in terms of best value for money, for the job.

In spite of this, we understand that smaller firms find it difficult to compete with larger firms in terms of manpower resources. Therefore, we will now publish in advance lists of small-scale works projects which require skills of a less complex nature and are suitable to be taken up by small firms to enable them to map relevant strategies well beforehand and make good use of their manpower resources to bid for consultancy agreements for government public works projects. We believe this measure can help small firms to take part in public works. As firms set up by local people are generally of a smaller scale,

we believe this measure can boost the chances of these firms in undertaking public works projects. Apart from this, we have tried to, where practicable, narrow the scope of works or consultancy agreements as far possible to prevent big firms with huge financial power from monopolizing the market. We believe such measures can help smaller consulting firms to take part in bidding and enhance fair competition. Nevertheless, as referred by some Members earlier, all measures aiming at enhancing competition must be fair and open. They must not be suspected of discriminating against overseas or big firms.

Furthermore, planning and designs pertaining to works projects and construction items should, to a certain extent, take into account such aspects as local geographical characteristics, transportation, various restrictions on the implementation of works, environmental protection and so on. Therefore, in assessing consultancy proposals, we will not ignore relevant local experience. and appropriate marks will be given to the item relating to local experience. Such experience will generally be divided into the local experience of consultancies and that of individual professionals in the firms. To bid for agreements requiring local experience, these firms must employ some local professionals and co-operate with firms with local experience in making their bids. By doing so, local professionals and firms are able to gain overseas experience and new technology .

Nevertheless, I hope Members can understand that it is not always possible to distinguish between local and non-local consultancies easily or in a distinguished manner. It is not appropriate to classify a firm as non-local simply because it has a foreign name. In fact, many consultancies practising in Hong Kong may have an overseas origin but have established their offices in Hong Kong for decades. They have local business licences and their registered principals as well as employees are mostly locals or professionals who have resided in Hong Kong for a long period of time. Many of these firms have even appointed local Chinese professionals to take up very senior posts. Further, changes of ownership/partnership through business merger and acquisition often make it more difficult and not necessarily meaningful to distinguish whether they are local or non-local consultancies.

The Administration very much agrees that transfer of technology to the local workforce is important. It is not always easy or practicable to explicitly define and express in a consultancy contract how and what technology is to be transferred. But we have specified requirements that would lead to technology transfer to local employees as a condition of contract in some works-related consultancy contracts. A recent example is the contract of technical support for the inspection, maintenance and structure health monitoring of long span cable-supported bridges in the Tsing Ma Control Area. Moreover, government staff would, where appropriate, work alongside the consultants during the course of the consultancies to facilitate the transfer of expertise and experience. Typical examples are management consultancy studies for which Management Services Officer grade staff would normally participate in the consulting team in order to gain the necessary expertise and experience so that the future need for consultants in similar cases can be avoided. We would continue to incorporate provisions in the Government's contracts to effect technology transfer, where appropriate.

I have briefly described above the scene of the engagement of consultancies. More or less the same could be said on the appointment of an individual as consultant on terms and conditions other than the standard terms offered in the Civil Service. Heads of Bureau/Department/Grade may make such appointments to carry out specialized duties or tasks which require expertise not readily available in the Civil Service, or where the tasks are of a nature or duration where civil service appointments are not cost-effective or suitable. Example is the management of an individual consultant for the development of appropriate strategies and action plans for monitoring and managing red tide outbreaks in Hong Kong and the conduct of a staff opinion survey. For appointments with the maximum salary at a level equivalent to or above Point 26 of the Master Pay Scale, advice of the Public Service Commission has to be sought. Moreover, for employment of individuals as consultants at a directorate equivalent level which lasts for more than a year or is renewable, endorsement of the Establishment Subcommittee and approval of the Finance Committee have to be sought. In all circumstances, a genuine need for the non-civil service appointment has to be established.

Consultants employed as individuals under non-civil service terms are subject to the direct monitoring and control by departments through provisions incorporated in their contracts. These provisions would provide for early termination of service to cater for unsatisfactory performance and conduct, and disciplinary provisions in case of misconduct. Where a gratuity is provided for in the contract, the grant of such gratuity would be subject to satisfactory completion of the contract and satisfactory standard of performance throughout the contract period. Where a contract is terminated on the ground of unsatisfactory performance or conduct, gratuity or other accrued benefits will be forfeited. For cases where consultants are required to provide specific services, the units concerned will also devise means and mechanisms to ensure that the output meets the specifications and the quality of work is maintained at a satisfactory level.

For consultants engaged as individuals, their terms of employment and conditions of service should not normally be better off than those in the Civil Service. Moreover, the recruitment of these consultants normally follows the established mechanism and procedures for civil service recruitment in order to identify the most suitable candidates with the requisite expertise. Where other arrangements are considered necessary, the principle of openness and fairness would still be an important element. These would ensure the right persons are identified, the remuneration package of the consultants is kept at a reasonable level and value for money is achieved.

President, since the four proposals set out in the motion are already the basic principles of the Government's policy on the engagement of consultants, we consider it not necessary to conduct a comprehensive review at this stage. However, we have always been striving to ensure that consultancy services are properly monitored in terms of their quality, cost-effectiveness, and ability to effect technology transfer. We will continue to work towards these objectives. We will also remain on the alert, to ensure that the existing procedures and mechanisms be adjusted and improved if necessary.

Thank you, President.

PRESIDENT (in Cantonese): Mr NG Leung-sing, you can now reply. You have only one minute 30 seconds.

