

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 24 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.

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

**MEMBER ABSENT:**

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

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

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

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

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

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

MR LAM WOON-KWONG, J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

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

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

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

### **CLERKS IN ATTENDANCE:**

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

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation	<i>L.N. No.</i>
Port Control (Cargo Working Areas) (Amendment) (No. 2) Regulation 1999 .....	279/99
Administrative Appeals Board Ordinance (Amendment of Schedule) Order 1999 .....	280/99
Midwives Registration (Fees) Regulation .....	281/99
Legislative Council (Registration of Electors) (Appeals) (Amendment) Regulation 1999 .....	282/99
Declaration of Geographical Constituencies (Legislative Council) Order 1999 .....	283/99
Electoral Affairs Commission (Registration of Electors) (Geographical Constituencies) (Legislative Council) (Amendment) Regulation 1999 .....	284/99
Hospital Authority Ordinance (Amendment of Schedules 1 and 2) Order 1999 .....	285/99
Places for Autopsies (Amendment) Order 1999 .....	286/99
Hawker (Permitted Place) (No. 2) Declaration 1999 .....	287/99
Banking (Amendment) Ordinance 1999 (42 of 1999) (Commencement) Notice 1999 .....	288/99
Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) (Commencement) Notice 1999 .....	289/99

Gas Safety (Installation and Use and Miscellaneous) (Amendment) Regulation 1999 (L.N. 222 of 1999) (Commencement) Notice 1999 .....	290/99
---	--------

#### Other Papers

- No. 34 — The Hong Kong Industrial Estates Corporation  
Annual Report 1998-1999
- No. 35 — Hong Kong Industrial Technology Centre Corporation  
Annual Report 98-99
- No. 36 — Hong Kong Productivity Council  
Annual Report 1998/99
- No. 37 — The Prince Philip Dental Hospital Hong Kong Report  
by the Board of Governors for the period 1 April 1998 to  
31 March 1999
- No. 38 — Report of the Electoral Affairs Commission on the  
Delineation of Geographical Constituencies in respect of  
the Second General Election of the Legislative Council to  
be held in September 2000

#### ORAL ANSWERS TO QUESTIONS

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

#### Arranging Transport for Employees Going to Work during Typhoons

1. **MR ANDREW CHENG** (in Cantonese): *Madam President, at present, employees engaged in the medical services, transport services and the media business and so on have to go to work during the onslaught of typhoons. However, many employers do not arrange transport for their employees to and from their workplaces. In this connection, will the Government inform this Council:*

- (a) *whether it has compiled statistics on the number of employees who were injured while commuting between home and the workplaces when a typhoon signal No. 8 or above was hoisted or a rainstorm black warning was in effect during the past year; if it has not, of the reasons for that;*
- (b) *whether it knows the reasons for some hospitals under the Hospital Authority (HA) not arranging for vehicles to shuttle employees to and from hospitals when a typhoon signal No. 9 or No. 10 has been hoisted; and*
- (c) *whether it plans to require government departments and public organizations, including the HA, or even require all employers through the enactment of legislation, to arrange for transport for their employees who are required to be on duty when a typhoon signal No. 8 or above is hoisted or a rainstorm black warning is in effect; if it has no such plans, of the reasons for that?*

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

- (a) According to the record of the Labour Department, during the first 10 months of 1999, there were a total of 62 cases of employees claiming compensation for injuries incurred while travelling to and from the workplaces when a typhoon signal No. 8 or above was hoisted or a rainstorm black warning was in effect. Among these cases, 56 happened during typhoons while six happened when a rainstorm warning was in effect.

The employees in the above cases mainly sustained injuries from slipping, being blown over by the wind or hit by falling objects, or in traffic accidents while commuting between home and the workplaces.

The injured employees were mainly from the property management and security industry (18 cases), catering industry (14 cases) and hotel industry (eight cases). The rest included employees of voluntary organizations, government departments and the transport industry.



- (b) When typhoon signal No. 8 is hoisted or when the rainstorm black warning is issued, hospitals under the HA generally provide transport for commuting their staff between designated pick-up points and the hospitals. When typhoon signal No. 9 or No. 10 is hoisted, most transport arrangements will gradually cease as the weather and road conditions deteriorate. Before they terminate the transport arrangements, hospitals would have made appropriate arrangements to ensure that there are sufficient staff to provide the essential services during this period.
- (c) To ensure the safety of its staff, the general guideline adopted by the Government is that staff are not required to go to work when typhoon signal No. 8 or above is hoisted or when the rainstorm black warning is issued. During the effective period of the rainstorm black warning, staff are advised to stay at home or take shelter in a safe place.

Under the Employees' Compensation Ordinance, an accident resulting in the injury or death of an employee shall be deemed to arise out of and in the course of his employment if it happens to the employee when he is travelling between his place of residence and his place of work within a period of four hours before the commencement or after the cessation of his working hours at a time when a typhoon signal No. 8 or above is hoisted or a rainstorm black warning is in effect. Under such circumstances, the employer is liable to pay compensation.

To maintain the provision of services to the public under special circumstances, the heads of bureaux/departments would lay down their own directives or guidelines according to their operational needs, and arrange for transport for their employees as appropriate. In fact, certain departments have already drawn up contingency plans and staff guidelines to meet their operational needs and ensure the safety of their staff.

The heads of bureaux and departments are encouraged to take a flexible approach in handling cases involving staff who are absent from or late for work because of inclement weather conditions.

Public organizations in Hong Kong have made arrangements with employees in times of typhoons or rainstorms in light of their own circumstances.

We do not have plans to enact legislation to require employers to arrange transport for their employees to and from their work places during typhoons or rainstorms periods. Our main reasons are as follows:

- (1) At present, different organizations have different arrangements to meet their own needs. For instance, some organizations only require those employees who live in the same or nearby district of the workplace to be on duty, or provide typhoon and transport allowance to their employees, or have established a system for extending the time in relieving shift duties. Therefore, requiring employers to arrange transport for their employees on a mandatory basis will only reduce the flexibility of working arrangement for all trades.
- (2) When a typhoon signal No. 8 or above is hoisted or a rainstorm black warning is in force, public transport operators may continue to provide services, taking into account the actual operational situation and the needs of passengers.
- (3) As for the smaller organizations which employ only a small number of employees and other organizations which have not provided transport service for their staff on a regular basis, it will pose practical difficulties for them if the law requires them to provide transport service for their staff. Most of the enterprises in Hong Kong belong to this type of organizations.
- (4) The Government has been actively promoting the message that employers and employees should make prior work arrangements in times of typhoons and rainstorms. The Labour Department has made extra efforts to publicize this message. In response to different weather condition, the Department will make announcements through the electronic media to remind employers and employees of the matters they should pay attention to. The Department also organizes exhibitions, holds briefings, and publishes and distributes the

"Code of Practice in times of Typhoons and Rainstorms" and promotional posters. The Labour Department is now revising this Code of Practice to enrich its contents. Employers are also reminded that they should only ask essential staff to report for work in times of typhoons and rainstorms, and the safety of the staff should be their prime consideration when formulating work arrangements. The revision is expected to be completed before the rain season next year. In addition, the Department will continue to discuss the importance of making such prior arrangements at the meetings of tripartite committees set up at the industry levels, and help employers and employees to make such arrangements.

**MR ANDREW CHENG** (in Cantonese): *Madam President, recently there was a case in which a nurse, who went to work by herself as the HA had not arranged for transport to take her to work, was blown over by the wind and knocked against the wall, sustaining head injuries which required over 10 stitches. Will the Government consider taking measures to protect employees, including those of the HA and public organizations, to provide for the right to refuse going to work in the absence of transport services, and when they are subject to imminent danger on their way to work?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in my main reply earlier, I mentioned the "Code of Practice in times of Typhoons and Rainstorms", which provided that employers should only ask essential staff to report for work in times of typhoons and rainstorms. This is the first point. Secondly, I hope that employers do take staff safety as their prime consideration in making work arrangements. Certainly, as I mentioned in the main reply, if an accident happened to an employee during his journey to and from work, the employer is liable to pay compensation.

As regards the case brought up by the Honourable Andrew CHENG just now, the HA has actually reviewed the existing arrangements in the wake of the accident. The HA may have to consider making certain arrangements to ensure that its staff can be better protected when they travel to and from work. I will put this case on record and refer it to the HA or the relevant bureaux.

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

**MR ANDREW CHENG** (in Cantonese): *Madam President, my question to the Government is whether specific policies and measures are in place so that the staff of the HA, other public organizations or government departments will not be subject to punishment or salary reduction if they refuse to go to work in times of typhoons if they think that they will be exposed to danger on their way to work, or whether legislation will be enacted for this purpose in respect of employees in the private sector. The Secretary did not answer this point.*

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, this supplementary question, in fact, embodies a number of questions. First, on the question of whether the Government will consider enacting legislation to stipulate that employees should not go to work under certain circumstances, our view is that given the diversity of situation in different industries, it is inappropriate to enact legislation and enforce it across the board, stipulating that employees need not go to work when a typhoon signal No. 8 or above is hoisted and the rainstorm black warning is in effect.

Second, the Honourable Member asked whether the employer has the right to dismiss an employee or deduct his salary if the employee did not report for work. Let me deal with the question on salary deduction first. The "Code of Practice in times of Typhoons and Rainstorms" expressly stated that employers should not deduct the salary of an employee if he did not report for work on reasonable grounds. For instance, the employee lives in remote areas, or no transport is provided to take the employee to work. If the employee's salary is deducted, the Labour Department will provide conciliation. However, in 1999, we did not receive any cases of an employee seeking compensation from his employer for deducting his salary under such circumstances.

As to whether the employer can dismiss an employee who did not report for work because the latter had considered it dangerous to travel to work or there was no transport provided to take him to the workplace, it should be noted that

dismissals under such circumstances by employers without providing the requisite compensation will constitute a justification for employees to claim compensation. In 1999, we received a number of these cases which are currently being processed by the Labour Department.

**MR LEE KAI-MING** (in Cantonese): *Madam President, in part (c) of the main reply the Secretary stated that the Government will not enact legislation to require employers to make these arrangements, but it will actively promote the message that employers and employees should make work arrangements in respect of typhoon and rainstorm periods. May I ask the Secretary how many employers and employees have made such arrangements after years of promotional efforts by the Government?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, we do not have these figures on hand as we basically do not collect and collate statistics on this. However, our information shows that many employers, including those in the construction industry, manufacturing industry, telecommunications industry, service industry such as trading companies, transportation companies and hotels, the medical services sector, and also tertiary institutions have made these work arrangements. However, we do not have the exact figures as we do not collect and collate such statistics.

**LEE KAI-MING** (in Cantonese): *Madam President, as there have been many disputes .....*

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

**LEE KAI-MING** (in Cantonese): *Madam President, as there have been so many disputes and given the Government's ongoing promotional efforts, why is it that the Government does not have the relevant statistics? Is it because .....*

**PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered?

**LEE KAI-MING** (in Cantonese): *Can the Secretary provide us with the information after the meeting?*

**PRESIDENT** (in Cantonese): Mr LEE, it appears that you were not asking your question in a proper way. Please sit down. (*Laughter*)

**MR JAMES TIEN** (in Cantonese): *Madam President, I have some doubts about whether employers can decide if their employees should be able to go to work in times of typhoons. In part (c) of the main reply the Government stated that the employer is liable to pay compensation if an accident happened to an employee within a period of four hours before the commencement or after the cessation of his working hours when a typhoon signal No. 8 or above is hoisted or a rainstorm black warning is in effect. If the typhoon signal No. 8 is lowered and if the employer asked his employees not to leave and stay in the office until a period of four hours lapses, but the employees consider it inappropriate for they think there is no reason for the employer to keep them in the workplace for four hours and want to go home, is the employer, under such circumstances, to be held responsible if the employee had an accident?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in my main reply I referred to the time when typhoon signal No. 8 or above is hoisted or the rainstorm black warning is in effect, which means that the time after the lowering of the typhoon signal will not be covered. However, Madam President, I would like to clarify this when I go back to my office and then give Mr TIEN a written reply later on. (Annex I)

**PRESIDENT** (in Cantonese): Mr TIEN, which part of your supplementary question has not been answered? Please specify only the part that the Secretary has not answered.

**MR JAMES TIEN** (in Cantonese): *Madam President, the Secretary's reply reads "..... within a period of four hours before the commencement or after the cessation of the employee's working hours .....". The example that I cited just now obviously refers to that situation so there is no reason for the Secretary not being able to give me an answer now but to leave it to a written reply because this is exactly what he said in the main reply.*

**PRESIDENT** (in Cantonese): Mr TIEN, this is your personal opinion. The Secretary is at liberty to decide how to answer your question.

**MR JAMES TIEN** (in Cantonese): *Madam President, the Secretary did not answer my supplementary question. Simply enough, I would like the Secretary to answer my supplementary question.*

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the main reply referred to a period of four hours before and four hours afterwards. But if the typhoon signal is lowered one hour afterwards, are the subsequent three hours to be counted in? I am really not sure about this. So I wish to figure it out with my colleagues and then provide a definite reply for Mr TIEN.

**CHAN KWOK-KEUNG** (in Cantonese): *Madam President, in his main reply the Secretary said that there were a total of 62 cases of employees claiming compensation, 56 of which happened during typhoons while six happened when a rainstorm warning was in effect. May I ask how many of these cases were successful, together with the number of cases in which employees had not successfully obtained compensation?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the cases that I mentioned just now did not arise from salary deduction or dismissal by employers. They are purely cases in which compensation was sought for injuries sustained in the course of employment. As to whether these employees have eventually obtained compensation, I may have to check and then provide a written reply for Mr CHAN. (Annex II)

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, in the main reply the Secretary mentioned that employers and employees will be asked to make work arrangements. Yet, if these work arrangements do not have any legal basis, that is, the Government has not stipulated that the work arrangements must be made in accordance with the "Code of Practice in times of Typhoons and Rainstorms", how can we ensure that the work arrangements made are proper arrangements?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the "Code of Practice in times of Typhoons and Rainstorms" incorporated some samples for employers and employees to follow in making work arrangements. Certainly, our objective is that employers will make reference to the Code of Practice when formulating work arrangements. Mr LEE remarked that the Code of Practice does not have explicit legal effect, which is a fact. But if a case is lodged with us by an employee claiming compensation, we will conduct conciliation in accordance with the Code of Practice.

**PRESIDENT** (in Cantonese): We have spent over 17 minutes on this question. Members who wish to follow up the matter please do so through other channels.

### **Concluding Observations of the United Nations Human Rights Committee**

2. **DR YEUNG SUM** (in Cantonese): *Madam President, early this month, the United Nations Human Rights Committee (UNHRC) made its concluding observations after considering the report submitted by the Government of the Hong Kong Special Administrative Region (SAR) with reference to the International Covenant on Civil and Political Rights (ICCPR). In this*



*connection, will the Government inform this Council how it will implement and follow up the following recommendations and concerns as stated in the concluding observations:*

- (a) that regarding the abolition of the Municipal Councils, the SAR Government should reconsider this decision as well as maintain and strengthen democratic representation of SAR residents in public affairs;*
- (b) that to ensure proper and effective investigation of complaints against the police, the SAR Government should provide for independent investigation of complaints against the police; and*
- (c) the UNHRC's concern that a request by the executive authorities for an interpretation of the Basic Law by the Standing Committee of the National People's Congress may in individual cases undermine the rights to a fair trial under Article 14 of the Covenant and have implications for the independence of the Judiciary of the SAR?*

**SECRETARY FOR HOME AFFAIRS:** Madam President, my replies to the Honourable Member's questions are as follows:

- (a) First of all, I would like to reiterate the Government's position, that is, the reorganization of municipal services does not contravene the Basic Law and the International Covenant on Civil and Political Rights (ICCPR). Our proposal to reorganize the structure of district organizations is to address the fragmentation of responsibilities in the delivery of municipal services, particularly food safety control and related matters. The decision to dissolve the Provisional Municipal Councils was made after comprehensive public consultation and extensive debate over the past two years. There is a broad consensus within the community that the existing framework for delivering municipal services should be reformed to improve co-ordination in policy formulation and implementation and to enhance cost-effectiveness in service delivery.

Our proposal to dissolve the Provisional Municipal Councils will not diminish the opportunity for participation in public affairs. After the reorganization, the public will continue to participate in matters relating to the provision of municipal services through the Legislative Council and District Councils. The role of the Legislative Council will be strengthened through scrutinizing the budget, policy programmes and initiatives of the various government agencies providing municipal services. The Legislative Council will also be responsible for approving the majority of capital works projects and fees and charges for municipal services and facilities.

At the district level, the role and resources of District Councils will also be enhanced. Compared with the district boards prior to 1997, the number of elected District Council members will be increased by 44 in the forthcoming District Councils Election to be held this Sunday. We will facilitate their monitoring of the delivery of environmental hygiene and leisure and cultural services in the districts. We will also provide additional funds for District Councils for improving the local environment and commissioning district leisure and cultural activities. The Chairman and Vice Chairman of the District Council will become members of the District Management Committee and participate in the co-ordination of government services and the setting of priorities in the district. We will appoint more District Council members to government boards and committees. All these measures enable more participation in public affairs.

Madam President, with your permission, may I also take the opportunity of this open forum today to remind all registered voters in Hong Kong making a real effort to cast their votes this coming Sunday, 28 November. Their effort certainly constitutes very worthwhile participation in public affairs that would do a lot of good for Hong Kong.

We are committed to the progressive development of our democratic institutions in accordance with the Basic Law. In May 1998, the first Legislative Council Election was held successfully. There were 20 Members returned by geographical constituencies. The

Basic Law clearly specifies that the number of Members returned by geographical constituencies will be increased to 24 and 30 for the second and third terms of the Legislative Council. In other words, by the third term, half of the Legislative Council Members will be returned by geographical constituencies. The Basic Law also provides that the method for the formation of the Legislative Council subsequent to year 2007 can be amended in accordance with relevant provisions. Our ultimate aim is the election of all the Members of the Legislative Council by universal suffrage.

- (b) Our existing police complaints system is in line with arrangements for investigating complaints against the police in other overseas jurisdictions. Indeed, ours is one of the most sophisticated systems in Asia. Under the system, investigations of complaints against the police by the Complaints Against Police Office (CAPO) are closely monitored and reviewed by the Independent Police Complaints Council (IPCC). The IPCC is an independent civilian body comprising non-official members from a wide spectrum of the community, including members of the Legislative Council and the Ombudsman or his representatives.

The existing police complaints system, with its effective checks and balances, provides an effective mechanism to ensure that complaints are handled fairly and impartially. Detailed investigation reports in respect of the complaints are submitted to the IPCC for rigorous examination. In discharging their duties, members of the IPCC may clarify any doubts directly with witnesses through interviews, and observe the CAPO's investigations in person on a surprise or scheduled basis. The Council can also ask the CAPO to submit any document or information that may be related to a complaint case for its reference. If the Council is not satisfied with the CAPO's investigation, it may ask the CAPO to clarify areas of doubt or to reinvestigate the complaint or it may refer the case to the Chief Executive for attention.

Over the years, we have implemented a number of measures to improve the credibility and transparency of the police complaints system. These include opening part of the IPCC meetings to the public, setting up a special panel in the IPCC to monitor serious

complaints and appointing retired members of the IPCC and other community leaders as Lay Observers to observe the CAPO's investigations. We believe in progressive step-by-step improvements rather than fundamental and radical changes which might have adverse consequences to our police complaints system. However, we are prepared to review the need for further improvements.

- (c) The United Nations Human Rights Committee expressed concern that a request by the executive branch of government for an interpretation under Article 158 para (1) of the Basic Law "could be used in circumstances that undermine the right to a fair trial". I would emphasize that the Committee did not say that such a request had been used in a way that had undermined anyone's right to a fair trial. It is our contention that it did not undermine a fair trial. The Committee has also expressed concern about the implication of the request for interpretation by the Standing Committee of the National People's Congress on the independence of the Judiciary. The Administration respectfully notes the Committee's concern and repeats that it would not seek another such interpretation except in highly exceptional circumstances. In addition, the Administration is committed to respecting the independence of the Judiciary and the right to a fair trial and public hearing under Article 14 of the ICCPR.

**DR YEUNG SUM** (in Cantonese): *Madam President, in his reply to part (a) of the question, Secretary David LAN mentioned the functions and election of the District Councils. Recently, the Government has proposed that appointed seats should be reintroduced into District Councils. May I ask the Secretary whether the retrogressive step of reintroducing appointed seats will discourage people from voting this Sunday?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, we have kept in touch with, sounded out and observed the districts. We are of the view that the proposal to reintroduce appointed seats will not have any negative impact on the election on Sunday.

**MISS EMILY LAU** (in Cantonese): *Madam President, in the main reply, the Secretary said that the development of democracy in Hong Kong should conform to the Basic Law. When the UNHRC held its meetings, the Secretary was also in Geneva. As I recall, the UNHRC pointed out that the elections in Hong Kong contravene Articles 2, 25 and 26 of the ICCPR. The UNHRC also raised the question of whether the Basic Law or the ICCPR is more important. No clear reply was given at that time. I would like the Secretary or his colleagues to answer this. Moreover, with regard to the reservations related to Article 25, no reservations have been made in respect of the Chief Executive election. Is this an outright contravention of the ICCPR?*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, first, I believe Miss LAU's supplementary question should be mainly about the reorganization of municipal services, rather than the Legislative Council or the Chief Executive election. With regard to the reorganization of municipal services, the abolition of the Urban Council and Regional Council does not mean that the opportunity for participation in public affairs will be diminished. Subparagraph (b) of Article 25 of the ICCPR.....

**MISS EMILY LAU** (in Cantonese): *I do not wish to waste the Secretary's time. I am not asking about the reorganization, but about the Legislative Council. In 1995 and this year, the UNHRC made the concluding observation that it contravened.....*

**PRESIDENT** (in Cantonese): Miss LAU, you need not be so impatient. The Secretary for Justice was answering your question. You can first listen to the her reply. I will then ask other officials if they have anything to add. Secretary for Justice, please continue.

**SECRETARY FOR JUSTICE** (in Cantonese): Thank you, Madam President. The abolition of the Urban Council and Regional Council will not affect people's participation in public affairs. Subparagraph (b) of Article 25 of the ICCPR makes no mention of the method of participation. The district organizations referred in Article 97 of the Basic Law are not organs of political power, while Article 26 of the ICCPR merely addresses the issue of equal opportunities in general. It has no direct relation with elections.

With regard to Miss LAU's question on the Legislative Council election, a reservation has been made with respect to Article 25 of the ICCPR. As for the degree of democratization, the Basic Law has provisions for full direct election of the Legislative Council and a reservation has been made.

**PRESIDENT** (in Cantonese): Secretary for Constitutional Affairs, do you have anything to add? Would any Secretary like to add anything?

**MISS EMILY LAU** (in Cantonese): *Madam President, the Secretary did not answer the question about whether the Chief Executive election contravenes the ICCPR, since no reservation has been made on that election.*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, there was no Chief Executive election at that time. The ICCPR is not binding on the Chief Executive election.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, may I ask whether the UNHRC's recommendations are binding on us? If its recommendations do not meet Hong Kong's practical needs and are inconsistent with the Basic Law, should the SAR Government offer explanations to it?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, the UNHRC is not a law court, so its recommendations are not binding on us. However, we very much respect the UNHRC's recommendations. Therefore, we will follow up all of its recommendations carefully with all relevant Policy Bureaux and departments. However, we cannot comply with some of the recommendations. For instance, someone suggested in the meeting that the Legislative Council in Hong Kong should be elected with one-person, one-vote immediately. Just now the Secretary already responded to this. We must abide by the Basic Law. The Basic Law is our constitution. We must abide by our constitution. Later, we will collect the relevant views and submit them to the UNHRC as soon as possible.

**MR ALBERT HO** (in Cantonese): *Madam President, just now, the Secretary said that the Government very much respects the UNHRC's views. However, I believe when the Secretary attended the UNHRC's hearing in Geneva last time, he also heard its members express dissatisfaction that the Hong Kong Government had not accepted various previous recommendations made by the UNHRC. It seems that we will be facing the same situation in four years' time, that is, many of the recommendations will not be implemented. We can only tell the UNHRC that we have collected the relevant views, but those recommendations could not be implemented because of our needs. Some of the issues are very specific. For instance, with regard to the abolition of the two Municipal Councils, one recommendation asks the Government to reconsider it. However, the Government indicated today that it will not follow this recommendation, but is resolved to dissolve the two Municipal Councils. Has the Secretary submitted this recommendation to the Chief Executive in Council for discussion and reconsideration, in order to show a modicum of respect?*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, we have noted the UNHRC's concern. However, as the Secretary for Home Affairs said just now, the abolition of the two Municipal Councils will not diminish the opportunity for participation in public affairs. We have made the decision only after comprehensive public consultation and careful consideration of the different circumstances. As we have said before, we do not think that this contravenes the relevant articles of the ICCPR. Therefore, we will not change our decision.

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

**MR ALBERT HO** (in Cantonese): *My question was very straightforward. Has the Government submitted this recommendation to the Chief Executive in Council for reconsideration, in order to show respect for the UNHRC?*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the straightforward answer is "no". However, as Secretary David LAN said, we will submit documents to the UNHRC and respond to the items of concern in writing.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, does the Government intend to invite members of the UNHRC to visit Hong Kong so that they can fully grasp the actual situation in Hong Kong, instead of just listening to some people's views? If not, why not?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, before the hearing, we sent a written invitation to the chairman and members of the UNHRC to invite them for a visit to Hong Kong. However, they could not find the time. At the meeting of the UNHRC in Geneva, we repeatedly told the chairman and members that they were still welcome to visit Hong Kong after the meeting. I have recently sent them another written invitation. We very much agree with the Honourable TAM Yiu-chung that it is far better to come to Hong Kong to have a look at the real situation than depend on hearsay.

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

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, the UNHRC has expressed a very clear view on Article 25 of the ICCPR. It is of the view that the abolition of the two Municipal Councils is inconsistent with Article 25. May I ask the Secretary whether Article 25 of the ICCPR has been incorporated into the Hong Kong Bill of Rights Ordinance by the SAR Government, so that Hong Kong must comply with the ICCPR?*

**PRESIDENT** (in Cantonese): Which public officer will answer this supplementary question?



**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the ICCPR article has been incorporated into the Hong Kong Bill of Rights.

**MR AMBROSE CHEUNG** (in Cantonese): *The Secretary did not answer my supplementary question. If the Government does not have the information, it should consult Article 21 of the Hong Kong Bill of Rights Ordinance, which corresponds to Article 25 of the ICCPR. Thus, it is basically a Hong Kong law. I hope the Secretary will take a good look at it. It is a law currently in force in Hong Kong. People's right to participate in public affairs is part of Hong Kong law.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, just now my answer was "yes". I have the documents here. Article 21 of the Hong Kong Bill of Rights Ordinance corresponds to Article 25 of the ICCPR. The wordings of the two articles are basically the same, with the exception of some adaptations. For instance, the reference to "every citizen" in the ICCPR has been changed to "every permanent resident". It has only been adapted as appropriate.

**PRESIDENT** (in Cantonese): Does any other Secretary have anything else to add? We have spent 22 minutes on this question. I believe Members will follow this up through other channels.

### **Access Routes and Transport Service to and from Kowloon Bay Health Centre**

3. **MISS CYD HO** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the designs adopted during the planning stage and the actual situation at present in respect of the access routes and transport service to and from the Kowloon Bay Health Centre; if they are different, of the reasons for and details of such difference; and*

- (b) *whether it plans to improve the current arrangements in respect of the access routes and transport service to and from the centre; if so, of the details?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the planning of traffic and transport facilities for Kowloon Bay area has taken into account the overall demand generated by the developments in the area as a whole. At the planning stage of the Kowloon Bay Health Centre (the Centre) in 1995, the Transport Department estimated that the additional traffic and transport demand generated by the establishment of the Centre would be adequately catered for by the existing road network and transport services. It was therefore not necessary to make separate traffic and transport provision for the Centre from a transport point of view. The assessment is still valid. The Centre currently has about 200 staff members and 400 users per day, which is a relatively small number as compared with the population in the nearby area. The area is adequately served by public transport services, including seven bus routes and three green minibus (GMB) routes. The area is also well served by taxis which can pick up and set down passengers in front of the Centre.

The Centre has recently made some improvement suggestions on public transport services for the added convenience of its staff and visitors. In response to the request, a GMB stop sign has been put in front of the main entrance to the Centre as from 7 November 1999. There was also a suggestion to divert a few bus routes to operate via Kai Yan Street to better serve the Centre's staff and visitors. The Transport Department's initial assessment is that there are road safety considerations against this proposal.

**MISS CYD HO** (in Cantonese): *Madam President, the main reply has only approached the problem from the transport point of view and it has totally ruled out the possibility of discrimination. Some residents of the Richland Gardens have really stopped the Centre's staff and patients from going to the Centre by public transport. Has the Government taken measures or made plans against this in order that improvements can be made? If the above acts have violated the legislation against discrimination, will civil proceedings be initiated to prevent some residents from continuing to engage in such discriminatory activities?*

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

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I would try to answer this supplementary from the transport point of view. I have visited the Centre and taken a look at the adjacent transport facilities. From my point of view, I did not find any problem because there are transport services such as buses, minibuses and taxis, catering for the demands of the Centre's staff and visitors. Minibuses plying on a few routes can pick up and set down passengers in front of the Centre. There is a bus terminal at the back of the Centre and taxis can also pick up and set down passengers in front of the Centre. Therefore, I do not see how users of the Centre are affected insofar as public transport services are concerned.

**MR SZETO WAH** (in Cantonese): *Madam President, the Secretary for Transport's answer has touched upon transport services but not access routes. At a recent meeting of an ad hoc group of this Council, a government official proposed to build a special access route for use by the Centre's staff and patients. However, all Members who attended the meeting and the Equal Opportunities Commission (EOC) opposed the proposal. Can the Government inform this Council if the construction of such a special access route runs counter to the community integration policy? Why was such a proposal made?*

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

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, again I would try to tackle this. As far as I understand it, the proposal to construct this special access route was not made by the Government but those in the community, including users of the Centre who hope that there will be an additional pedestrian access route for their convenience. As far as I know, the department concerned is studying the feasibility of constructing this pedestrian access route in terms of technology and transport, but the Government has not drawn a conclusion in respect of this proposal. Yet, the proposal was not made by the Government.

**PRESIDENT** (in Cantonese): Mr SZETO Wah, which part of your supplementary has not been answered? Please state the part of the question.

**MR SZETO WAH** (in Cantonese): *Madam President, regardless of who made the proposal, has it violated the community integration policy?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this follow-up question?

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I believe I cannot answer this question. (*Laughter*)

**PRESIDENT** (in Cantonese): Secretary for Health and Welfare, are you clear about this?

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, I have heard about this but I am not quite clear about the correct answer. However, the most basic point is certainly the convenience of staff and patients of the Centre. The Secretary for Transport has just said that there are good transport facilities, but we can certainly provide more convenience. If another access route will provide people with more convenience, it is definitely worth considering. However, we still have to deal with other matters. We know that the EOC has reviewed the legislation concerning the passage through Richland Gardens to see if the relevant legislation is reasonable and whether it allows the passage of patients and staff. We understand that the EOC will publish a report soon, and we will make a decision once the report has been completed.

**DR LEONG CHE-HUNG** (in Cantonese): *Madam President, it is stated in the second paragraph of the main reply that the Centre (I have to stress that the Centre is a government structure) has recently suggested making changes to some public transport facilities and even diverting routes and some of these suggestions have been put into practice. Will the Government inform the*

*Council whether doing so is yielding to those residents who are discriminating against other people and have made unreasonable requests? If so, why? If not, why did the Government do so?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, when considering a request made by any person in any district (I stress any person in any district) or any community for improving transport facilities, from the point of view of the Transport Bureau or the Transport Department, our starting point is that the actual demands instead of other factors, be they political or social factors, will be considered. We will first decide whether there is such a need.

As I understand it, the staff of the Centre has made proposals as to how they can use public transport more conveniently, including putting a GMB stop sign in front of the main entrance of the Centre. Basically, it is not essential to do so because it is not a prohibited zone, and minibuses can actually stop in front of the entrance. There is also a minibus stand opposite the Centre and another further away. However, to make it easier for patients or the public to identify the location of minibus stands, the addition of a GMB stop sign is perfectly fine and this proposal has been implemented.

As regards other proposals such as whether a few bus routes can be diverted to operate via Kai Yan Street, I have said in the main reply that we have reservations in respect of safety and technology because there is a bend at the end of Kai Yan Street, and there are many pedestrians. If buses operate via there, the safety of road users may be affected. However, we are still making a preliminary study.

The third proposal is to set up a taxi stand in front of the Centre for the convenience of users. We do not think it is necessary to set up a taxi stand as it is not a prohibited zone and taxis can pick up and set down passengers in front of the Centre. When necessary, for instance, when a wheelchair user has to be picked up or set down, the car park of the Centre admits foreign vehicles with special demands so that wheelchair users can have access to the Centre. Therefore, this proposal is not necessary practically.

We only consider the case from the angle of transport demands. If there is a transport need, we will implement the proposal, if not, we will not consider other factors.

**MR MICHAEL HO** (in Cantonese): *Madam President, I would also like to ask a question on pedestrian access routes. When the pedestrian access route to the Centre was planned, it was one of the access routes for people to go to the Centre on foot. However, at a recent ad hoc meeting on the Richland Gardens, the legal adviser of the Lands Department told us that, as owners, the residents of the Richland Gardens have the right to refuse to allow some people to enter their premises. When the Government initially planned for this pedestrian access route, had it fully considered the ownership issue, and that some people could stop other people from using this access route?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, there are over 20 000 residents in the Richland Gardens. When the land grant and plans for the Richland Gardens were approved, we certainly took the transport demands of these residents into account. I believe the access route mentioned by Mr HO is the one via the Richland Gardens to the bus stops and other adjacent areas, that is, the private access route within the Richland Gardens. Certainly, this facility mainly caters for the demands of over 20 000 Richland Gardens residents. What about other people going to the adjacent roads or bus stops? They have other access routes but it will certainly be faster for them to take the route via the Richland Gardens.

As for legal restrictions and whether it is legally permissible, as the Secretary for Health and Welfare has said, the EOC is examining this issue and I believe we can get an answer after the EOC has expressed its views or drawn a conclusion on this.

**MR MICHAEL HO** (in Cantonese): *Madam President, my supplementary is that when the Government designed this access route, had it clarified these legal issues or would it do so later?*

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

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I do not see the need to clarify the legal issues. When we plan a development project, we would take into account the demands of the community and transport, and meeting such demands; this is the most basic starting point of our plans. But as I have just said, the facilities of the entire district can cater for the overall transport demands of other areas.

**PRESIDENT** (in Cantonese): Secretary for Planning, Environment and Lands, do you have anything to add?

**SECRETARY FOR PLANNING ENVIRONMENT AND LANDS** (in Cantonese): Madam President, in the course of planning to construct the Centre, we have fully considered the ownership of all access routes including those to the minibus stands and bus stops as well as within the Richland Gardens. Before us is not a planning problem, but a problem of some people merely opposing allowing people going to the Centre pass through the Richland Gardens. As my colleagues have just said, the EOC is studying this case which is not related to legal principles and planning at all.

**MISS EMILY LAU** (in Cantonese): *Madam President, despite Secretary SIU's answer, I still want to ask if the residents of Richland Gardens have violated the Basic Law and the relevant legislation on discrimination in disallowing people to use the access route to the Centre? Will the executive authorities not handle this and will a decision be made only after the EOC has drawn a conclusion?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this supplementary? Secretary for Home Affairs, will you try to tackle this?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, regardless of whether this involves discrimination against disability or sex, if it is a discrimination issue, the EOC should handle it first. It is right to handle matters this way. I only want to clarify this. (*Laughter*)

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

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, it is stated in the first paragraph of the main reply that at the planning stage of the Centre in 1995, the Government estimated that the transport services would be adequate and I was a member of the relevant group. The Richland Gardens is obviously a private property as admitted by the relevant government department, so there are problems. The crux of the problem is that some people are pinpointing at patients and medical workers. Regardless of which Secretary answered the question, the Government said there was no problem in 1995, but there are problems now. Evidently, the Richland Gardens is a private property, will the Government inform the Council of the problems that have emerged? I find it very strange that the Government said that there was no problem in the past but after some people have obviously pinpointed at patients and medical workers, the Government said there are problems now. What are the problems? What is the first paragraph of the main reply about? Madam President, I do not understand the first paragraph of the main reply.*

**SECRETARY FOR TRANSPORT** (in Cantonese): My reply is pinpointed at the provision of public transport services. Actually, there are no problems and such services are available.

**PRESIDENT** (in Cantonese): Miss CHAN, please be patient and ask your follow-up after the Secretary has taken his seat. Miss CHAN, which part of your supplementary has not been answered?

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, an assessment should cover the transport conditions of the adjacent roads, and find out that these people have to go via other people's premises. I do not know how the Government made the assessment then.*

**PRESIDENT** (in Cantonese): Secretary, anything to add?



**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, I have nothing to add.

**PRESIDENT** (in Cantonese): Does any other Secretary have anything to add? Secretary for Health and Welfare.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, I would try to answer the question. As a few Members have said, this is discrimination. As regards transport arrangements, as other Secretaries have explained, at the planning stage, we assessed how transport services could be provided for the convenience of patients and staff, and an access route via the Richland Gardens was certainly the most convenient route. As far as I understand it, people can have access to other facilities such as taxi stands and minibus stands via the Richland Gardens, and nobody opposed when they do so. The residents of the Richland Gardens only refuse to allow some people to pass by, therefore, this involves the legislation on equal opportunities. As I have explained, Members will understand that this is actually not a transport issue but a discrimination issue. Therefore, it is apt for the EOC to conduct a review and we will make suitable arrangements after the EOC has drawn a conclusion.

### **The Financial Secretary's Visit to Las Vegas**

4. **MR BERNARD CHAN:** *Madam President, will the Government inform this Council:*

- (a) *of the places in Las Vegas that the Financial Secretary visited in September this year, and of his observations from the visit; and*
- (b) *on the basis of these observations, whether it has assessed if Hong Kong should further invest in building more performance venues in order to promote tourism?*

**FINANCIAL SECRETARY:** Madam President,

- (a) In September this year, I made a one-day stopover in Las Vegas before attending the International Monetary Fund (IMF)/World Bank Annual Meetings at Washington DC. This was in response to a specific recommendation of the Services Promotion Strategy Group that we should look at ways to develop Hong Kong as a world class visitor, resort, conference and gaming destination.

During my very brief stay in Las Vegas, I visited four theme resort complexes. I saw at first hand how the entertainment industry was run there. I visited the Las Vegas Convention Centre and met the officials of the Las Vegas Convention and Visitors Authority. The centre is the largest single-level centre of its type in the United States. I had discussions with representatives of the Nevada State Gaming Control Board, the Nevada Gaming Commission, the District Attorney's Office and the Las Vegas Police Department. These were all separate meetings. These discussions enabled me to learn more about their regulatory regime and licensing procedures and how they successfully managed such a complex holiday and gaming resort. These interlocutors also told me the challenges they faced. I also met with a number of businessmen representing a variety of business interests in Las Vegas. I also had lunch with the Federal Bureau of Investigation (FBI) Agents there.

Las Vegas has risen remarkably from a small desert town to one of the world's top tourist destinations in the past two decades. It now handles some 30 million visitors a year. The scope, size and variety of its theme resort centres and convention facilities are phenomenal. They are large by any measure. Many of them would not have been financially or economically viable without the logistics support and revenue subsidy from gambling. I was struck by the professionalism and efficiency of those in the hospitality industry and the regulatory bodies in Las Vegas. They spare no effort in creating a customer-friendly yet highly regulated environment in the city.

The transformation and success of Las Vegas as a tourist, convention and exhibition destination offers many lessons to other cities in the hospitality business. The Commissioner for Tourism in Hong Kong and the Services Promotion Strategy Group with a strong representation of Hong Kong businessmen will carefully consider the data and information gathered to see how our tourism industry can benefit from the experience of Las Vegas.

- (b) Modern venues featuring performances of very high standards are an integral part of the resort facilities in Las Vegas. But as I have said, without the revenue support of gambling, many of the venues and performances in Las Vegas would not have been feasible.

Within the limits of our current policy, Hong Kong continues to plan new facilities and attractive events to promote our tourist industry. As Members are well aware, for example, we are planning a new, state-of-the-art performance venue on the West Kowloon reclamation. This will form part of an integrated arts, culture, entertainment and commercial development in West Kowloon. This development will no doubt enhance the quality of life for our people as well as becoming a new tourist attraction.