MR NG LEUNG-SING (in Cantonese): Madam President, the reason for my moving this motion is that I am the representative of the banking sector; but I must of course add that the banking sector and all other sectors are really inter-related. Here, I must thank Members for giving so many valuable opinions about the motion topic, and I must also thank them for their support. My thanks are also due to all those government officials who have responded so seriously to Members' comments. I hope that this motion debate can give the Government a fresh impetus, urging it to make good use of the opportunities arising from our Motherland's admission to the World Trade Organization (WTO) by reviewing and improving its policy relating to the commission of consultancy services. I hope that the Government can bear in mind that while discharging its obligations under any international agreements, it should never sacrifice any of our interests unless there are express provisions requiring us to do so. Besides, we must continue to fight for the best interests of our economy, and this we should do by learning from our Motherland, which has displayed such a strong spirit of sticking to its just grounds in the negotiations on its admission to the WTO.

Let me thank Members once again for the support and concern they have expressed for this motion. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 24 November 1999.

Adjourned accordingly at sixteen minutes to Nine o'clock.

Annex I**WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Dr LUI Ming-wah's supplementary question to Question 1**

According to the information supplied by the Creative Star Limited (CSL), the Company has signed up a long-term purchase contract with Sony, the manufacturer of the Octopus card, and the price of the Octopus card as listed in the contract is calculated in Japanese yen. At present, the CSL still pays \$30 per card in accordance with the terms of the contract.

Annex II**WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Miss CHOY So-yuk's supplementary question to Question 1**

According to the information supplied by the Creative Star Limited (CSL), the cost of Octopus card may be slightly lowered in the future, and the Company will also strive to reduce its costs. However, since the use of Octopus card may be extended to other modes of transport (so that taxi passengers and drivers can also use Octopus cards to pay taxi and parking fees) it will result in incurring a greater negative value. For a single Octopus card, the greatest loss that the CSL will suffer is when a passenger loses an Octopus card which has recorded the greatest negative value. Under such circumstances, the \$50 deposit will not be sufficient to cover the \$65 incurred (that is, \$30 for the cost of the card plus the highest negative value of \$35). Though the cost of an Octopus card may come down in the future, the rate of reduction may not be sufficient to cover the increased negative value. Therefore, the CSL is of the opinion that the proposals on refunding or lowering the deposits of Octopus card are not practicable at the present stage.

Annex III**WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Mr TAM Yiu-chung's supplementary question to Question 1**

According to the information supplied by the Creative Star Limited (CSL), the cost of each Octopus card (\$30) will not change in accordance to the status of the cardholder. So, it is impossible to lower the deposits payable by senior citizens. The remaining component of the deposit (that is \$20) is meant to cover the negative value in cases where the remaining value of the card is insufficient to cover the transaction fees. At present, since certain transport companies have offered concessionary fares for senior citizens, the negative value recorded on the cards of such passengers is usually not very great. However, other modes of transport, such as the Airport Express and the Lo Wu-bound Kowloon-Canton Railway services, charging higher fare levels, have not offered any concessionary fares for senior citizens. Therefore, the Octopus cards of senior citizens may also carry a negative value of over \$20. Therefore, the CSL is of the opinion that the proposal on lowering the deposits payable by senior citizens is not practicable.

Annex IV**WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Mrs Miriam LAU's supplementary question to Question 1**

According to the information supplied by the Creative Star Limited, the company is now striving to balance its total revenue and total costs. The revenue of the company is derived mainly from interest income and levy on transaction fees. Therefore, if its expenses remain unchanged and if its interest earnings are high, then the levy on transaction fees could be lowered. On the contrary, if the interest earnings are low, then the company may have to charge a higher levy on transaction fees, in order to cover the necessary expenses.

Annex V**WRITTEN ANSWER****Translation of written answer by the Secretary for Transport to Mr CHAN Wing-chan's supplementary question to Question 4**

Regulation 28 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations provides that the glass used in the windscreens and windows of all motor vehicles shall be safety glass of an approved type. The standards specified under the relevant provisions are applicable to all classes of vehicles, including private cars and buses. As required by the relevant provisions, all safety glass shall be made of prescribed materials meeting international safety standards. To ensure that adequate protection is provided for both drivers and passengers, the approved types of safety glass are also required to pass a series of safety tests. These include the fracture test which aims at ensuring that the possible harm caused by fractured glass fragments could be minimized, and the impact test that ensures the glass will have sufficient resistance against penetration upon impact. In addition, the glass must also be strong enough to withstand external effects such as extreme temperatures and weathering.

We believe the existing safety standards applicable to glass used in all motor vehicles can ensure protection for the safety of bus captains and passengers.

Annex VI**INDUSTRIAL TRAINING (CONSTRUCTION INDUSTRY)
(AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and ManpowerClauseAmendment Proposed

New By adding -

"7. Validation

(1) Every act or thing done by the Authority for or in connection with the assessment of the standards of skills achieved by anyone in any kind of work involving or in connection with the construction industry including, without limitation, the conduct of examinations or tests, the issue or award of certificates of competence and the establishment of the standards to be achieved in respect of any such work that would have been lawful if section 5(e) of the principal Ordinance, as added by section 4 of this Ordinance, had been in force at the time when it was done is validated and declared to have been lawfully done by the Authority.

(2) The expenditure by the Authority of any sum by way of financial provision to assist in the placement of persons completing training courses that would have been lawful if section 5(c) of the principal Ordinance, as amended by section 4 of this Ordinance, had been in force at the time when it was expended is validated and declared to have been lawfully expended by the Authority."