**MR BERNARD CHAN:** *Madam President, in his response, the Financial Secretary mentioned that modern venues featuring performances of very high standard would not have been feasible without the revenue support of gambling. If that is the case, how would the state-of-the-art performance venue on the West Kowloon reclamation stay financially viable in the future years of operation?*

**FINANCIAL SECRETARY:** Madam President, I think we are dealing with quite two different things. In Las Vegas, we are talking of shows of a very unusual kind. Some people describe them as exotic and phenomenal, but some would regard them as rather vulgar. They do attract a large number of people and they also feature very extraordinary things. However, the sort of venue that we are building in West Kowloon is of a completely different character. This is something that is conventional, that the Hong Kong people enjoy and is of a completely different character. The size of the venue is different, and the audience targeted is also very different. We are talking about chalk and cheese.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, I want to raise a similar question too. The world's largest computer exhibition "Comdex" is held in Las Vegas every year. Will the Financial Secretary, who has just visited the place, inform this Council of the gap between Hong Kong and Las Vegas in terms of favourable terms and whether we are well-qualified in attracting large-scale exhibitions similar to "Comdex" to be held in Hong Kong?*

**FINANCIAL SECRETARY** (in Cantonese): *Madam President, I stayed in Las Vegas for one day only. Of course, I cannot say that I am an expert. It is also impossible for me to know everything about Las Vegas. Nevertheless, I know that Honourable Members are very interested in this issue. Therefore, I would try to answer this supplementary question.*

As far as I know, Las Vegas is unrivalled in hosting computer exhibitions like "Comdex". However, its venues require a lot of subsidies, not only non-recurrent subsidies such as those provided during the construction period, but also recurrent subsidies. We do have facilities in Hong Kong. Our exhibition venues are as good as those of other countries and are second to none in Asia. Moreover, we can accommodate a diversity of venue designs and exhibition items. But of course, if all exhibitions in the world are to be held in Hong Kong, we will encounter a lot of difficulties. It is also impossible for us to do something like that.

Nevertheless, Hong Kong should be able to, in certain aspects, draw lessons from the venues in Las Vegas, particularly their way of management, in order to improve its own venues to attract larger exhibitions to be held here in future.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, my supplementary question is very simple. In the third paragraph of part (a) of the main reply, the Secretary stated that the scope, size and variety of the theme resort centres and convention facilities in Las Vegas are phenomenal and they are large by any measure. Then he added: "Many of them would not have been financially or economically viable without the logistics support and revenue subsidy from gambling". I have great interest to know what Hong Kong can draw lessons from in terms of logistics support and whether Hong Kong itself is capable of providing similar support.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I was referring to transport design, road arrangements, the frequency of flights to Las Vegas and so on. There are a lot of things from which we can draw lessons. Of course, Hong Kong is a cosmopolitan city. Our transportation networks are comprehensive and modernized too. However, nothing can be said to be perfect. Even if our convention venues are remarkably well, we can still, in many aspects, make reference to the practice of other places. I know that the Hong Kong Trade Development Council has done a great deal of research in this area.

**DR RAYMOND HO** (in Cantonese): *Madam President, Las Vegas was originally a desert town. It has taken Las Vegas only 20 years to achieve such a rapid development. We are now considering developing West Kowloon into a tourism, culture and recreation, and arts centre. Should we succeed in bidding for the 2006 Asian Games, can we continue to make reference to the development edge enjoyed by others in developing West Kowloon in future to prevent it from suffering losses after the Asian Games and instead become a generally recognized world-class tourist area?*

**PRESIDENT** (in Cantonese): Dr HO, your supplementary question seems to have slightly touched on the visit to Las Vegas and yet you turned to West Kowloon afterwards. Do you think the two issues are closely related?

**DR RAYMOND HO** (in Cantonese): *Yes, Madam President. In part (b) of the main reply, the Financial Secretary said: "As Members are well aware, for example, we are planning for a new, state-of-the-art performance venue on the West Kowloon reclamation" and indicated the Government's intention to making planning for an area for developing tourism. Even though our smart Financial Secretary has only stayed in Las Vegas for one day, he must have collected many reference materials which can help him examine whether or not development should be carried out in West Kowloon. Those materials will not only help develop the West Kowloon tourist area, but also help follow up our bid for the Asian Games to prevent us from suffering losses from this item, in addition to developing West Kowloon into a world-class tourist area.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, this supplementary answer is quite tricky for it has suddenly shifted from Las Vegas to West Kowloon and then from West Kowloon to the Asian Games.

My colleagues have made a lot of efforts in the West Kowloon reclamation project and in taking measures to build a performance venue there. It has been repeatedly mentioned here that we will do all we can in the hope that West Kowloon can carry out a large-scale, modernized and comprehensive development which Hong Kong will be proud of instead of simply building a performance venue.

**MR HOWARD YOUNG:** *Madam President, the Financial Secretary in his reply said, "Within the limits of our current policy, Hong Kong continues to .....". I would like to ask whether the so-called "limits of our current policy" firmly includes no casinos of any sort whatsoever, and if the Commissioner for Tourism and the Services Promotion Strategy Group reckons that there might be a need to review some of the limits of our current policy, will that not be ruled out ?*

**FINANCIAL SECRETARY:** Madam President, I think I meant what I said in my reply.

**MR MA FUNG-KWOK** (in Cantonese): *Madam President, will the Financial Secretary inform this Council of the inspiration he has got from the performance staged in Las Vegas with respect to the need to construct the West Kowloon performance venue in Hong Kong subsequent to his visit to Las Vegas? Will the proposed performance venue make reference to the facilities provided in Las Vegas or will we make another arrangement or will the Government take measures to introduce some world-class performance programmes into Hong Kong?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I must reiterate that I have been to Las Vegas for one day only. Moreover, what I did was not just visiting performance venues. I attended to many other business too. I have explained earlier that I was required to attend to 12 items on that day alone.

It was not simply visiting venues. Of course, I am not an expert on constructing performance venues. But I feel that the performances provided there are not necessarily suitable for Hong Kong. Perhaps this is because the performances are somewhat related to the gambling business. Performances held in Hong Kong may be a bit healthier. Nevertheless, these matters are not going to be decided by me alone. There will be experts from the Government to study related items. I want to add that I have gathered from a number of Honourable Members plenty of views such as the activities we should organize and so on. These views will surely be integrated into the final findings.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, I want to ask a question that falls within the brief of the Secretary. I believe what has impressed him most during his one-day visit to Las Vegas is what he has repeated twice in this Council — given the size of these resort centres and convention facilities, they will be difficult to maintain without the revenue subsidy from gambling. Then he went on to say, "But as I have said, without the revenue support of gambling, many of the venues and performances in Las Vegas would not have been feasible". Of course, Members should be aware that what concerns the Financial Secretary most is how to broaden the sources of revenue. After visiting Las Vegas, will the Financial Secretary finally need to examine whether we can develop the gambling industry in Hong Kong to boost revenue for supporting existing performance venues? Is this being examined by the Financial Secretary at the moment?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, we do have gambling in Hong Kong. We have the Hong Kong Jockey Club and the Mark Six Lottery. However, if we expand our existing gambling activities to a la the casinos of Las Vegas, the issue will become really solemn and serious. It involves not only economic and financial issues, but also the very sensitive political issue as well as the impact on Macau's lifeblood. I believe this is not going to be so simple. When I was visiting Las Vegas, I had no ambition and specific plan to set up in Hong Kong such large-scale casino facilities as those found in Las Vegas.

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, I want to follow up this question. In studying whether Hong Kong needs to have an additional performance venue, the Government must have made careful consideration before deciding to build an international performance centre in the West Kowloon reclamation area. However, the performance format of that venue is going to be different from that of venues in Las Vegas. They are actually running in two different directions. While Las Vegas provides resident and diversified performances on a long-term basis, the West Kowloon performance centre is going to provide venues for holding one to two performances only. Will the Financial Secretary inform this Council whether the Government will continue to explore development in these two directions or it will basically not consider the Las Vegas mode any longer?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, after listening to the question raised by Mr Ambrose CHEUNG, I realized that he knows Las Vegas far better than I do. I hope I am not betraying my incompetence before an expert like him. I have pointed out that the proposed performance venue to be built in Hong Kong is different from those in Las Vegas in terms of scale and objective. I spent one day in Las Vegas mainly because the Services Promotion Strategy Group, an internal body of the Government, has condensed over 160 proposals into 10 recommendations after doing a lot of thinking. One of the recommendations is Hong Kong needs to examine, *inter alia*, gambling business and venues operating in Las Vegas. I cannot take the visit I made on that day lightly or forget about it after finishing the trip. I will examine such information as the papers and data brought back by me with the Strategy Group and will hand some of the information to the Commissioner for Tourism for further study.

**PRESIDENT** (in Cantonese): We have spent more than 16 minutes on this question. We have to move on to the next oral question although some Members are still waiting for their turn to raise their supplementary questions.



**Soil Settlement in Tseung Kwan O**

5. **MR FRED LI** (in Cantonese): *Madam President, the Government is examining whether or not the unusual site settlement occurring on the reclaimed land in Tseung Kwan O is related to the construction works of the Strategic Sewage Disposal Scheme (SSDS) Stage I currently in progress. In this connection, will the Government inform this Council:*

- (a) *of the time when the authorities became aware of the unusual settlement occurring on the reclaimed land in Tseung Kwan O, the contingency measures they have subsequently taken to prevent the settlement from deteriorating, and whether they have given an account of this incident to the public;*
- (b) *of the buildings and structures in Tseung Kwan O which have been affected by the unusual settlement; whether the authorities will conduct detailed inspections of these buildings to confirm that they are structurally safe; and whether they will take up the responsibility for solving the repair and maintenance problems caused to these buildings that have been affected by the unusual site settlement; and*
- (c) *whether it has evaluated the other possible impacts of the SSDS construction works on the relevant districts throughout the territory; if it has, of the results of the evaluation; if it has not, of the reasons for that?*

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

- (a) concerning the time when the Government became aware of the unusual settlement issue in Tseung Kwan O reclaimed lands, firstly, the Government knew about unusual settlement occurred at different areas of Tseung Kwan O at different times.

We were first verbally told by the consultant in January 1999 that the rate of ground settlement at the site for the proposed road D4 which is situated at the south of Beverly Garden and Tong Ming Court in Tseung Kwan O Town Centre had not slowed down as anticipated. We immediately instructed the consultants to pay close

attention to the ground settlement rate and to submit the ground settlement monitoring record. As revealed from the ground settlement monitoring record submitted by the consultants in April 1999, there were unusual ground settlement.

Regarding the unusual ground settlement and lowering of ground water level recorded by the Mass Transit Railway Corporation (MTRC) at Area 86 of Tseung Kwan O, we knew about them in April 1999. Although, there are no buildings in this area, however we have been monitoring the situation of ground settlement in the area.

As regards the unusual settlement at Tseung Kwan O Industrial Estates firstly recorded in July 1999, the Government learnt about this from the Hong Kong Industrial Estates Corporation's letter in August 1999. According to our preliminary investigation, there are no buildings in the area endangered at present.

The Territory Development Department (TDD), in mid-1999, commissioned its consultant to conduct a desk-top study aiming to find out the cause(s) of the settlement, recommend further investigation work and estimate when the settlement would cease. The TDD also asked the consultant to provide the ground settlement monitoring records in other areas, particularly those at the north of the proposed road D4. The TDD received the first monitoring record for these areas in August 1999, which showed that slight settlement had also occurred at the monitoring stations near Tong Ming Court and Beverly Garden. The consultant, in its report submitted in September 1999, estimated that the settlement would slow down and stabilize progressively between November 1999 and March 2000. The TDD, having received these preliminary findings, immediately notified other government departments of the situation and has discussed with them about these issues in detail. The TDD has also arranged for further ground investigation works including drilling of boreholes to reach deep ground strata so as establish the relationship between groundwater drawdown and the unusual ground settlement.

After a high-level officials' meeting at the end of October, we decided that the TDD should write and provide to the developers whose buildings are being constructed, as well as the Housing Department (HD) with the records for monitoring the ground settlement and the groundwater level.

The TDD had also convened a meeting with various utility companies, and briefed them on the situation and requested them to step up their inspection frequency for their own facilities.

At the same time, officials from the TDD and the HD had four public meetings (3, 4, 12 and 19 of November) with the residents of Tong Ming Court, Beverly Garden, and so on. Officials of the Buildings Department (BD) also attended the first three meetings (3, 4, and 12 of November).

- (b) Concerning the issues relating to which of the buildings and structures in Tseung Kwan O have been affected by the unusual settlement. Firstly, the BD has, in accordance with the Buildings Ordinance, conducted preliminary assessment and site inspection to those private buildings and structures (including those under Private Sector Participation Scheme) and found that they are structurally safe. As to buildings under construction, preliminary assessment of their foundations has not revealed that there is unsafe situation. If necessary, the BD will co-ordinate with the flat owners and the developers regarding their building repairs and maintenance issues and provide appropriate assistance should the situation require. The Architectural Services Department has also made thorough inspections to the government buildings (mainly the schools) and do not find any signs of ground settlement occurred to these buildings except for some ground slabs. The HD will also conduct detailed investigation, maintenance and repairs for the properties of the Housing Authority (including public rental housing and Home Ownership Scheme flats).
- (c) Before commencing the construction of the sewage tunnel works under Stage I of the SSDS, a detailed assessment of the impact due to potential risk of ground settlement arising from the tunnel works on the affected districts has been made. Hence when the tunnel

works are underneath the developed areas or districts with important structures, the contractor is required to strictly limit the water inflow in the tunnel so as to reduce the possibility of ground settlement resulting from groundwater drawdown. This is to ensure that the buildings, roads and public utilities at the districts concerned will not be affected. According to our assessment, when the tunnel works are proceeding underneath these districts, the settlement normally will not exceed 20 mm. Such an extent of settlement will not make any adverse impact on the buildings, roads and public utilities. For tunnel works underneath undeveloped areas or the seabed of the Victoria Harbour, the works will not endanger any structures or utilities in areas with a distance from the tunnels, therefore the contractor is only required to limit the water inflow to a level that will not affect the progress and safety of the construction. Thank you, Madam President.

**MR FRED LI** (in Cantonese): *Madam President, in part (b) of the main reply the Government said if necessary it would provide assistance to owners. Owners used their life savings to buy the flats but now they found their flats had cracks and unusual settlement had proven to have happened. The cause of the problem is yet to be determined as regards whether it is a result of the sewage disposal project. How would the Government assist the owners? It seems there is no arrangement yet despite the proven existence of the ground settlement, which has affected the owners. I hope the Government can give a definite answer as to how it can assist the owners. In what ways can the Government assist them?*

**SECRETARY FOR WORKS** (in Cantonese): As most of the buildings in Tseung Kwan O are built on reclaimed land, the loadings of these buildings are supported by piles. The settlement that has occurred now is ground settlement, which bears no relationship to the safety of the buildings. So, the cracks found in the premises, as we are given to understand, are in our estimate not related directly to the settlement. But if the roads next to the estates show cracks on them, we may see what co-ordination work we can do to remedy them.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, residents in Tong Ming Court and Beverly Court are most seriously affected. They are very worried. In part (b) of his main reply, the Secretary said "If necessary, the Administration will co-ordinate .....". What is meant by "If necessary"? It is "necessary" now. Then the Secretary also referred to "the Administration". Which department or Policy Bureau does it refer to? It is a pity the Secretary for Housing is not present, and that gives people the feeling the Government is shirking its responsibility. I hope the Secretary can clearly say which Policy Bureau as the term "the Administration" implies it is that is responsible for co-ordinating the repairs?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, as Mr LAU said, different departments in the Government indeed are responsible for different work. If damage is caused by works, it is of course the Works Bureau which has to co-ordinate. If private buildings are damaged, the BD will be responsible. As regards public housing, the Housing Bureau and the HD will be responsible.

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

**MR LAU KONG-WAH** (in Cantonese): *Madam President, throughout the entire event, the HD said it had nothing to do with it. But the Secretary made it clear today it is the responsibility of the HD if co-ordination for repairs is required. Does it mean the Secretary for Housing should be held responsible?*

**PRESIDENT** (in Cantonese): It appears not to be part of your supplementary question. *(Laughter)* You asked the Secretary which department to which "the Administration" referred but your follow-up question added some other information.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, this was part of my supplementary question. I wanted to ask which Policy Bureau "the Administration" referred to. The Secretary said it should be the Secretary for Housing but I wanted to make sure if that was the case.*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, I did not just mentioned the Housing Bureau. In fact I made it very clear that all Policy Bureaux had clearly defined areas of work. I mentioned the areas of work for the Works Bureau, the Housing Bureau and the BD. Every policy bureau must take up responsibility for the work within its scope of responsibility.

**MR LEE WING-TAT** (in Cantonese): *Madam President, in the second paragraph of part (a) of the main reply the Secretary admitted having noted the unusual settlement in January. The settlement was confirmed by April 1999. But not until the matter was revealed by the newspapers in October 1999 did the Government speak about it publicly when invited to meetings convened by this Council. Will the Secretary inform this Council whether the Government wanted to cover up the matter? Why did the Government wait so long before a public explanation was made on the incident?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, perhaps I should try to explain it in more detail. At first we needed to add surcharge on the ground at the site for road D4. The major effect was to quicken soil consolidation then. So ground settlement is a normal phenomenon. We needed to make a monitoring record to compare the real settlement with the expected rate to find out what the difference was. We must collect more data to find out whether the settlement was normal. In April when record was collected in respect of the settlement below the road D4 surcharge, we discovered that the settlement was unusual, so we gradually increased the number of monitoring stations. Therefore we never intended to cover up anything. When we detected an unusual settlement, we, as I said, immediately wrote to the developers to see what they could do.

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

**MR LEE WING-TAT** (in Cantonese): *The second paragraph of part (a) of the main reply said "As revealed from the ground settlement monitoring record submitted by the consultants in April 1999, there were unusual ground settlement." The Secretary did not say why the Works Bureau, the TDD waited till October when the incident was revealed by the press to publicly account for the incident for the first time. What did the Government do in the six months before that? Why did the Government not make public the incident in May, June, July, August or September?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, the second paragraph of part (a) of the main reply said the site for road D4 showed signs of unusual settlement, which was localized. When we became aware of that, we extended our coverage for monitoring. So, it was later than that that we were able to obtain more information.

**MR GARY CHENG** (in Cantonese): *I would like to follow up the supplementary question asked just now. We went to the scene yesterday. We noted the rate of settlement had been quick, from April to date. We also noted many facilities at Beverly Garden, such as pipes, drains and cables, had made large allowances for settlement. It looked as if the settlement was expected. I understand Beverly Garden was occupied since some years ago. Was it known beforehand that there was going to be a settlement?*

**SECRETARY FOR WORKS** (in Cantonese): Everything built on reclaimed land, be it a public facility or otherwise, has been so designed that settlement was allowed. As I said, it is normal to find settlement in reclaimed land. We regard settlement as unusual only when the settlement went above a certain limit or out of expectation, in which case we would try to find out the causes.

**MR GARY CHENG** (in Cantonese): *Structural engineers told us they had tried their best to leave large allowances for settlement. Will the Secretary provide data to this Council to show the allowance is normal or the case in question is extraordinary?*

**PRESIDENT** (in Cantonese): Mr CHENG, is this part of your earlier supplementary question?

**MR GARY CHENG** (in Cantonese): *The Secretary said settlement was expected and all reclaimed land was like that. I do not know whether the same allowance is made for all reclaimed land or greater allowance was made at Tseung Kwan O.*

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

**SECRETARY FOR WORKS** (in Cantonese): No, not anything particular. I just want to reiterate that settlement is a normal phenomenon in reclaimed land. All public facilities built on reclaimed land will have provided for such settlement.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in part (c) of the main reply the Secretary said "Before commencing the construction of the sewage tunnel works under Stage I of the SSDS a detailed assessment of the impact due to potential risk of ground settlement arising from the tunnel works on the affected districts has been made." I understand Stage I of the SSDS cost a lot of money and consultant fees were very high. If the estimates of the consultants had serious faults, would they be implicated of negligence? Can we claim compensation from them?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, I stated clearly in part (c) of the main reply the consultants mainly did assessment on two areas. First, "When the tunnel works are underneath the developed areas or districts with important structures", water inflow in the tunnel must be limited. But "For tunnel works underneath undeveloped areas or the seabed of the Victoria Harbour, the works will not endanger any structures or utilities in areas with a distance from the tunnels." At present, the sewage tunnels under Tseung Kwan O are far away from all buildings. The nearest building is nearly 1 km away. For example, the Tseung Kwan O Industrial Estate is more than 1 km away.



**PRESIDENT** (in Cantonese): We have spent more than 18 minutes on this question and eight Members are still waiting to ask supplementary questions. I trust other Members will follow up the matter via other channels. Next question, Mr Howard YOUNG. (*Mr Howard YOUNG was not in his seat*)

**MISS EMILY LAU** (in Cantonese): *Madam President, since Mr YOUNG has not returned, let us continue with the questions.*

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

Would the Clerk please look for Mr YOUNG. If Mr YOUNG fails to return after the Secretary has finished answering the last supplementary question, we would proceed to other items on the Agenda. (*Mr YOUNG returned to the Chamber*)

**MR HO SAI-CHU** (in Cantonese): *Thank you, Madam President. It is a good chance for me.*

*In part (b) of the main reply, the Secretary mentioned several times that the buildings are safe, despite what has taken place. I think the Secretary must clarify beyond doubt that as piling was used the buildings are safe as long as the piling work had been done well, because piling is not susceptible to effects of settlement. Will the Secretary inform this Council that this is a correct understanding?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, I stated clearly both in reading out my main reply and giving oral answers that all structures on reclaimed land, particularly those at Tseung Kwan O, are supported by piles. So, even if settlement occurs, the safety of the buildings is basically unaffected. In view of the settlement, we have conducted a preliminary assessment with colleagues from the BD. We found all the buildings are safe.

### **Planning Tourism Attractions on a District Basis**

6. **MR HOWARD YOUNG** (in Cantonese): *Madam President, the Government is considering the development of a number of tourist attractions, such as a Fisherman's Wharf in Aberdeen and a state-of-the-art performance venue on the West Kowloon Reclamation (WKR). In this connection, will the Government inform this Council whether it plans to develop tourism projects on a district basis so that tourist facilities that complement one another can be built in close proximity; if so, of the details of such plans; if not, of the reasons for that?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, the Administration fully recognizes the desirability of developing tourism projects on a district basis to reap the benefits of a critical mass created by the clustering of tourist attractions in proximity to one another. In formulating the project plans, the Government has consulted all relevant key bodies concerned, including the Hong Kong Tourist Association (HKTA), the Town Planning Board, the Antiquities Advisory Board, professional institutes, the Heung Yee Kuk and all relevant local bodies. We are adopting a three-pronged approach to planning tourism projects in districts. Firstly, we will enhance existing features. Secondly, we will develop existing historical landmarks into tourist attractions. Thirdly, we will build new facilities. Together with private sector initiatives, they will create clusters of attractions which will enable tourists to make the most out of their visit to the districts concerned.

Speaking of Aberdeen, the choice of the Fish Marketing Organization site to develop a Fisherman's Wharf is to take advantage of the established attraction of Aberdeen, the home to generations of Hong Kong fishermen. Tourists will not only see the floating population in the typhoon shelter, but also the bustling fish wholesale activities. Moreover, the Government will also conduct a careful review of the potential of creating a tourism cluster in Aberdeen on the basis of the existing neighbouring attractions, such as the floating restaurant, the Ocean Park, Sham Wan Marina Club, and Lamma Island. The proposed Fisherman's Wharf project could also lead to a complete re-planning of the waterfront along Aberdeen Praya Road, thus making the most out of what is currently only a conventional sitting out area.

Similarly, the Performance Venue in WKR will not be planned in isolation. Last week, we announced the complete re-planning of the waterfront area in WKR into an integrated arts, cultural, entertainment and commercial district. WKR commands a superb location in terms of its convenient transportation connections and, proximity to Tsim Sha Tsui where we are studying the potential of converting the historical former Marine Police Headquarters into a tourist attraction.

In other parts of the urban area, places like Temple Street, Hollywood Road, and Lan Kwai Fong in Central District and so on are already internationally renowned tourist attractions. Our planning work involves rejuvenating, enhancing and introducing new elements into these attractions to render them more appealing or more easily accessible to tourists. In the case of Central, for example, we will undertake upgrading and enhancing street landscaping, introducing pedestrianization schemes, special paving and lighting, street furniture, and improving tourist signages to enhance the enjoyment of tourists.

In the New Territories, we have many attractions like walled villages, study halls and ancestral halls which offer a glimpse into our rural past in beautiful settings. Some of these attractions are being developed as part of heritage walking trails, such as the Lung Yeuk Tau and Ping Shan Heritage Trails. We will take this one step further when planning our next generation new towns by not only preserving these rural landmarks and trails, but also designing convenient connections between these trails and the mass transportation railway system to make access to these places more convenient and tourist-friendly.

Madam President, apart from the examples I have just outlined, we are conducting a number of planning studies to explore tourism development potential in specific areas. For example, the ongoing Northshore Lantau Development Feasibility Study is looking into the opportunities of developing the entire Northeast Lantau into a tourist centre, taking advantage of the development of an International Theme Park at Penny's Bay. Another ongoing Study will draw up a planning strategy to rejuvenate Tai O as a tourist destination while preserving its character of the old fishing village and the once famous salt pans. The Study on Village Improvement and Upgrading of Lei Yue Mun Area

will similarly formulate a planning framework to optimize the development potential of Lei Yue Mun with special emphasis on its tourism potential. Under the auspices of the HKTA, we will soon launch a Planning Study on the Harbour and its Waterfront Areas. Under the study, a Tourism Plan recommending major tourism development components with implementation plans and programmes will be prepared. In addition, there are two ongoing planning studies for Lantau and for the Sai Kung peninsula. These studies will formulate an overall tourism/recreation framework for these two sub-regions and recommend opportunities for tourism/recreation projects at appropriate locations.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, it is reflected in the Secretary's main reply that the Government has fully recognized the desirability of developing tourism projects on a district basis. In this connection, I should like to ask the Secretary whether the Government would consider giving a systematic explanation regarding the ideas concerned. I notice that the Government has a habit of using a paragraph or two of the papers it issues to describe the environmental impact of the proposals concerned; as regards legal matters, there would always be a paragraph explaining whether the issues concerned are in breach of the Basic Law. Could the Secretary inform this Council whether the Government would, in promoting a single tourism project, provide a systematic description of the project concerned and explain how it would affect the tourism industry? Now that the post of the Commissioner for Tourism has been created and filled, naturally the interests of the tourism industry should be better protected; on the other hand, the Commissioner would also be able to effect direct or indirect influence on the industry. In this connection, could we request the Commissioner for Tourism to explain the impact that the projects concerned might have on the development of the tourism industry?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, from the environmental planning point of view, the Government has already been implementing the projects in a systematic manner. As at present, we would follow a same procedure in considering the development of any district. First of all, we will make a list of the places with the potential of developing into tourist attractions. Studies will then be

conducted to see if such places are worth retention. With regard to cultural relics which I have referred to just now, one major consideration of our overall planning is how the valuable cultural relics or antiquities of a place can be preserved, and how their characteristics can be highlighted or even developed into tourist attractions. These are the procedures we will definitely follow in drawing up any planning strategies. Apart from that, we maintain close liaison with the HKTA and the relevant local bodies I have referred to in my main reply, and will also review our planning strategies with them as well.

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, could the Secretary inform this Council whether the SAR Government has considered, in addition to developing tourism projects on a district basis, providing infrastructural facilities to link up the tourist attractions of the districts concerned. Take the Fisherman's Wharf project as an example, while the Fisherman's Wharf can be linked up with the floating restaurant and the Ocean Park by means of a monorail, cable cars can also be provided to link up the Peak with Aberdeen. As regards the waterfront, the Cyberport may be linked with the Wah Fu Estate or even Aberdeen. So, my point is whether the Government would consider providing infrastructural facilities to link up the various tourist attractions.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, actually the answer is a simple "yes". Perhaps let me explain it with two examples. As I have mentioned in my main reply, we are currently reviewing the potential of Aberdeen. In this connection, with a we are considering not only developing the proposed Fisherman's Wharf but also linking up the new development with the existing neighbouring attractions, such as the floating restaurant, the Ocean Park, and other interesting places along the Aberdeen waterfront. However, further study has to be conducted before any detailed planning of the entire development project could be formulated. Upon completion of the project, some of areas between the tourist attractions along the Aberdeen waterfront would be developed into promenades. As for other attractions where promenades cannot be provided, we will have to link them up by means of some special modes of waterborne transport.

The Victoria Harbour is the second example I should like to use. According to our present planning, several major tourist attractions will be

developed along the waterfront of the Victoria Harbour, and we hope to link all these attractions up with promenades. As regards the detailed planning, we would have to conduct further studies in the future. However, since some of the locations are separated from each other, we might need to construct new pedestrian links along the waterfront. The pedestrian link we now see in Tsim Sha Tsui would most probably be the device we would use to link up the tourist attractions in the future.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, apart from the matching infrastructure mentioned by the Secretary just now, I should like to know whether there are any matching facilities to improve the environment. Let me take the Aberdeen waterfront mentioned by the Secretary as an example. What will happen if the water quality there remains poor after the proposed Fisherman's Wharf has been completed and even be linked up with the floating restaurant, or rubbish would still be seen floating around even after pedestrian links have been provided along the Aberdeen waterfront or the Victoria Harbour? It is for these concerns that I need to ask whether the Government would take matching measures on the front of environmental protection.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, if we are to develop a scenic spot into a major tourist attraction, it is very important for the environmental conditions as well as other activities carrying on in the area concerned to be greatly improved. The work in this connection would be of a different nature, since the co-operation of many other parties would be involved before the conditions of a certain location could be improved. For instance, if we are to link up the various scenic spots in Aberdeen and develop them into a tourism cluster, we would require not only the efforts of the staff members working at the tourist spots but also the co-operation of the boat dwellers as well as that of other people to help keep the harbour clean and thereby attracting more tourists. Keeping the Victoria Harbour clean is another subject, and one of the major tasks of the Marine Department is to alleviate the rubbish and pollution problem in the Victoria Harbour.

**PRESIDENT** (in Cantonese): Question time shall end here.

**WRITTEN ANSWERS TO QUESTIONS****Betting on Results of Football Matches**

7. **MISS CHOY SO-YUK** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of cases involving unlawful gambling on the results of football matches cracked down by the police over the past three years and the total amount of bets involved in these cases; and*
- (b) *whether it will enact legislation to regulate the publication of information regarding the avenues for participating in and the odds of such gambling activities, and other related information?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President, my reply to the question is as follows:

- (a) Over the past three years, the police conducted 15 successful raids against illegal bookmaking on soccer. Forty-five persons were arrested. A total of \$30,120 cash and \$53,741,830 bets on credit were seized during the raids.
- (b) The Government has no intention to enact legislation to regulate the publication of information regarding the avenues for participating in or the odds of such gambling activities, and other related information. In reviewing the Gambling Ordinance, we are considering proposing legislative amendments to outlaw promoting or facilitating bookmaking, including bookmaking activities with extraterritorial elements (for example, a bookmaking operation overseas but taking bets from a person in Hong Kong). Under the proposal, anyone who promotes or facilitates the above-mentioned bookmaking activities by means of publishing and distributing betting-related information on these activities may, depending on the circumstances, contravene the law. We will also propose a defence provision for the accused to show evidence that he has no knowledge of such bookmaking activities being involved.

**IT Audit Services Provided by HKPC**

8. **MR ERIC LI** (in Chinese): *Madam President, regarding the "IT Audit" service provided by the Hong Kong Productivity Council (HKPC), will the Government inform this Council whether it knows:*

- (a) if the staff of HKPC who provide the IT Audit service are professional accountants holding a practising certificate, that is, certified public accountants; if they are not, of the measures the authorities will take to make known to the public that such service is in fact a general assessment service, and not the professional audit service provide by a certificated public accountant;*
- (b) how the HKPC can ensure and monitor the professional standards of the service, and how the HKPC handles complaints relating to the service; and*
- (c) if the HKPC has subsidized the service with public funds; if so, whether the Administration has assessed if such subsidization is unfair to private companies which provide similar services?*

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

- (a) In view of the fact that small and medium enterprises (SMEs) have been relatively slow in the commercial application of information technology (IT), the HKPC has introduced an "IT Audit" service since July 1999 to support SMEs in their assessment of the level of commercial application of IT. The IT Audit service is an integrated service including IT consultation service and a solution package. The scope of the IT Audit service covers the diagnosis of problems in IT application, commercial application of IT and performance assessment, comparison with standards in the industry, as well as making trade-specific proposals on IT strategy, and so on.

The IT Audit service does not involve professional audit services provided by accountants. In the pamphlets on the IT Audit service, the HKPC has also stated clearly that the focus of the service is on



IT application. We therefore believe that the public will not mistake the IT Audit service for audit service.

- (b) The IT Audit service is provided by professional IT staff of the HKPC in order to ensure the professional standards of the service. Moreover, since the formulation of performance pledges in 1995, the HKPC has conducted frequent surveys on its clients' satisfaction with a view to improving its professional service.

The HKPC has established a policy which clearly sets out the procedures of handling complaints to ensure that its clients' requests can be dealt with properly and speedily. Since the introduction of the IT Audit service, the HKPC has not received any complaints relating to the service.

- (c) The HKPC has generally set the charges for the IT Audit service at a level to recover the cost. Besides, the IT Audit service only extends to a few industries such as toys and watches at present. It provides mainly an assessment of the basic IT framework and application of software, and compares the standard with those in the same industry. The service differs from the comprehensive services provided by private companies in both content and service targets. Hence, it will not lead to direct competition with private companies.

### **Speed Limit of Roads**

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

- (a) *the respective numbers of complaints received in each of the past two years concerning insufficient speed limit signs or unduly strict speed limits; the 20 road sections about which the largest number of such complaints were lodged; the contents of the complaints; and the follow-up action taken in respect of such complaints;*

- (b) *the existing mechanism and channels through which the transport industry may make suggestions on matters concerning traffic management; the respective numbers of suggestions received through these means from the industry in each of the past two years concerning insufficient speed limit signs or unduly strict speed limits; the 20 road sections about which the largest number of suggestions were made; the major concerns in these suggestions; and how the suggestions were followed up;*
- (c) *the number of prosecutions concerning speeding made in each of the past two years, broken down by vehicle classes and by every 10 km in excess of the speed limit; the number of people prosecuted who contested the charge of speeding; and the number of successful defence cases; and*
- (d) *the comments made by the courts on the Administration's law enforcement efforts in respect of prosecuting drivers for speeding over the past two years; how the comments were followed up?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, the Administration received 46 complaints concerning speed limits on 27 road sections in the past two years. Among these 27 road sections, only five sections have attracted three or more complaints. The location of these five road sections are at Annex A. As a general practice, the Transport Department would, after receiving a suggestion/complaint, review the speed limits of the road sections concerned.

The complaints on the five road sections listed in Annex A were mainly requests for raising the speed limits from 50 km/h to 70 km/h. In this regard, the speed limits of the first three sections have been reviewed, and the speed limits of the first two sections were relaxed from 50 km/h to 70 km/h in March and May 1999 respectively. The speed limit of the third road section remains unchanged. For the remaining two road sections, their speed limits are under review.

The Transport Department has a well established network and mechanism to communicate with all the transport trades. The transport trades can always approach the Transport Department direct on any suggestions they may have. The Department also holds regular meetings and conferences with the transport trades where they can exchange views on any traffic matters, including speed limits of individual road sections. The Administration does not keep any separate record of suggestions from the transport trades on speed limit.

On prosecutions of speeding offences, there were 206 285 and 193 910 prosecutions made in 1997 and 1998 respectively. The Administration does not have detailed figures on prosecution cases broken down by vehicle class and by every 10 km/h in excess of speed limit. The Administration does not keep statistics on the number of people prosecuted who contested the charge of speeding specifically. For traffic cases as a whole, about a quarter of all contested cases in 1997 and 1998 were successfully defended.

The courts have not made any specific comments on the Administration's law enforcement efforts in respect of prosecuting drivers for speeding over the past two years.

Annex A

Road sections where three or more complaints on  
speed limits were received in 1997 and 1998

1. West Kowloon Corridor (South Bound) between Maple Street and Dundas Street
2. Lung Cheung Road (East Bound) between Chuk Yuen Road and Hammer Hill Road
3. Tsing Yi North and South Bridges
4. Sai Sha Road (between Hang Hong Street and Ma On Shan Road), Ma On Shan
5. Tai Mong Tsai Road, Sai Kung

**Proposal to Build a Funeral Parlour in Cheung Chau**

10. **MR LEE WING-TAT** (in Chinese): *Madam President, I have learnt from Cheung Chau residents that the Government is considering granting land on Cheung Chau for the construction of a funeral parlour. In this connection, will the Government inform this Council:*

- (a) *of the sites being considered; and*
- (b) *when a decision is expected to be made on the siting of the funeral parlour, and whether it will consult the relevant residents' associations before making a decision; if it will, how the consultation will be carried out?*

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

- (a) In October 1990, the Cheung Chau Area Committee requested the Government to allocate a piece of land in Cheung Chau for the development of a funeral parlour to replace the existing one which is a temporary structure at the Tai San Praya Road. In 1992, the Planning Department completed a site search exercise and seven possible sites were identified: Four in the reclaimed area at Tai Shek Hau, one in the hillside area to the southwest of Tai Shek Hau, one in the vicinity of the existing crematorium and one in the newly reclaimed area between Tai Shek Hau and Sai Wan. A site plan showing these potential sites is attached.
- (b) Since 1992, we have consulted local Cheung Chau residents over the various possible sites for the funeral parlour many times, both formally through the then Island District Board and its Area Committee and informally through the Rural Committee and other relevant local groups and organizations. The subject will be discussed again at the coming meeting of the Cheung Chau Area Committee scheduled for 30 November 1999. Subject to views of the Area Committee, we intend to seek the views of the Cheung Chau Rural Committee and the Islands District Council before making a decision.

Map (one page)

**Combating Head-bashing Robberies**

11. **DR DAVID LI:** *Madam President, will the Government inform this Council:*

- (a) of the number of cases of head-bashing robbery reported to the police in each of the past three years;*
- (b) whether it has reviewed if the existing number of police officers deployed on patrol duties is sufficient to deter the occurrence of head-bashing robberies throughout the territory; and*
- (c) whether it will consider legislative amendments to increase the penalty for such type of crimes?*

**SECRETARY FOR SECURITY:** Madam President,

- (a) Recently, there have been a number of cases where victims were hit at the head, or attacked from behind, with hard objects and were robbed. Such cases are generally known as "head-bashing" robbery. We are unable to provide specific statistics on "head-bashing" robbery for the past three years as such crimes are a relatively recent phenomenon. In the first 10 months of 1999, the number of reported "head-bashing" robbery cases was 135. This represented 4.6% of the overall 2 956 cases of reported robbery in the same period.
- (b) The Police Force constantly review the deployment of manpower in the light of the crime situation in each district. There is at present sufficient police manpower to perform front-line operational duties. In fact an additional 1 900 police officers have been deployed for front-line operational duties since 1993-94 and the police will continue to deploy additional officers to such duties according to operational needs.

The police take a serious view of "head-bashing" robbery, and have put in place a number of measures to tackle such crimes. These measures include more frequent patrolling by police officers at

black spots and requiring front-line officers to pay more attention to suspicious persons. The police have also sought to raise public awareness of "head-bashing" robbery through stepped-up publicity, including posters and television programs such as "Police Magazine".

- (c) Section 10 of the Theft Ordinance (Cap. 210) provides that a person who commits robbery is liable to a maximum penalty of life imprisonment. If the victim is killed in the course of the robbery, the defendant will be additionally charged with murder, which carries a mandatory life sentence upon conviction. As a rule, counsel in the Department of Justice prosecuting robbery cases invariably brings to the attention of the Court the extent of injury, if any, sustained by victims in such cases. Prosecution counsel will also draw to the attention of the Court statistics on the prevalence of the offence, whenever appropriate. If the Department of Justice considers that an unduly lenient sentence is imposed, it will apply to the Court for review of sentence. It is, therefore, considered that existing legislative sanctions dealing with "head-bashing" robberies are adequate.

As of 31 October, four out of 25 persons arrested for "head-bashing" robberies in the first 10 months in 1999 were tried and convicted. The imprisonment term handed down ranged from six months to five years, with an average of three years. Thirteen are awaiting trials. Legal advice on whether prosecution should be lodged against three suspects is pending. Five were released after further inquiries.

### **Re-export of Buses**

12. **DR LUI MING-WAH** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the approximate number of new buses re-exported annually to the Mainland via Hong Kong;*

- (b) *whether the franchised bus companies in Hong Kong have set limits for the service life of their buses; if so, of the limits set; and how these companies dispose of the old buses withdrawn from service; and*
- (c) *whether it knows the total number of withdrawn buses of franchised bus companies exported to the Mainland each year?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, we do not have the statistical information on the number of new buses re-exported to the Mainland via Hong Kong.

According to trade statistics for the past three years, the number of (new or used) diesel-powered motor vehicles for the transport of 10 or more persons (which may include *inter alia* double deck buses and light buses) re-exported to the Mainland via Hong Kong are as follows:

1997	513
1998	351
1999 (up to October)	95

The Transport Department requires all franchised bus companies to withdraw buses from service when they reach 18 years of age. Within this limit, the franchised bus companies may decide when to withdraw their buses from service having regard to the need for passenger comfort, the vehicle condition, and the cost of maintenance and operation. Normally, buses are withdrawn from service between the age of 14 to 17 years. The buses withdrawn from service would be sold or scrapped. According to the franchised bus companies, no buses have been sold directly to the Mainland in recent years.

### **Reduction of Pager Licence Fees**

13. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, according to the 1998-99 Office of the Telecommunications Authority (OFTA) Trading Fund Report, the profit after taxation of the OFTA Trading Fund in 1998-99 showed a 35% increase as compared to that in the preceding year. At the same time, the rate of return on fixed assets was 76.2%, far exceeding the target rate of return*



*of 14.5% as determined by the Financial Secretary. In this connection, will the Government inform this Council whether, given that the Trading Fund is making good profits, the OFTA will further reduce the public radiocommunication licence fee per mobile (pager) station, so as to cut down the operating costs of paging operators; if so, of the details; if not, of the reasons for that?*

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

Madam President, the increase in the rate of return of the OFTA Trading Fund in 1998-99 was attributable mainly to a rapid increase in the number of mobile telephone customers, as the public radiocommunication service licence fee, which is calculated based on the number of customers served, is a core income element for the OFTA. The rapid growth in mobile phone users is mainly due to our liberalization measures and the introduction of mobile number portability as from March 1999. Reduction of prices to consumers as a result of competition further stimulated demand for mobile telephone services.

In the setting up of the OFTA Trading Fund, we have established a Development Reserve within the Trading Fund so that any surplus in excess of the target rate of return would be transferred to the Development Reserve for use in the development of the OFTA and the telecommunications industry in Hong Kong. One of the functions of the Development Reserve is to buffer against the need for increase in telecommunications licence fees.

The OFTA also conducts regular reviews for its costs in the regulation of the various telecommunications services with a view to adjusting licence fees to reflect the actual cost of regulation for the different services. A review in 1997-98 led to a 27% reduction in the Public Radiocommunication Services (PRS) licence fees from \$75 to \$55 a year with effect from 1 May 1999, or a total reduction estimated at \$80 million for the first year of reduction. The OFTA will conduct another review to explore the scope for further adjustment of the PRS licence fees for mobile stations (including mobile phone sets and pagers) next year. The review is expected to be completed early next year. We will keep this Council informed of the outcome of the review.

### **Provisions Invoked to Prosecute Building Contractors of Housing Authority for Jerry-building Practices**

14. **DR RAYMOND HO** (in Chinese): *Madam President, will the Government inform this Council of the provisions in law that can be invoked to prosecute contractors or professionals in charge of the construction works of the Hong Kong Housing Authority (HA) who allow substantial deviation of the construction works from the approved plans or submit misrepresenting reports; how such provisions compare to similar provisions in the Buildings Ordinance (Cap. 123); if no legislation can be invoked as the basis for prosecution, whether it will enact legislation for such purpose or strengthen the monitoring of such works?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, there is no legislation which provides similar provisions as in the Buildings Ordinance for prosecuting contractors or professionals in charge of HA building works for substantial deviation of works from approved plans, or for submission of misrepresenting reports.

The HA is conducting a comprehensive review, together with contractors, professional institutes, government bureaux and departments, to enhance the safety and quality of public housing through partnership. The review will also consider whether there is a need to enact legislation to subject HA contractors and authorized persons to prosecution where necessary. In the meantime, the HA is taking measures to strengthen monitoring procedures for construction works undertaken by contractors.

### **Appointment of Managing Director for the MPFS Authority**

15. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, with regard to the appointment of the Managing Director of the Mandatory Provident Fund Schemes Authority (the Authority), will the Government inform this Council whether:*

- (a) *it knows the requirements for the post of Managing Director set by the Management Board of the Authority;*

- (b) *it knows the number of Management Board meetings for the selection of the Managing Director originally scheduled but subsequently postponed, as well as the duration and reasons for each deferment;*
- (c) *it has given any instructions or reminders to the Authority on the dates for holding such meetings; and whether it has issued any instructions to the Authority in relation to the deadline for the appointment of its Managing Director; and*
- (d) *it has assessed if the delay in the appointment of the Authority's Managing Director has any adverse impacts on the vetting and approving of applications for becoming a trustee of Mandatory Provident Fund (MPF) schemes and MPF products; if the assessment has identified adverse impacts, of the remedial measures to take; if no adverse impacts have been found, of the rationale for this?*

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

- (a) The requirement for the post of Managing Director set by the Management Board of the Authority are as follows:
- A degree from a university in the Hong Kong Special Administrative Region, or equivalent. Extensive experience in administration and management at a very senior level in finance, banking, accounting or public administration
  - Strategic vision, initiative and strong leadership quality
  - Strong political acumen, and sense of public accountability
  - Strong analytical, organizational, negotiation and interpersonal skills
  - Intimate knowledge and understanding of trusteeship, provident fund administration, investment dealing management and custodianship an advantage.

- Excellent command of English and Chinese; proficiency in Putonghua an advantage

The above requirements are also stipulated in the recruitment advertisement for the post.

- (b) Since the establishment of the Authority, its Management Board has held a total of nine meetings. Meetings are held about once a month, depending on whether there are matters to be raised for discussion by the Management Board. There has not been any Management Board meeting which is specifically convened for the purpose of selecting the Managing Director.
- (c) The dates for convening Management Board meetings are decided by the Authority. The Government has not issued any instructions to the Authority in relation to the dates for convening such meetings or the deadline for the appointment of its Managing Director.
- (d) The Government closely monitors the progress of the implementation of the MPF system. The Authority has made good progress since the enactment of the Mandatory Provident Fund Schemes Ordinance. The examination for MPF intermediaries has commenced in August this year. More than 20 000 candidates have passed the examination and, among this, about 12 000 have submitted their applications for the MPF Intermediaries Card. Moreover, the Authority has approved 21 MPF corporate trustees by the end of October. The Authority will issue the first batch of Intermediaries Cards and give approval to MPF products in early 2000 as scheduled.

### **Remedial Measures for Primary and Secondary Schools without Physical Education Facilities**

16. **MISS EMILY LAU** (in Chinese): *Madam President, according to a survey conducted by the Education Department in February this year, 194 primary and secondary schools did not have basketball courts and covered playgrounds in the school premises. In this connection, will the executive authorities inform this Council:*

- (a) *among these 194 schools, of the names of those schools which have adopted the following remedial measures:*
- (i) *hiring of accommodation such as sports ground, indoor game halls and swimming pools from outside organizations (for example, the Provisional Urban Council);*
  - (ii) *modifying the physical education (PE) curriculum by adapting PE activities to suit the facilities available to the schools; and*
  - (iii) *using or sharing PE facilities with other schools or sections of the same school sponsor; and*
- (b) *of the plans in place to upgrade the relevant school premises or build new premises so as to provide such schools with PE facilities?*

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

- (a) School PE facilities include various kinds of purpose-built accommodation such as basketball courts, sports grounds and covered playgrounds. As regards the 194 primary and secondary school premises referred to in the February 1999 survey, not all of them have neither a basketball court nor a covered playground. Out of the 194 schools, 100 have basketball courts and another 72 have covered playgrounds. Eighty-two of these 172 schools have other facilities (such as open playground, multi-purpose hall) which can be used for PE lessons. Only 22 schools have neither a basketball court nor a covered playground; of these, two have open playgrounds for PE use.

According to the Education Department's record, all 194 schools have adopted either one or more of the following remedial measures:

<i>Measures</i>	<i>No.</i>	<i>Percentage</i>
Hiring or borrowing accommodation such as sports grounds, indoor games halls and swimming pools from outside organizations (for example, the Provisional Urban Council and Housing Department)	113	58%
Modifying the PE curriculum by adapting PE activities to suit the facilities available to the schools	92	47%
Using or sharing PE facilities in other schools operated by the same sponsor	12	6%

For details, please refer to the Annex.

- (b) Some old school premises are not equipped with PE facilities because they were not constructed in accordance with the standard design. The Education Department has been carrying out conversion and improvement works for these schools through the School Improvement Programme. Where the space of individual schools permit, the scope of improvement works will include additional facilities such as student activity centre and multi-purpose area to cater for students' PE and sports activities. For schools which cannot be upgraded through the School Improvement Programme because of site constraints or because their premises are too dilapidated, the Education Department will consider, where feasible, re-provisioning or redeveloping them.

## Information on feasible remedial measures adopted by schools

*Remedial Measures*

- (a) Hiring or borrowing of accommodation such as sports grounds, indoor games halls and swimming pools from outside organizations (for example, the Provisional Urban Council and Housing Department).
- (b) Modifying the PE curriculum by adapting PE activities to suit the facilities available to the schools.
- (c) Using or sharing PE facilities with other schools or sections of the same sponsor.

*Primary Schools*

	<i>Name of School</i>	<i>PE Facilities</i>			<i>Remedial Measures</i>		
		<i>(√ with)</i>			<i>(√ adopted)</i>		
		<i>BC</i>	<i>CP</i>	<i>Oths</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>
1.	Confucius Hall Primary School		√				√
2.	PLK Pershing Tsang Primary School		√				√
3.	Precious Blood Primary School		√			√	
4.	Pun U Assn. Wah Yan Primary School	√					√
5.	Island Road Government Primary School		√	√		√	
6.	Apleichau St. Peter's Catholic Primary School	√		√	√		
7.	SKH Stanley Village Primary School		√	√	√		
8.	St. Teresa's School			√			√
9.	CK Law Memorial Primary School			√			√
10.	St. Peter's Catholic Primary School	√		√	√		
11.	Kei Hang Primary School	√		√	√		
12.	Wong Chuk Hang Catholic Primary School	√		√	√		
13.	WWC WESTD HK Tang Shiu Kin Primary School	√		√	√		
14.	King's College Old Boy's Assn. Primary School		√			√	
15.	SKH Lui Ming Choi Memorial Primary School		√			√	

	<i>Name of School</i>	<i>PE Facilities</i>			<i>Remedial Measures</i>		
		<i>(√ with)</i>			<i>(√ adopted)</i>		
		<i>BC</i>	<i>CP</i>	<i>Oths</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>
16.	SKH St. Matthew's Primary School				√		
17.	SKH St. Peter's Primary School	√				√	
18.	St. Paul's College Primary School		√			√	
19.	St Paul's Co-education (Kennedy Road) Primary School		√			√	
20.	St Charles School				√		
21.	St Anthony's School	√			√		
22.	Java Road Government Primary School		√			√	
23.	Fresh Fish Traders' School	√				√	
24.	SKH All Saints' Primary School	√				√	
25.	Methodist School					√	
26.	TWGHs Kwan Kai Ming Primary School				√		
27.	Yaumati Kaifong Association School					√	
28.	KWWC Li Ping Memorial School		√			√	
29.	Tak Sun School	√				√	
30.	Bishop Ford Memorial School		√			√	
31.	Kei Tsz Primary School	√			√		
32.	PLK Mrs Chan Nam Chong Primary School				√		√
33.	SKH Kei Oi Primary School	√		√	√		
34.	Sin To School	√		√	√		
35.	SSP KF Welfare Advancement Assn. Primary School				√		
36.	Five Districts Business Welfare Assn. School	√		√		√	
37.	Po On Commercial Association School	√			√		
38.	Alliance Primary School, Tai Hang Tung	√			√		
39.	SKH St. Thomas' Primary School					√	
40.	Pak Tin Catholic Primary School	√		√	√		
41.	HK Sze Yap C&I Association School	√			√		
42.	Maryknoll Fathers' Schools (Primary)	√		√			√
43.	SKH St Clement's Primary School	√		√	√		
44.	Hung Hom Kaifong Assn. Primary School					√	
45.	Hung Hom Lutheran Primary School				√	√	
46.	Kei Ho School	√			√		
47.	Chan Sui Ki Primary School	√			√	√	
48.	Emmanuel Primary School, Kowloon	√			√		



	<i>Name of School</i>	<i>PE Facilities</i>			<i>Remedial Measures</i>		
		<i>(√ with)</i>			<i>(√ adopted)</i>		
		<i>BC</i>	<i>CP</i>	<i>Oths</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>
49.	Hoi Bun School		√			√	
50.	Buddhist Chi King Primary School	√			√		
51.	Bishop Paschang Memorial School	√			√		
52.	Kei Faat Primary School	√				√	
53.	SKH Kei Hin Primary School	√			√		
54.	FDBWA Szeto Ho School	√			√		
55.	Ngau Tau Kok Primary School	√			√		
56.	Carmel Leung Sing Tak School	√		√	√		
57.	CNEC Ta Tung School	√		√	√		
58.	Shek Lei Catholic Primary School	√		√	√		
59.	SKH Chu Oi Primary School	√		√	√		
60.	Cho Yiu Catholic Primary School	√		√	√		
61.	Father Cucchiara Memorial School	√		√	√		
62.	HKSYC & IA Chan Lai So Chun Mem. Primary School	√		√	√		
63.	Tsing Yi Trade Association Primary School	√		√	√		
64.	Tsuen Wan Trade Association Primary School	√		√	√		
65.	TWGHs Ko Ho Ning Memorial Primary School	√		√	√		
66.	HKCSCA Cheung Chi Cheong Memorial Primary School	√		√	√		
67.	ELCHK Kwai Shing Lutheran Primary School	√		√	√		
68.	SKH Chu Yan Primary School	√		√	√		
69.	SRBCEPSA Lee Yat Ngok Memorial Primary School	√		√	√		
70.	TWGHs Wong See Sum Primary School	√		√	√		
71.	Asbury Methodist Primary School	√		√	√		
72.	LST Lau Sai Yan Primary School	√		√	√		
73.	CNEC Lui Ming Choi Primary School	√		√	√		
74.	Man Kiu Association Primary School No. 2	√		√	√		
75.	Tsing Yi Public School (Cheung Hong)	√		√	√		
76.	YCH Chiu Tsang Hok Wan Primary School	√		√	√		
77.	Po Leung Kuk Chan Yat Primary School	√		√	√		

	<i>Name of School</i>	<i>PE Facilities</i>			<i>Remedial Measures</i>		
		<i>(√ with)</i>			<i>(√ adopted)</i>		
		<i>BC</i>	<i>CP</i>	<i>Oths</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>
78.	Fong Yuen School		√			√	
79.	Tsuen Wan Public School	√			√		
80.	SKH Chu Oi Primary School (Lei Muk Shue)	√			√		
81.	Tung Hing School	√			√		
82.	Kin Tak Public School	√		√	√		
83.	Lung Kai Public School	√		√	√		
84.	Tung Koon School (Sheung Shui)	√			√		
85.	Yuk Yin School	√			√		
86.	Kat O School	√		√	√		
87.	Kwan Ah School	√		√	√		
88.	Iu Shan School	√				√	
89.	Tai Hang Public School		√			√	
90.	Kai Chi School		√			√	
91.	King Lam School		√			√	
92.	Luk Heung San Tsuen Public School		√			√	
93.	Pun Chung Public Primary School		√			√	
94.	Ling Man School		√			√	
95.	Chi Ching School		√			√	
96.	Sha Kong Public Luen Yick School		√			√	
97.	Ha Tsuen Heung Pak Nai Public School		√			√	
98.	Catholic Primary School Yuen Long	√				√	
99.	Kwong Ming School	√			√		
100.	Luen Kwong Public School		√			√	
101.	Shung Ching School		√	√		√	
102.	Wa Fung School					√	
103.	Wai Kwan Primary School		√			√	
104.	Wang Chau Public School		√		√		
105.	Ying Yin Catholic Primary School		√			√	
106.	Yuen Long Chamber of Commerce Primary School No. 2	√				√	
107.	Chun Kwong School	√			√	√	
108.	Kam Tin Mung Yeung Public School					√	
109.	Pat Heung Tung Yik Public School		√			√	
110.	Shek Wu School		√	√		√	
111.	Tung Tak School		√			√	

<i>Name of School</i>	<i>PE Facilities</i>			<i>Remedial Measures</i>		
	<i>(√ with)</i>			<i>(√ adopted)</i>		
	<i>BC</i>	<i>CP</i>	<i>Oths</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>
112. Yuen Kong School		√			√	
113. Yuk Ying School		√	√		√	
114. Hoi Ming School				√		
115. Koon Ying School		√			√	
116. Ng Wo School		√			√	
117. Shung Tak Catholic Primary School				√		
118. Tun Yu School		√	√		√	
119. Yuen Long Small Traders New Village School		√			√	
120. Yau Tam Mei School		√	√		√	
121. Bui O Public School		√		√	√	
122. Cheung Chau Church Kam Kong Primary School		√			√	
123. Cheung Chau Public School		√			√	
124. Cheung Chau Sacred Heart School		√			√	
125. Cheung Chau Fisheries Joint Assn. Public School		√			√	
126. Cheung Sha School		√			√	
127. Holy Family School		√			√	
128. Kwok Man School		√		√	√	
129. Lo So Shing School		√			√	
130. Mui Wo School		√			√	
131. Northern Lamma School		√			√	
132. PC Chi Yan Public School		√			√	
133. PC NSW Shu Chun Public School		√			√	
134. Shun Tak Public School Cheung Chau		√			√	
135. Tai O School		√			√	
136. Tung Chung Public School		√			√	
137. Wing Chor School		√		√	√	
138. Tin Sum Valley Public School		√	√			√
139. FMB Chun Lai Primary School		√	√			√
140. Immaculate Heart of Mary School		√	√			√
141. Wo Che Lutheran School		√		√		√
142. Leung Shuen Bay School		√	√		√	
143. HKRSS Tuen Mun Primary School	√		√	√		

<i>Name of School</i>	<i>PE Facilities</i>			<i>Remedial Measures</i>		
	<i>(√ with)</i>			<i>(√ adopted)</i>		
	<i>BC</i>	<i>CP</i>	<i>Oths</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>
144. CCC Kei Leung Primary School	√		√	√		
145. LST Leung Wong Wai Fong Memorial School	√		√	√		
146. PLK Fong Wong Kam Chuen Primary School	√		√	√		
147. SRBCEPSA Ho Sau Ki School	√		√	√		
148. Taoist Ching Chung Primary School	√		√	√		
149. Buddhist Lau Tin Sang Primary School	√		√	√		
150. HKECA Wu Si Chong Memorial School	√		√	√		
151. PLK Vicwood K T Chong No. 2 Primary School	√		√	√		
152. Toi Shan Association Primary School	√		√	√		
153. Islamic Primary School	√		√	√		
154. Lui Cheung Kwong Lutheran Primary School	√		√	√		
155. SA Sam Shing Chuen Lau Ng Ying School	√		√	√		
156. STFA Ho Yat Tung Primary School	√		√	√		
157. STFA Wu Siu Kui Memorial Primary School	√		√	√		
158. TWGHs Tang Shiu Kin Primary School	√		√	√		
159. Yan Oi Tong Madam Lau Wong Fat Primary School	√		√	√		
160. Buddhist Wong Sewai Memorial School	√		√	√		
161. FDBWA Chow Chin Yau School	√		√	√		
162. PLK Leung Chow Shun Kam Primary School	√		√	√		
163. TSDCA Siu Leun School	√		√	√		
164. Yan Tak Catholic Primary School	√		√	√		
165. CCC Hoh Fuk Tong Primary School	√		√	√		
166. Kiu Saw Public School		√	√	√		
167. Lam Tei Gospel School		√	√	√		
168. Ling To Catholic Primary School	√			√	√	

BC: Basketball Court

CP: Covered Playground

Oths: Others include accommodation such as open playground, multi-purpose hall and so on.

*Secondary Schools*

	<i>Name of School</i>	<i>PE Facilities</i>			<i>Remedial Measures</i>		
		<i>(√ with)</i>			<i>(√ adopted)</i>		
		<i>BC</i>	<i>CP</i>	<i>Oths</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>
1.	Po Kok Girls' Middle School		√	√	√	√	
2.	St. Mary's Church College		√	√	√	√	
3.	Confucius Hall Middle School	√		√	√	√	
4.	Hong Kong Tang King Po College		√	√	√	√	
5.	FMO Aberdeen Secondary Technical School		√			√	
6.	Chinese YMCA Secondary School				√		
7.	Salesian English School	√		√	√	√	
8.	St Mark's School	√		√	√	√	
9.	St Margaret's Girls' College, Kowloon				√		
10.	Kln Sam Yuk Secondary School				√	√	
11.	Lai Chack Middle School					√	
12.	Methodist College		√			√	
13.	Newman College				√	√	
14.	United Christian College	√			√	√	
15.	Munsang College						√
16.	Notre Dame College		√		√		
17.	Holy Carpenter Prevocational School	√		√	√	√	
18.	Jockey Club Government Secondary School		√		√	√	
19.	Maryknoll Secondary School		√		√	√	
20.	Buddhist Tai Kwong Middle School	√			√	√	
21.	Wong Shiu Chi Secondary School	√			√	√	
22.	Valtorta College		√			√	
23.	Yuen Long Merchants Association Secondary School	√				√	
24.	Stewards Pooi Tun Secondary School	√		√		√	
25.	SKH St Benedict's School		√	√		√	
26.	SKH All Saints' Middle School	√			√		
Total no. of schools (primary and secondary)		100	72	84	113	92	12

BC: Basketball Court

CP: Covered Playground

Oths: Others include accommodation such as open playground, multi-purpose hall and so on.

**Emissions from Light, Medium and Heavy Diesel-powered Goods Vehicles**

17. **MISS CHRISTINE LOH:** *Madam President, regarding emissions from light, medium and heavy diesel-powered goods vehicles, will the Administration inform this Council:*

- (a) *of the respective numbers of operational goods vehicles, broken down by vehicle classes and the emission standards they comply with (pre-Euro, Euro I and Euro II);*
- (b)
  - (i) *of the respective estimated reduction in emission of respirable suspended particulates (RSP) and nitrogen dioxide (NO<sub>2</sub>) by goods vehicles, broken down by the emission standards they comply with; and*
  - (ii) *of the predicted changes, taking into account the future traffic growth, in emission levels of RSP and NO<sub>2</sub> in 2006 and 2016 respectively*  
  
*upon the implementation of the measures to reduce emissions from goods vehicles; and*
- (c) *whether it has any measures in place to encourage the replacement of goods vehicles which do not comply with Euro II standard with less polluting ones; if so, whether it has set down any replacement rate for each of the coming years and the target date for total replacement?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President,

- (a) There are about 109 388 goods vehicles licensed for operation in Hong Kong. Among these vehicles, 78 388 (72%) are pre-Euro models, 21 043 (19%) are Euro I models and 9 957 (9%) are Euro II models. A detailed breakdown by vehicle classes is at Annex A.

- (b) (i) As part of the strategy to reduce emissions from vehicles, the most stringent vehicle emission standards are being applied to newly registered vehicles once these standards are available. Euro I standards were introduced in April 1995 and the Euro II standards were introduced in phases from April 1997. Our intention is to introduce the Euro III standards at the same time that the European Union is expected to do so in 2001. Estimated reduction in the emissions of RSP and NO<sub>2</sub> from individual diesel goods vehicles complying with Euro I, Euro II or Euro III standards, as compared with their pre-Euro counterparts, is given at Annex B.
- (ii) Given current predictions of growth in goods vehicle traffic, the replacement of older vehicles with newer models, and the implementation of a number of committed measures including the introduction of Euro III standards and retrofitting of pre-Euro models with particulate traps or diesel catalysts, the RSP and NO<sub>2</sub> emissions from goods vehicles will reduce by 22% and 6% respectively in 2006, as compared with their respective emissions levels in 1997.

According to the Third Comprehensive Transport Study, depending on the rate of vehicle growth, the emission levels of RSP and NO<sub>2</sub> from the diesel goods vehicles in 2016 could range between 78% - 112% and 83% - 124% of their respective emission levels in 1997. It is important to note that these study findings were based on the assumption that there would not be development of other new emission mitigation measures or introduction of more alternative, non-diesel vehicle technology. The study has highlighted the need to seek alternative solutions and new technologies to ensure clean air for Hong Kong. Accordingly, to provide a safe, efficient and reliable transport system that meets the

economic, social and recreational needs of Hong Kong in an environmentally acceptable manner, the Administration aims to provide better integration of transport and land use planning, better use of railways as the backbone of our passenger transport system, and better use of advanced technologies in transport management and emission reduction from vehicles.

- (c) Phasing out old vehicles from the diesel vehicle fleet by new models can help reduce their emissions substantially. The Administration is preparing proposals to phase in age limits for different categories of vehicles, including goods vehicles. These will be put forward for consultation next year. Other appropriate measures to further reduce emissions from diesel goods vehicles — and every other category of vehicles — will also be considered.

Annex A

Numbers of In-use Goods Vehicles under Various Emission Categories  
(as at July 1999)

	<i>Light goods vehicles</i>	<i>Medium goods vehicles</i>	<i>Heavy goods vehicles</i>	<i>Total</i>	
Pre-Euro	49 208	27 696	1 484	78 388	(72%)
Euro I	15 658	4 791	594	21 043	(19%)
Euro II	5 461	3 930	566	9 957	(9%)
Total	70 327	36 417	2 644	109 388	(100%)



## Annex B

Comparison of Emissions from Individual Goods Vehicles  
complying with Pre-Euro, Euro I, Euro II and Euro III standards

<i>Type of vehicles</i>	<i>Class</i>	<i>Reduction in RSP emission</i>	<i>Reduction in NO<sub>2</sub> emission</i>	<i>Reduction in HC emission</i>
Goods vehicles less than 3.5 tonnes	Pre-Euro	0% (baseline)	0% (baseline)*	
	Euro I	58%	24%	
	Euro II	80%	53%	
	Euro III	88%	62%	
Goods vehicles (3.5 tonnes or above)	Pre-Euro	0% (baseline)	0% (baseline)	0% (baseline)
	Euro I	47%	11%	53%
	Euro II	80%	20%	58%
	Euro III	87%	44%	75%

Key: RSP=Respirable Suspended Particulates  
NO<sub>2</sub>=Nitrogen Dioxide  
HC=Hydrocarbon

\* Reduction in the emissions of NO<sub>2</sub> and HC from small diesel vehicles less than 3.5 tonnes are combined together for the purpose of calculations.

### Fares for KCR Trains to and from Racecourse Station

18. **MR LAU KONG-WAH** (in Chinese): *Madam President, at present, the fare for a single journey from a Kowloon-Canton Railway (KCR) station in Kowloon to the Racecourse Station is \$12.5, while the fare to the Fo Tan Station, which is next to the Racecourse Station, is only \$6 to \$6.5. On racedays, in order to save traffic expenses, some members of the public alight at the Fo Tan Station and walk to the racecourse, thereby causing nuisance to residents in Fo Tan. In this connection, will the Government inform this Council whether:*

- (a) *it knows the reasons for the fare from a station in Kowloon to the Racecourse Station being about 90% higher than that to the Fo Tan Station;*

- (b) *it knows if the Kowloon-Canton Railway Corporation (KCRC) will consider reducing the fare to and from the Racecourse Station; if it will not, of the reasons for it; and*
- (c) *it has any measures to alleviate the nuisance caused to residents in Fo Tan by the race-goers who walk to the racecourse from the Fo Tan Station on racedays?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, in determining the East Rail Racecourse fares, the KCRC has taken into account the following factors in addition to the distance travelled:

- (a) The Racecourse Station only opens during race days serving mainly race-goers, and the overall usage of the Racecourse Station is relatively low. However, the passenger traffic in the hours before and after the races is very heavy and the KCRC has to deploy extra manpower resources to help regulate passenger flow at the station and if necessary, put in place crowd control measures. In addition, the KCRC runs between 30 and 50 extra special trains to the Racecourse Station, at an interval of seven to eight minutes, to meet the passenger demand on race days. The Racecourse fares hence reflect the relatively higher operational cost.
- (b) The KCRC takes into account the competitiveness of its Racecourse fares against other modes of transport like franchised buses.

In the last fare revision exercise in 1997, the KCRC reduced its Racecourse fares by 20% to encourage passengers to take the Racecourse trains instead of boarding/alighting at Fo Tan Station. In doing so, the Corporation has also taken into account the competitiveness of its Racecourse fares against other modes of transport. The KCRC reviews its fares regularly, including the need for adjusting the Racecourse fares, having regard to the above factors.

On race days, the police deploy additional manpower to regulate the traffic and pedestrian flow around the Racecourse and Fo Tan stations. We will also keep in view the situation and consider ways to improve the pedestrian facilities where needed.

**Controlling Subcontracting Practices for Infrastructural Projects**

19. **MR ERIC LI** (in Chinese): *Madam President, will the Government inform this Council whether it plans to adopt measures to change the prevailing practice of multi-level subcontracting in the construction industry, so as to minimize the costs of various major infrastructure projects which will commence shortly and to ensure the quality of these works; if so, of the details and the specific timetables of such plans?*

**SECRETARY FOR WORKS** (in Chinese): Madam President, subcontracting of construction works is quite a common and long existing practice in the construction industry, both locally as well as in many other places. The different skills involved at different stages of the construction process and the increasingly complex nature of large infrastructural projects that often involve multi-disciplinary expertise necessitate the subcontracting of various parts of the works to subcontractors and specialist subcontractors. For the same reason, subcontractors and specialist subcontractors may sometimes further sub-let some of their works and hence results in a multi-level subcontracting. Engagement of subcontractors for the provision of labour and constructional plants and equipment provides a contractor the flexibility in the employment of workers and use of resources to meet fluctuating demands throughout the various stages of the contract, contributing in a way to executing the works in an efficient and cost-effective manner.

The Government recognizes the genuine need for subcontracting. Therefore, under the existing conditions of government works contracts, the subcontracting of part of the works, either on the basis of provision by the subcontractor of labour and materials, or on the basis of provision of constructional plants, is not prohibited. Notwithstanding this, it has been made absolutely clear in the conditions of contract that the responsibility for overall site superintendence and ultimate liability for the entire works under the contract rest with the main contractor, and that subcontracting of the whole of the works is strictly prohibited. The Engineer for the Contract may require the contractor to furnish full particulars of any subcontractor employed or to be employed on the works, and has full power to order the removal of any subcontractor if he considers there to be reasons to do so.

The Government has always taken construction quality very seriously and is determined to ensure the delivery of quality outputs under our construction programmes. While there may not be any direct relationship indicating that works quality may suffer whenever there are subcontracting or multi-level subcontracting, we do not rule out the possible adverse effect such practice may have on works quality and cost, if abused. We are therefore looking into the various aspects of construction industry practices including subcontracting, that might affect the delivery of quality construction output.

With a view to pooling ideas from the construction industry and concerned organizations, a Quality Construction Committee was recently established under the Construction Advisory Board. Its terms of reference is to provide a forum for discussion on matters concerning quality of construction works, and to explore and suggest measures and initiatives which may be conducive to enhancing construction quality.

As one of the various aspects of construction industry practices that might affect the delivery of quality works, subcontracting practices and other related issues are being discussed. Views and ideas suggested concerning these issues will be carefully considered. We hope to be able to come up with some preliminary recommendations in the coming months, and will consult all concerned parties on our proposals before taking them forward.

### **Disruptions of Sea Water Supply to PH Estates in Kwai Chung and Tsing Yi Districts**

20. **MR LEE WING-TAT** (in Chinese): *Madam President, it is learnt that there have been frequent disruptions in the supply of sea water for flushing toilets to a number of public housing estates in Kwai Chung and Tsing Yi districts over the past eight years. In this connection, will the Government inform this Council of:*

- (a) *the details about the disruption of sea water supply in Tai Wo Hau Estate, On Yam Estate, Cheung Hang Estate, Shek Lei Estate and Cheung Ching Estate; and the reasons for the frequent disruptions in these housing estates; and*
- (b) *the improvement plans in place and the anticipated completion date for such plans?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, information on the interruption of sea water supply for flushing in Tai Wo Hau, On Yam, Shek Lei, Cheung Hang and Cheung Ching Estates in the past two years is given below:

<i>Estate</i>	<i>Number of blocks</i>	<i>Frequency of whole block interruption*</i>	<i>Cause of whole block interruption*</i>	
			<i>Planned maintenance/repair</i>	<i>Others</i>
Tai Wo Hau	17	39(19)	7(4)	32(15)
On Yam	8	46(5)	10(0)	36(5)
Shek Lei	16	149(47)	84(28)	65(19)
Cheung Hang	6	8(6)	6(4)	2(2)
Cheung Ching	8	29(12)	4(1)	25(11)
Total	55	271(89)	111(37)	160(52)

\* Figures in brackets denote disruption lasting over 24 hours

Besides assigning experienced specialist contractors to undertake maintenance and repair works, the Housing Department is implementing several measures to improve operation of the sea water supply system. In Cheung Hang and Cheung Ching Estates, renewal of and additional water leakage check meters and underground gate valves, and replacement of cast iron pumps with stainless steel pumps have just been completed. A similar programme in On Yam Estate will commence in mid-2000. The Housing Department is also carrying out system improvement works involving the relocation of supply pipes in Shek Lei Estate and the installation of separate pipes and pumps in Tai Wo Hau Estate. These improvement works will be completed in November 1999 and mid-2000 respectively.

## **BILLS**

### **First Reading of Bill**

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

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

**CLERK** (in Cantonese): Industrial Training (Clothing Industry) (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.

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

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): I move the Second Reading of the Industrial Training (Clothing Industry) (Amendment) Bill 1999.

With the rapid development of information technology and the increasing application of electronic means in international trade, Hong Kong cannot lag behind other trading centres in these aspects in order to maintain our competitiveness. To encourage the extensive use of electronic trading transactions, the Government is committed to providing the electronic data interchange service to enhance the efficiency of the industrial and commercial sector in the submission of trade-related government documents, including import and export declarations. From April 1997 onwards, the Government accepted electronically-lodged import and export declarations, and our plan is that starting from April 2000, all import and export declarations can be lodged by electronic means only. To this end, we will introduce the change in phases.

As a first step, the Legislative Council has approved an amendment to give effect to the withdrawal of postal lodgement from 1 April this year. As a final step to accomplish the task, we need to introduce amendments to the Industrial Training (Clothing Industry) Ordinance and the Import and Export (Registration) Regulations to delete the option of lodgement of export declarations in person.

The Import and Export (Registration) (Amendment) Regulation will be tabled at the Legislative Council at a later stage. With regard to publicity, since July 1997, the Customs and Excise Department has informed importers and exporters using its counter service of the change. We have written to some 30 major business associations, asking them to relay the message to their members. In the meantime, we have explained the proposed change to the Small and Medium Enterprises Committee. Moreover, the Panel on Trade and Industry of this Council will be briefed on the progress. Tradelink, the company responsible for providing electronic lodgement services, has also launched a series of publicity activities accordingly, such as sending letters to importers and exporters who still submit the declarations in paper to promote its services, answering inquiries at the Customs and Excise Department's collection office and so on.

At present, 75% of the trade declarations received by the Government are lodged electronically. But after April 2000, there may still be a small number of importers and exporters who choose not to submit the trade declarations by electronic means. To cater for their needs, Tradelink and its agents have provided a network of electronic trading access service centres for conversion of paper submission into electronic ones. At present, Tradelink and its agents have set up 25 such centres. I hope Members can support the relevant legislative amendments so that we can take one step forward in the promotion of electronic commerce. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Industrial Training (Clothing Industry) (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): This Council now resumes the Second Reading debate on the Customs and Excise Service Children's Education Trust Fund Bill.

**CUSTOMS AND EXCISE SERVICE CHILDREN'S EDUCATION TRUST FUND BILL****Resumption of debate on Second Reading which was moved on 23 June 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 Customs and Excise Service Children's Education Trust Fund 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): Customs and Excise Service Children's Education Trust Fund Bill.

Council went into Committee.

**Committee Stage**

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



**CUSTOMS AND EXCISE SERVICE CHILDREN'S EDUCATION TRUST FUND BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Customs and Excise Service Children's Education Trust Fund Bill.

**CLERK** (in Cantonese): Clauses 1, 2 and 7 to 12.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 3 to 6.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam Chairman, I move the amendments to clauses 3 to 6 as set out in the paper circularized to Members.

*Proposed amendments*

**Clause 3 (see Annex III)**

**Clause 4 (see Annex III)**

**Clause 5 (see Annex III)**

**Clause 6 (see Annex III)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 3 to 6 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Bill**

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

### **CUSTOMS AND EXCISE SERVICE CHILDREN'S EDUCATION TRUST FUND BILL**

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

Customs and Excise Service Children's Education Trust Fund Bill

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Customs and Excise Service Children's Education Trust Fund 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): Customs and Excise Service Children's Education Trust Fund Bill.

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

**PRESIDENT** (in Cantonese): This Council now resumes the Second Reading debate on the Protection of the Harbour (Amendment) Bill 1999.

### **PROTECTION OF THE HARBOUR (AMENDMENT) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 3 November 1999**

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

**DR RAYMOND HO** (in Cantonese): The Protection of the Harbour (Amendment) Bill 1999 has a rather long history. The former government opposed this Bill. On 21 April 1997, the former government argued in the Legislative Council that the Bill would affect the works within the boundaries of the central harbour, such as the opening up of land and other works such as laying pipes, building public facilities and dredging for maintenance purpose. It would also affect the relationship between the legislature and the executive authorities, since the responsibilities of the executive authorities would be transferred to the legislature. The then government opposed this Bill on the grounds that it was unnecessary, and would mix up the responsibilities of the legislature and the executive authorities. It considered that it would suffice as long as the process of urban planning was open and transparent, and there were procedures for public consultation. It would also affect urban planning in such areas as housing, community facilities and even transport.

Later, on 16 July 1997, Dr the Honourable LAW Cheung-kwok asked a question about the Protection of the Harbour Ordinance. The then Secretary for Planning, Environment and Lands pointed out that the Protection of the Harbour Ordinance would seriously affect the Government's planning and works in the central harbour, as well as its ability to supply land and infrastructure. In respect of the Ordinance's presumption against reclamation in the central harbour and requirement on public officers, and public bodies to have regard to this principle in the exercise of their powers, the Government was of the view that this would affect not only reclamation in the harbour, but also the carrying out or planning of any works on the sea surface, under the sea surface and at the sea-bottom in the central harbour area. On 16 July 1997, the Chief Secretary for Administration also pointed out that there were many vague areas in the Protection of the Harbour Ordinance. If the Ordinance was implemented, it would cause uncertainties to planning or major large-scale reclamation projects in the central part of the harbour. For instance, it would affect the construction of public facilities and maintenance works in future.

On the whole, the former government was not at all supportive of the Ordinance. After the Ordinance was passed in June 1997, many infrastructural projects and works still have to be carried out, such as the Central Wan Chai Bypass. If this project is not carried out, the traffic problems in the Central or Western Districts cannot be solved, even if there are other facilities, such as the Western Harbour Crossing. We all know where the problem lies.

Actually, I agree that the Government has taken into account the views of many members of the public and Legislative Council Members in its recent planning. For instance, after listening to suggestions from various sides, it has proposed a number of amendments to the Central Reclamation Phase III Project, the Wan Chai Reclamation Phase II Project and the planning of South East Kowloon. This is commendable. As the Government said in the past, no matter whether it is regulated by legislation, it would suffice if the existing mechanism is transparent and if adequate urban planning is carried out.

Nevertheless, why does the Government want to change its stand now and include other harbour areas, such as South East Kowloon and Green Island, in the extended boundaries of the central harbour? Is this really necessary? This would render the implementation of many of our infrastructural projects and works even more difficult. About a month and a half ago, I pointed out to the Chief Executive that he could not spend \$240 billion on infrastructure in five

years, since we had already wasted two years arguing about the procedures, without awarding any contracts or starting any construction works. If it goes on like this and more regulations are made, the issue and procedures would become more complicated and projects would be delayed.

In my view, the Government's change of stance and its extension of the boundaries of the central harbour are unnecessary and will affect the implementation of future infrastructural projects. Therefore, I will oppose this amendment.

Thank you, Madam President.

**MISS CHRISTINE LOH:** Madam President, I am actually disappointed to hear my colleague just now say that he would not support the Bill. But I wish to thank the Secretary and his Deputy for their hard work to help protect the Victoria Harbour from excessive reclamation. I have spent many hours with the Deputy Secretary over the last two years on many aspects relating to harbour reclamation. I can confirm the goodwill within the Planning, Environment and Lands Bureau since the Secretary took over responsibilities. I would like to go as far as saying that we would not be where we are today but for a change of personnel. It brought a breath of fresh air, a much appreciated breath of fresh air.

I recall proposing the original Protection of the Harbour Bill in 1996, and having to compromise in 1997, to cut Green Island and South East Kowloon out of the definition of the harbour, as many Members at that time were concerned about housing demands. There are many things that I also recall about the provisional legislature, but the one positive memory is that it did not accede to the Administration's proposal back in July 1997 to "freeze" the Protection of the Harbour Ordinance. So it gives me much pleasure to have Green Island and South East Kowloon added back into the Ordinance today. It gives me even greater pleasure that the Government has offered to take over my private bill because it indicates that the protection of the Victoria Harbour as a significant public asset is now firmly a part of government policy. Indeed, the Government now even has a Vision Statement about the harbour. We have all come a long way in a mere four years, including many, many engineers that I have spoken to. On this basis, I look forward to co-operation with the Administration. I just regret that we have to waste two years in arguments.

I would ask the Secretary to reflect on the experience over the whole episode and what we have all learnt. The first lesson is surely that the planning process itself must change. The Administration should not plan our urban development based on its perceived values of what is good for Hong Kong. We need a much more open and participatory process. Timing is always important as a Member reminded us earlier on, but going too fast also has many problems. We must be very careful in whether we do want to fill up the Victoria Harbour. We certainly want to preserve the law that we already have today, and it was only because having that law that we have been able to protect what we have. Otherwise, Central would have gone, Wan Chai would have gone and we would be about to start work on South East Kowloon.

Secondly, the series of public meetings hosted by the Planning Department to discuss reclamation should be institutionalized for all major development plans, and they should be carried out prior to the Administration making up its mind on the direction to take.

Madam President, I do not wish to take more time but I do wish to thank Members of the Executive Council for giving me a private hearing on the Administration's previous plans. I also want to thank the leaders of various political parties and groupings in this Council for agreeing to allow the Amendment Bill to go through without a bills committee today. Lastly, I wish to thank Mr Edward HO, convenor of the Panel on Planning, Lands and Works for having spent much time in this Panel on reclamation issues over the last three years.

**MR EDWARD HO** (in Cantonese): I am grateful to Miss Christine LOH for thanking me. She has obviously indicated that I should not oppose this amendment.

Madam President, I support this amendment but I would only like to make two points. First, the harbour is the historical and natural resources of Hong Kong. We should protect not only the Victoria Harbour, but also the extended scope of protection as proposed and the waters of Hong Kong. Therefore, I will support the spirit of this Bill and I will not oppose it. However, it is worth considering how a mechanism can be designed to protect the waters of Hong Kong. Firstly, the effective mechanism I have in mind and have proposed arises from the functions of the Town Planning Board. From the experience of

South East Kowloon Reclamation and Central and Wan Chai Reclamation, we found that the public thinks that the waters of Hong Kong are very important to us and these resources should be preserved. If the scope of reclamation is too large, the public will oppose it or think that it is not necessary to have such a large scope of reclamation. At that time, many people including Legislative Council Members of different parties and groups rose in opposition. I believe this is a very important point because when we engage in town planning, we do not only make plans concerning land but the use of our waters is also very important. I hope Members will not forget this point.

Secondly, the functions of the Legislative Council are very effective and important. It is because appropriation is needed when the Government carries out reclamation. If the Government knows that most Legislative Council Members have much reservation about certain reclamation projects, or even decline to approve the necessary funding, the projects cannot possibly be carried out. Therefore, this amendment is only the second step, giving the community the message that we should protect our harbour. In fact, the message is more significant than this piece of legislation. If the general public thinks that this harbour and our waters are worth protecting, when the members of the Town Planning Board make any proposal in future, the public should grasp the opportunity to voice their opposition or express their views. I also want to say once again that the institute has made great contribution to two projects before, that is, the South East Kowloon Reclamation and Central and Wan Chai Reclamation, because they have made concrete suggestions to the Government which made amendments on the basis of their suggestions. Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, I would like to support this Bill on behalf of the Democratic Party. We all know that Hong Kong people, professionals and ordinary people alike, have opposed the reclamation schemes strongly. Looking down from the peak, we can only see a disfigured harbour, and I am really worried that this harbour will become narrower and narrower because of reclamation. Therefore, this Ordinance can protect the harbour and the Government cannot carry out reclamation casually unless it is inevitable to do so and it has exhausted other alternatives. I believe such natural resources are very important to Hong Kong.



Madam President, I would like to discuss why this Bill has been introduced by the Government but not Members. As the spokesman of the Democratic Party on constitutional affairs, I am worried about Article 74 of the Basic Law. It is stated in Article 74 of the Basic Law that Members of the Legislative Council cannot introduce bills relating to government policies, and the written consent of the Chief Executive shall be required before bills relating to government policies can be introduced. I hope that this problem can be solved soon, otherwise, whenever a Member proposes an amendment, the Government will lobby Members by all means to let the Government introduce a bill to avert a constitutional crisis. Yet, the problem cannot be solved by doing so, and similar cases will arise in future.

Although we are not discussing this issue today, I would like to say that I hope that the arguments between us and the Government over Article 74 of the Basic Law can be settled soon and that the Government will respect the views of the Legislative Council.

Thank you.

**MISS EMILY LAU** (in Cantonese): Madam President, I would also like to speak in support of this Bill. I hope that the Government will conduct sufficient consultation in future and give the public ample time to express their views. I fully agree with Dr YEUNG Sum that we have argued over Article 74 of the Basic Law for a long time, as the Chair is also aware. The Government may win this time but I believe it is not a glorious thing because I think it will be meaningless if the Government can arbitrarily deprive Members of our rights.

Recently, the Government has engaged yet another consultant, the former legal adviser of the Legislative Council, for the Department of Justice. Now that the Government has engaged another consultant, I hope that it will look carefully at the fact that the Government cannot arbitrarily deprive Members of their rights. The Government may have done Members some "flavours" but this is not the crux of the problem. The crux of the problem is that Members should have the right to do certain things and the Government should not do everything. Otherwise, the Government will only do what it likes and will not bother about what it does not like. Madam President, I think this is an insult to

the Council and the Government does not respect Members' legitimate rights. Therefore, I fully support Dr YEUNG Sum's suggestion. Although I do not want to deviate too much from our topic, the issue is closely related to Article 74 of the Basic Law. Therefore, we must pose the problem here and we hope that this problem will be solved quickly. Thank you, Madam President.

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, I would like to raise two points in respect of the Bill. The first point concerns the spirit of the amendments to the Bill. Logic requires the Government to accept Miss Christine LOH's proposal and take the initiative to introduce the amendments. As the Protection of the Harbour Ordinance is written in the statute book, and given the discrepancy in the definition of the Victoria Harbour between this Ordinance and Chapter 1 of the Laws of Hong Kong, we therefore take the initiative to extend the scope simply for the purpose of consistency in the definition.

On the question raised by Dr Raymond HO earlier of whether the scope of protection will be extended, or whether future projects will be delayed, indeed, I regret to say, the progress of projects will be held up. Take the South East Kowloon project as an example. As the Government has accepted the views concerned, we have to go through more procedures, conduct more studies and do more work for the project. Therefore, it is necessary to defer part of the project. We will construct less housing and less roads than originally planned. But these are worthwhile for the spirit of the Protection of the Harbour Ordinance is realized. We may have to do a lot more and conduct many more rounds of consultation throughout the entire process. We have to listen to many more views before any plan can be drawn up, and even after the plan has been finalized, amendments could be made to it. Yet, we think these efforts are worthwhile in order to give full play to the Protection of the Harbour Ordinance. Given our common goal of protecting the Victoria Harbour, all the efforts we put in are worthwhile even though the progress of the project will be delayed or the plan may need to be changed. This is the reason why we support the Bill.

Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Protection of the Harbour (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **PROTECTION OF THE HARBOUR (AMENDMENT) BILL 1999**

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

**PRESIDENT** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Bill**

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

### **PROTECTION OF THE HARBOUR (AMENDMENT) BILL 1999**

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

Protection of the Harbour (Amendment) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Protection of the Harbour (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): Protection of the Harbour (Amendment) Bill 1999.

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

**PRESIDENT** (in Cantonese): This Council now resumes the Second Reading debate on the Adaptation of Laws (No. 29) Bill 1999.

### **ADAPTATION OF LAWS (NO. 29) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 14 July 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 29) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 29) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 29) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 29) Bill 1999.

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 9.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 10 and 11.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move the amendments to Schedules 10 and 11, as set out in the paper circularized to Members.

As it is no longer appropriate to retain the term "皇家香港警隊" in the provisions after 1 July 1997, these amendments are proposed to replace the reference to "皇家香港警隊" by "香港警務處" in the long title of the Chinese version of the Police Children's Education Trust Ordinance as well as its sections 2 and 3(3)(a), and also in section 3(3)(a) and sections 5(a) and (c) of the Police Education and Welfare Trust Ordinance, in order to reflect the proper nomenclature after the reunification. Moreover, consequential amendments are also made to remove repetition of the reference to "Police Children's Education Trust Ordinance" and that to "Police Education and Welfare Trust Ordinance" in Schedule 10 and Schedule 11 respectively.

I urge Members to support the proposed amendments.

*Proposed amendments***Schedule 10 (see Annex IV)****Schedule 11 (see Annex IV)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 10 and 11 as amended.

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

(Members raised their hands)

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

(No hands raised)



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

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

Council then resumed.

### **Third Reading of Bill**

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

### **ADAPTATION OF LAWS (NO. 29) BILL 1999**

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

Adaptation of Laws (No. 29) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 29) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 29) Bill 1999.

## **MOTION**

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

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

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

With the newly vested power under the Factories and Industrial Undertakings (Amendment) Ordinance 1999 passed by the Legislative Council on 16 July this year, the Commissioner for Labour drafted the Factories and Industrial Undertakings (Safety Management) Regulation to provide for the introduction of a safety management system in designated industrial undertakings. A Subcommittee of the Legislative Council has finished examining the draft Regulation and the Subcommittee's amendment proposals have been incorporated into the Factories and Industrial Undertakings (Safety Management) Regulation officially made by the Commissioner for Labour on 8 November. I am very grateful to the Chairman, the Honourable LEE Kai-ming, and members of the Subcommittee, for completing the examination of this Regulation expeditiously.

This Regulation seeks to implement a recommendation made in a Consultation Paper published by the Administration in 1995 on the Review of Industrial Safety in Hong Kong to change the strategy on industrial safety from focusing on enforcement to promoting safety management, thereby facilitating self-regulation in respect of reducing the risks at work by the proprietors and their workforce which is the key to attaining long-term improvements in safety standards.

To facilitate proprietors and contractors to implement a safety management system applicable to Hong Kong, we have developed 14 process elements in the new Regulation. We propose in the Regulation to initially require contractors or proprietors in relation to construction sites, shipyards, factories and other designated industrial undertakings (that is, those involved in the generation and transmission of electricity, town gas or liquefied petroleum gas and in the handling of containers) with 100 or more workers, as well as construction projects with contract value of \$100 million or more, to adopt the first 10 of the 14 process elements of the safety management system, and to carry out safety audits on their safety management system. Construction sites and industrial undertakings employing 50 to 99 workers will be required to adopt the first eight of the 14 process elements of the safety management system, and to carry out safety reviews, which are less stringent than safety audits. The estimated number of the above two categories of undertakings which will be required to implement the safety management system are 800 and 700 respectively. Industrial undertakings employing less than 50 workers will be exempted for the time being.

A phased implementation of these process elements will allow the industries being affected to get accustomed to the new system and to prepare for the additional elements. This will also allow sufficient safety practitioners and medical professionals to be trained to take up the additional functions. This approach has the support of the Labour Advisory Board. We intend to review the implementation of the proposed safety management system one year after the Regulation has come into force to decide on the appropriate time to bring the remaining four to six elements into operation and extend the requirement to industrial undertakings employing less than 50 workers.

We propose to give effect to the safety management system 12 months after the enactment of the Regulation by the Legislative Council. This will allow time for the Administration to launch education and promotion campaigns on the safety management system, for the affected proprietors and contractors to understand the new legislation and for them, as well as the training bodies for the construction industry, to make the necessary preparation. The Administration will provide the necessary guidance and advice on compliance with the new requirements.

The introduction of a safety management system in designated industrial undertakings through legislation is an important milestone in the improvement of industrial safety standards in Hong Kong. To facilitate the long-term and effective improvement in our occupational safety and health record, and to bring down the number of accidents and casualties, I urge Members to pass the proposed Regulation.

Madam President, I beg to move.

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

"That the Factories and Industrial Undertakings (Safety Management) Regulation, made by the Commissioner for Labour on 8 November 1999, be approved."

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

**MR LEE KAI-MING** (in Cantonese): Madam President, I speak in my capacity as Chairman of the Subcommittee for the Factories and Industrial Undertakings (Safety Management) Regulation on the motion moved by the Secretary for Education and Manpower.

The Subcommittee has examined in detail the proposed Regulation, which makes provisions for the safety management system in designated industrial undertakings. The Subcommittee notes the proposed safety management system consists of 14 process elements, which are subject to regular audit or review.

The Administration has explained that the Regulation will require contractors or proprietors in relation to construction sites, shipyards, factories or other designated industrial undertakings with 100 or more workers, as well as constructions projects with contract value of \$100 million or more, to adopt the first 10 of the 14 process elements of the safety management system and to carry out safety audits. Construction sites and industrial undertakings employing 50 to 99 workers each will be required to adopt the first eight of the 14 process

elements of the safety management system and to carry out safety reviews. The Administration intends to undertake a review one year after the Regulation has come into force to decide on the appropriate time to bring the remaining four process elements into operation.

Madam President, under the proposal, industrial undertakings employing less than 50 workers will be exempted from the requirement to implement a safety management system. A member of the Subcommittee proposed that such industrial undertakings should adopt four core elements. Bearing in mind that the Regulation will mean extra financial burden to small-scale industrial undertakings, the Administration does not consider the present time suitable to require the operators of such industrial undertakings to comply with the Regulation. The Administration will conduct a review one year after the Regulation has come into force to decide on the appropriate time to extend the requirement to industrial undertakings employing less than 50 workers. The Administration will launch a campaign to promote the concept of safety management related measures and educate the public so that the said small-scale industrial undertakings will be prepared for implementing a safety management system at a later date.

The Subcommittee is concerned about the effectiveness of the proposed safety management system in reducing the incidence rate of industrial accidents. The Administration indicates that experiences in Britain, Australia and New Zealand show that there has been a reduction in the incidence rate of industrial accidents after a similar system is implemented. Hence, the Administration believes that there will be an improvement in the industrial safety records after the implementation of a safety management system in Hong Kong.

The Regulation tabled before Members has included some technical amendments which are supported by the Subcommittee.

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

**MR CHAN WING-CHAN** (in Cantonese): Madam President, after the passage of a bill amending the Factories and Industrial Undertakings Ordinance, in relation to safety management, the construction industry and container handling industry "safety cards" was passed in the Legislative Council this July, I am very glad that the Government has introduced the remaining parts of the amendment bill within a short time.

This amendment relating to safety management specifies that an industrial undertaking or a contractor or proprietor with 100 or more workers should adopt the first 10 of the 14 process elements under the safety management system. The same process elements should also be adopted by a contractor or proprietor in relation to works projects with contract value of \$100 million or more, while industrial undertakings employing 50 to 99 workers each will be required to adopt the first eight of the 14 process elements.

Although this amendment represents some progress over the previous amendment, the situation is still worrying because industrial undertakings employing less than 50 workers are not included in the Regulation. In fact, most industrial undertakings employ less than 50 workers. I hope that the Government, having acquired experience from the implementation of this Regulation, will promote safety management to small industrial undertakings as soon as possible to protect the occupational safety of workers. It should also implement the remaining process elements as soon as possible.

Madam President, we all think that the best way to inculcate the sense of safety is publicity and education, to allow employers and employees to understand how they can ensure the safety of industrial premises and personal safety. Yet, to date, both employers and employees still know not enough or only have scanty knowledge of work safety. With the implementation of safety management, some employers will associate it with administrative fees and costs, becoming resistant against it. Moreover, employees often find it troublesome and neglect their own safety for convenience's sake, thus giving rise to accidents.

Under these circumstances, we should implement compulsory legislation to reduce accidents in industrial premises, and we can get the best results by means of publicity, education and legislation.

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

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, we have waited many years, before the Government finally puts forward the Factories and Industrial Undertakings (Safety Management) Regulation now. All along, we have been pointing out that a very important ingredient — the participation of workers — is missing from the whole occupational safety system. We believe that workers are after all the very people who know most directly and clearly whether their construction sites and workplaces are safe or dangerous. But workers' participation has been persistently neglected in the industrial safety campaign, and it has failed to receive any support.

I think the most important element of this Regulation should be the establishment of a safety committee responsible for safety management in construction sites, dockyards or related industrial undertakings. However, we are worried that despite our long years of struggles, such an important safety committee may well turn out to be a mere formality which does not serve any actual functions. Section 11B of the Regulation does not clearly define the functions and powers of workers' representatives. It only provides that the proprietor or contractor should issue a written statement setting out rules governing the membership, terms of reference and meeting procedures of the safety committee. In other words, the operation of the safety committee is not going to be regulated, and contractors can make unilateral decisions; there is thus no clear regulation. Contractors may not wish to commit themselves too much, or they may just make half-hearted efforts and put together a safety committee haphazardly. So, in the end, safety committees may well exist in name, but there will be no safety representatives. In that case, the Regulation itself will be rendered largely useless.

Furthermore, there are clear provisions in the Occupational Safety and Health Convention, 1981 No. 155 in relation to the functions of safety representatives and the way by which they are elected. I do not understand why the Administration has not referred to the provisions of this International Convention. Article 19 of the Convention provides to the effect that "workers or their representatives are given adequate information and are enabled to inquire into all aspects of occupational health safety and health associated with their work." On the same subject, Article 12 of R.164 of the International Labour Conventions further states to the effect that "to perform their functions, workers' safety delegates should be given adequate information, have access to all parts of the workplace and be able to communicate with the workers during working hours. They should have time during paid working hours to exercise their

functions and receive training related to these functions." It is very obvious that international labour conventions have already laid down the relevant requirements. Mr LEE pointed out a moment ago that the implementation of safety management system has improved the occupational safety records in many countries, because clear provisions in relation to this respect are set out in the legislation of these countries and workers' safety representatives are given statutory powers. In contrast, there are no such provisions in the laws of Hong Kong; this is the most inadequate and unsatisfactory aspect of all the relevant legislation. We, therefore, hope that before the implementation of this Regulation, the Administration can introduce an amendment to clearly define the functions and terms of reference of workers' representatives and the way in which they are elected; all this should be clearly stated in the Regulation, and we should not rely only on a written statement from the employer or contractor. Without clear provisions on functions, we are afraid that the whole Regulation will be reduced to a formality, and the poor industrial safety record of Hong Kong will remain unchanged.

The second point I wish to discuss is also related to the safety committee, and that is, the protection for workers' representatives. If workers' representatives are not protected, then how would they dare to speak up? Of course, the Administration may say that such protection is already available, for it is provided in sections 12 and 34(3) that an employer who terminate, or threaten to terminate, the employment of; or in any way discriminate against a worker representative of the safety committee commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for three months. It is true that the employer has a criminal liability but the question is, will it be easy to prove? We clearly understand that it is very difficult to produce proof in relation to discrimination. In Hong Kong, we have never won a case in relation to discrimination against trade unions, for the Court requires the plaintiff to produce proof of discrimination and to prove the intent of the defendant, but it would be very difficult to do so. No doubt, the law provides that employer has a criminal liability, and may be taken to court if he discriminates against safety representatives, but what is the point of doing so if the employer cannot be convicted? Even if the employer is convicted, he will only be given to a fine, but how about the workers' safety representative? He would have lost his job and everything. Is this fair to him? Why is it that there are not any provisions on civil remedies in the Regulation? The whole system is supposed to produce a deterrent effect on employers, so what is the point if it eventually fails to do so? What is the point if a workers' representative cannot win a case even if he takes



the employer to court on grounds of discrimination. Since the representative would not receive any compensation or civil remedies, and since he would not be reinstated in his job, he is actually subjected to very serious threats when he performs the duty of a safety representative. The whole system will collapse if the representative is under threat and does not dare to perform his duties or accuse the employer of violating the safety regulations.

Therefore, the Hong Kong Confederation of Trade Unions (CTU) hopes that the Secretary for Education and Manpower would undertake to add a provision to this Regulation or other legislation as soon as possible, so as to grant the right to civil remedies to workers' safety representatives. In fact, the existing Employment Ordinance also specifies quite a number of circumstances under which workers are entitled to civil remedies, when, for example, a worker is summoned by the Commissioner of Labour to give evidence in court. In such a case, the worker is entitled to civil remedies. However, workers' safety representatives are not entitled to any sort of protection. I hope that the Secretary for Education and Manpower could undertake to add a provision on civil remedies to the Regulation, including compensation and the right to reinstatement as soon as possible. On the other hand, I hope that as in the cases of discrimination against trade unions, the onus of proof for such civil proceedings should be laid on the employers.

It comes to the second point, a point which I hope the Secretary can respond to. When the Secretary moved the Factories and Industrial Undertakings (Confined Spaces) Regulation, at the Legislative Council meeting of 20 January 1999, he indicated that in principle, the Administration agreed that workers could refuse to work for reasons of occupational hazards. Later he also indicated that a provision would be added to the relevant regulation to provide that workers have the right to refuse to work. I would like to know what the Administration has done in this respect? The CTU is of the opinion that the right to refuse to work for reasons of occupational hazards should not only be enjoyed by those who work in enclosed workplaces. We suggest that the Factories and Industrial Undertakings Ordinance should be amended as soon as possible and a provision should be added to this Regulation to ensure that workers could refuse to discharge those duties which may inflict immediate or serious hazards on their safety or health. Workers should also be allowed to report the matter to their immediate supervisors or workers' representatives. I hope that the Administration could keep us informed about the progress of this matter.

I understand that the Administration is currently drafting a Code of Practice for safety management in accordance with the provisions of this Regulation, and the details of the safety management system will be set out. However, there would still be problems because the Code of Practice is not legally binding. That being the case, the Government will still be unable to do anything even if the contractor or employer does not abide by the Code of Practice. The CTU proposes that a provision should be added to the Regulation before its implementation, stating that any person who does not abide by the Code of Practice could be liable to prosecution. And, it also proposes that the Code of Practice should be accepted as evidence in any legal proceedings taken under the provisions of this Regulation. In this way, the Code of Practice can work more effectively as a guideline.

Finally, I also hope that Administration could reconsider the different treatment accorded to an industrial undertaking with 50 employees and those with 100 employees. The Regulation provides that a safety committee should be set up for industrial undertakings with 100 or more employees, whereas it is unnecessary to do so for those with 50 or more employees. However, safety committees are set up for industrial undertakings with 50 or more employees in Singapore. We think that the safety management committee should play an important role in industrial undertakings, but it should not only be restricted to those with 100 or more employees. It should be extended to cover those industrial undertakings with 50 or more employees. I hope that the Administration could actively look into this matter.

Thank you, Madam President.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):  
Madam President, I wish to thank Honourable Members who spoke earlier in support of the Regulation. Here, I would like to briefly respond to a few points.

First of all, the Government and the Education and Manpower Bureau pledge that insofar as workers' rights and interest are concerned, industrial safety is invariably the top priority. We consider it highly important to bring down the industrial casualty toll, be it in respect of the enactment of legislation, law enforcement or the distribution of resources. Besides, I also wish to respond to a number of points raised by Mr LEE. Firstly, with regard to the duty of the

safety committee, he said just now that section 11 of the Regulation does not appear to have expressly stated the committee's terms of reference. However, I think we can understand it in another way. In fact, the function of the safety committee is spelt out in section 10 which provides that its function is to, *inter alia*, recommend and keep under review measures to improve the safety and health of the workers in industrial undertakings. Certainly, we can consider the need to provide for its functions and powers in clearer terms in future, but if its purview is written too explicitly in the statute book, it may very often give rise to other complications. In this connection, I hope a review can be conducted subsequent to the implementation of the Regulation.

Secondly, he mentioned section 12 which provides that a proprietor, contractor or employer shall not terminate, or threaten to terminate, the employment of a worker or in any way discriminate against a worker by reason of the fact that the worker has performed his function as a member of a safety committee. Notwithstanding this provision, Mr LEE questioned whether the Government should provide more protection so that if the above situation does arise, the proprietor, contractor or employer concerned will be punished. I believe that this will involve another question which is even more important, and that is, what responsibilities the employer must bear if he discriminated against the worker. I think we will have to consider this aspect in greater detail later.

Thirdly, Mr LEE opined that a mechanism should be put in place to allow workers to refuse to work when they think that their safety and health will be in grave jeopardy. In this connection, as Mr LEE has also mentioned, we stated in a meeting of the Legislative Council in January this year that when formulating the Code of Practice under the Regulation pursuant to its enactment, we will study and propose the criteria for determining the objective situations under which workers' safety and health are subject to serious hazards, and set up a mechanism to deal with workers' refusal to work. We will continue to follow up this point and study the specific arrangements and details. Yet, as I said on that occasion, we must widely consult the employers and trade unions before a final decision is made. Our goal is to, under the premise of protecting the safety and health of workers, avoid unnecessary labour disputes and strike a balance between the interests of employer and employee. I wish to thank Members again for speaking in support of the Regulation.

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee in respect of the time limits for speeches in 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. Other Members will each have up to seven minutes for their speeches.

The first motion: Freezing and reducing fees and charges.

## **FREEZING AND REDUCING FEES AND CHARGES**

**MR LEE WING-TAT** (in Cantonese): Madam President, it can hardly escape us that quite a number of senior government officials, including Mr Donald TSANG, the Financial Secretary, Mr CHAU Tak-hay, the Secretary for Trade and Industry, and even Mr TUNG Chee-hwa, the Chief Executive, are recently speaking optimistically about the economic prospects of Hong Kong. They have generally said that the Hong Kong economy has finally seen its worst, and is onto a genuine revival. It is in fact big and good news for each and every Hong Kong citizen that our economy is turning around. However, it is a pity

that while the Government is conducting the chorus about the good things happening to Hong Kong, backstage there is a plan to increase over 3 000 items of government fees and charges. The Democratic Party opposes the Government for its hurried action to fleece the public while the Hong Kong economy has yet to see a full recovery.

In fact, it is still early to say if our economy is on a steady pace to recovery. The Government should not jump to any premature conclusion. The unemployment rate of Hong Kong still hovers around the high level of 6%, and I believe that it will take time to improve, and citizens must wait with patience. Moreover, in the last two years, the Asian financial crisis has taken its toll on people's livelihood. Citizens must be given adequate time to recuperate, to regain their strength before there is any true improvement to their livelihood. If the Government increases fees and charges for government services now, particularly those relating to people's livelihood, it will add to the burden on the general public, and will also slow down our economic revival. This will only hurt the people.

As early as last June the Government had the intention to increase 3 000-odd items of government fees and charges. The plan was shelved only because of strong public objection. Unexpectedly, the Government revisits the plan in such a short time. Among the increases proposed by the Government, some we find that some will directly affect people's livelihood. They include water charges, fees for adult education, school fees from Form Four to Form Seven, medical consultation fees for senior citizens and women, application fee for student loans, and the charge for replacement senior citizen cards. These services are important to citizens and in the midst of economic hardships, even small increases constitute burdens to them. With US\$90 billion of fiscal reserve, do our government officials really need to resort to all such means to squeeze the nickels and dimes from our citizens to cover the fiscal deficits?

While the Government is so mean to the citizens, it is very generous to itself. The report of the Director of Audit just released is a good case in point. Take the Water Supplies Department as an example, the Audit Department found that as a result of the Water Supplies Department's over-estimation of the increase of water consumption in Hong Kong, and also of the absence of a flexible clause when the agreement was signed with the Guangdong authorities for the supply of Dongjiang water, Hong Kong has an over-supply of potable water which simply flows away. The amount of potable water flowed away

between 1994 and 1998 amounted to \$1.718 billion in value. It is reckoned that the overflow will continue to 2004. Further, as the quality of Dongjiang water does not meet the approved standards, the Government has incurred capital cost and filtering expenses to the tune of \$139 million from the year 1996-97 to the year 1998-99. The ageing of water pipes also results in 22.5% of potable water leaking away every year. It can be seen that no less than several hundred million dollars of public money is wasted by the Water Supplies Department each year. The Government does not try to cut the waste and reduce the cost, instead it blames Members of this Council for not approving a water charge raise. This is ridiculous! Even the pressure to increase water charge is exacerbated by the incessant waste by the Water Supplies Department, I think it extremely unreasonable to ask the citizens to pay for the mistakes of government decisions.

Apart from government charges, much is also paid for the services of public utilities which are daily necessities to each citizen, such as transport, energy and telecommunications. They cannot save on such services even they are leading a hard life. If public utility corporations can share the citizens' hardships by reducing their charges now that consumer prices have generally adjusted downwards and that the citizens are facing the threats of layoffs and wage reduction, it will go a long way to lessen the burdens of the public.

In Hong Kong, wages and benefits of workers can be reduced, rent and property prices can come down, so can those for clothing and footwear, restaurants and goods in supermarkets, but public utility corporations with huge capitalization and protected revenue will not charge less. The reason is that all the bus, railway, electricity, gas and telephone services are either monopolies or operated as franchises. Without competition in the market, citizens' choices are limited, and the service providers simply do not need to cut prices to compete for business. Citizens must pay whatever is charged. Under the circumstances, why should the management of these corporations bother to reduce their prices?

In 1999, all public utility corporations froze their charges. But when I checked their interim performance reports, I discovered that in the past half year, the Kowloon Motor Bus Company (KMB) had a profit of \$301 million, the Mass Transit Railway Corporation (MTRC) \$1.148 billion, the Hongkong Electric Company (HEC) \$1.937 billion, the Hong Kong and China Gas Company (Towngas) \$1.474 billion; the China Light and Power Company (CLP) recorded a profit of \$5.053 billion for the year from October 1998 to the end of September 1999. The Hong Kong Telecom International Limited (Hongkong Telecom),

discounting its strategic write-off of \$7.088 billion, also had a half-year profit of \$4.321 billion. I believe we have no doubt as to the ability of these utilities to cut their charges, the problem is merely whether such well-financed and powerful companies are willing to make a voluntary cut!

The KMB, as the public transport provider carrying the largest number of passengers in Hong Kong, will see continued rise in patronage before the completion of the Northwest Railway, Ma On Shan Rail and the Tseung Kwan O Railway. In other words, the KMB will continue to enjoy enhanced ability to make profit. Similarly, the Citybus Limited (Citybus) and the New World First Bus Services Limited (Firstbus), I believe, will have ample room for development in the short term. I think that for long-term investment purposes, short-term reduction of fares will not result in any operational difficulty for these companies. Indeed, the Firstbus has already selectively reduced its fares for routes that are similar to those of minibus and Citybus routes. But what the Democratic Party expects is not only tactical fare reductions by bus companies, but for the companies to share the hard times with the citizens, and effect an across-the-board reduction for all their routes to the benefit of all citizens.

The MTRC and the Kowloon-Canton Railway Corporation (KCRC) and its Light Rail operation have made huge profits in the past one year. They increased their fares closely on the heels of inflation, but they have done nothing in the face of deflation. As public corporations wholly-owned by the Government, they only reap profit from the citizens without meeting any social obligation. For this, they should be subject to sanction. The KCRC reaped a profit of \$2.12 billion in 1998, and the MTRC a half-year profit of \$1.148 billion for the first half of 1999, and all these in spite of the economic downturn. They can hardly satisfy the public if they only freeze their fares and not reduce them.

In the area of energy supply, the HEC and the CLP not only operate as monopolies, but their profits are also protected. In these days of retrenchment, if only they can slightly reduce their profit, they can reduce their tariffs. Unfortunately, they have not done so. Though the Towngas is not subject to regulation, it is a natural monopoly. Its market share keeps expanding following the redevelopment of older areas, thus its considerable profits. The Democratic Party hopes that these companies would look farther ahead and introduce tariff reduction in these hard times so as to help the citizens cut their expenses.

Local residential telephone charge was raised to a hefty \$90 per month in September this year, resulting in strong public resentment. When the Hongkong Telecom monopolized telecommunications services in Hong Kong in the past, it virtually engaged in profiteering. When the telecommunications market was thrown open, competition results in a challenge to the company, and it is unavoidable that its profitability will be affected. But the company remains a well-financed and powerful group, enjoying 97% of the local residential telephone market, so any increase it makes affects almost all Hong Kong citizens. In fact, the Government promised in 1998 that the tariff for local residential telephone service would be adjusted gradually to a level when the full cost could be recovered. The Hongkong Telecom needs not introduce the raise in such a hurry. What the Democratic Party asks for is postponement of the increase when our economy has not yet recovered, that is, a return to the old level as soon as possible.

Madam President, the Government often says that it lacks funds, and there is a deficit. But let us look at the recent case of the application to host the Asian Games. Though the Government has not published the results of its assessment of the economic benefits of hosting the Asian Games, or even consulted the Legislative Council or the public, the Chief Executive called an extraordinary meeting of the Executive Council, against the established procedures, to give the green light for the application to go ahead. Mr Donald TSANG, the Financial Secretary, and Mr David LAN, the Secretary for Home Affairs, respectively declared that Hong Kong would host the Asian Games even the Games might mean a loss of several hundred million dollars. What an impression this has on the public? The Chief Executive gave a quick green light for the application to host the Asian Games, even at a loss of several hundred million dollars, just to repay a favour he owed the FOK's family. But the citizens in the midst of hard times with their purses shrinking are squeezed out of their last dime. I just want to ask: Is this a government working for the well-being of the citizens, or is it one of cronyism, a political clique that seeks to benefit "its own people"?

**Mr LEE Wing-tat moved the following motion: (Translation)**

"That, in view of the uncertain economic prospects and the persistently high unemployment rate in Hong Kong, this Council asks the Government to continue to freeze the various government fees and charges relating to people's livelihood in the year 2000 and urges the various public utility corporations to reduce their charges in the coming year, in order not to



increase the burden on the public and slow down Hong Kong's economic recovery."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Wing-tat, as set out on the Agenda, be passed.

Mr HO Sai-chu will move an amendment to this motion as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated in a joint debate.

I now invite Mr HO Sai-chu to speak and move his amendment.

**MR HO SAI-CHU** (in Cantonese): Madam President, I move that the Honourable Mr LEE Wing-tat's motion be amended, as set out on the Agenda.

Madam President, in the past two years Hong Kong reeled under the economic downturn: enterprises faced losses and liquidation, and wage earners wage reduction and layoffs; the city was shrouded in a blanket of pessimism. Today while neighbouring Asian countries have come out of the recession — Singapore recorded 6.7% of economic growth in the third quarter, South Korea scored even higher, 12.3% — Hong Kong is the last and slowest. Not until the second quarter of this year did we get a positive economic growth of 0.5%, but our unemployment rate has hovered persistently at the high level of 6% and refused to come down. We may say that our economy has seen its worst, but it is still some time before we have a full recovery.

The SAR Government has often stressed the need to tide over the difficulties together with the people, but the Financial Secretary recently stated publicly his intention to adjust government fees and charges. This proposal of the Government, well-advertised in advance, reflects not only the over-optimistic assessment of Hong Kong's economic prospects by the Government, but also the incomplete understanding of the difficulties of the business sector, and the public in general, on the part of government officials whose only concern is revenue for the government coffers, to the neglect of the predicaments of the citizens. If the Government insists on having its way, it will deal a heavy blow to all our trades, industries and businesses that have only just seen a modicum of stability, and to our economy that has just begun to turn around.

In fact, the SAR Government is in very good financial shape. There is utterly no need to milk the business sector and the citizens in a hurry. The Government has for a long time now maintained a very health fiscal reserve of more than \$400 billion, the envy of almost all governments around the world. In 1997-98 alone, the Government recorded a surplus of \$80 billion which should provide the necessary funds for the Government to introduce flexible fiscal measures in a recession to revive our economy. What is more, the windfall gained as a result of the foray into the stock market last year has further strengthened the Government's financial position which is doubtless far better than that of the business sector and the public. The Government does not have any urgent financial need to target the business sector and the citizens. Moreover, our economy is at best partially turning around; some trades such as the retail and catering businesses are still in dire straits. The Government should wait some more time and adjust the government finance only when Hong Kong economy has really recovered fully. Therefore, the Liberal Party wishes to specifically ask the Government to continue to freeze all fees and charges relating to our business sector and people's livelihood in the coming year.

Madam President, on behalf of the Liberal Party, I have moved to amend Mr LEE Wing-tat's motion today for two reasons. First, it is not sufficient to ask the Government to freeze the fees and charges relating to people's livelihood alone, we must include in the freeze the fees and charges payable by the business sector. The original motion does not cover this. It aptly shows that many people do not understand that the business sector is also a victim of the financial turmoil, and that the absolute majority of Hong Kong's businesses are small and medium enterprises (SMEs), the owners of which are themselves members of the public, no different from other citizens. The Democratic Party often puts the business sector in opposition to the people, discriminates against the citizens who operate businesses, and thus ignores the rights and interests of the business sector. No wonder businessmen have been feeling in recent years that the business environment in Hong Kong has deteriorated, and Hong Kong is no longer a good place for investment and to create wealth.

In fact, among the 3 800-odd government fees and charges, most of them concern the business sector. If they are raised, a very heavy burden will be created, particularly to the SMEs that account for 98% of our business sector. Once these SMEs can afford no longer, they will have no choice but to cut their

staff, or worse, fold up. Wage earners will be affected. Therefore the Liberal Party must amend the motion to include the fees and charges payable by the business sector into the freeze so as to increase the protection for the business sector and for the wage earners.

The second reason for the Liberal Party to move the amendment is that we think that the Democratic Party has ignored the realities in its attempt to force the public utility corporations to reduce their charges next year which, in the final reckoning, will only put the staff of such corporations at risk. We all know that in the real world, it is never possible to "make the horse run fast without feeding it". If we wish to protect the wage earners, we must also protect the business of the bosses. There is no question of having salary raises for the staff and at the same time cutting the revenue of the corporations. When the public utility corporations lose revenue as a result of the forced cut in their charges, in order to answer to their shareholders, their only way out is to also cut cost, a very significant portion of which is wages. Has the Democratic Party ever thought about that? So any reduction of their charges can only be achieved through wage cuts and layoffs. Thus the ultimate victims are the staff of the utility corporations.

My arguments are not without grounds; rather, they are based on solid facts. We all know that the utility corporations froze their charges this year in view of the general situation of Hong Kong, but some of them have had to cut staff as a result, through voluntary termination schemes, so as to control their costs. I can boldly state that if the utility corporations are forced to further reduce their charges in the coming year, not only will their employees see no hope of any salary increase, but they may also lose their jobs. I believe that the Democratic Party is well aware of this fact, though they choose to say things that are pleasing to the ear of the citizens, that are easily accepted by them, but conceal the hard fact that there is a painful price to pay.

Therefore the demand of the Democratic Party for a reduction is sugar-coated poison. On the face of it, they seem to work for people's livelihood and for the benefit of the citizens, but in reality, what they do can only result in the employees concerned having no pay increase, and even in the unemployment of many citizens. I hope that the general public would appreciate that "a sewing needle cannot be sharp both ends". If the demand for utility corporations to cut their charges as made by the Democratic Party is supported, citizens in the

employ of public utility corporations must be psychologically prepared to receive no pay hike next year, and even to get the sack. I also urge the Democratic Party not to mislead the public into believing that they can get a raise and at the same time pay less for utility services.

The Liberal Party has always been pragmatic, has always refrained from saying empty words. We think it fairer, more reasonable and practicable to ask the utility corporations to follow the Government's example and continue to freeze their charges. This will lessen the burden to the citizens on the one hand, and will have less effect on the employees of such corporations on the other. I urge Members to support my amendment.

Thank you, Madam President.

**Mr HO Sai-chu moved the following amendment: (Translation)**

"To delete "in view of the uncertain economic prospects" and substitute with "as the local economy has not fully recovered"; to delete "persistently high"; to delete "in Hong Kong" and substitute with "remains persistently high"; to add "trades and industries as well as" after "the various government fees and charges relating to"; to delete "reduce" from "urges the various public utility corporations to reduce their charges" and substitute with "freeze"; and to add "the commercial and industrial sectors as well as" after "in order not to increase the burden on"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr HO Sai-chu to Mr LEE Wing-tat's motion, be passed.

We shall now proceed to the debate.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, if Members of this Council are asked what local news has attracted most of their attention in the last few days, no doubt many would say it is the news of the Sino-American agreement over the World Trade Organization; some might say it is the sharp rise of the Hang Seng Index; naturally some Honourable Members might take the decision of the Government to support the application to host the Asian Games

the biggest news. All these notwithstanding, I hope to share here with Honourable Members one small piece of news I read in the papers the last couple of days.

One middle-aged and single transportation worker who has been unemployed for over half a year attempted to steal about \$200-worth of foodstuff from a supermarket day before yesterday because he was left with no choice, having nothing to eat for the past several days after his prolonged unemployment had seen all his money gone and valuables sold or pawned. His attempted was foiled by staff of the supermarket and in his escape he fell from a flowerbed and broke his legs. He was arrested and then released on a \$500-surety of his own recognizance. He is still hospitalized. According to the newspaper report, when the worker was caught, he besought the supermarket staff, saying, "I have had nothing to eat for the past few days, I am very hungry, please give me a chance!"

Of course, theft is in itself a crime, and must not be encouraged. But this story has starkly exposed the misery of middle-aged workers caught in unemployment. In the past half year and more, that worker did try to find a job. But he was always turned away, mainly because he is middle-aged. During that period, he used up all his money and valuables, and then as a last resort, applied for Comprehensive Social Security Assistance (CSSA) last month. As his application needs time to process, he has not received any CSSA payment so far and his hunger drove him to commit the offence of theft.

Honourable Members, the above tragedy is but an inconspicuous news story. But I believe it is also a fact that the Government must not ignore. In our community we have an increasing number of long-term unemployed workers, their plight has not seen any improvement despite the upturn of the local economy and the employment market, as the Government has recently been telling us. The latest unemployment figures released last week clearly indicate that our rate of unemployment still stays at the very high level of 6.2%, with over 220 000 workers out of a job. I think that as long as there is no substantial improvement to the employment prospects of Hong Kong's wage earners, any saying that "the Hong Kong economy has recovered" is meaningless.

I pointed out many times in the past that the Government must not add to the burden of the citizens and SMEs at a time when the economic environment is poor, when unemployment is high and when people lead a hard life. I would

reiterate that it is the essential task of the Government to take the lead in freezing the fees and charges for various services. This is also a manifestation of the Government's willingness to ride out the storm with the citizens. At the same time, with the Government insisting on the freeze, any attempt by privately-run public utility corporations to raise their charges will be thwarted.

Among the various government fees and charges, water charge is naturally most closely related to people's livelihood. In fact, the authorities concerned seem to be most eager to increase the water charge. For example, officials of the Works Bureau and the Water Supplies Department have hinted on different occasions recently that the issue of adjusting the water charge upward would soon be back on the agenda. I must give a warning again, if the Government proposes any increase to the water charge to the neglect of people's livelihood, it will certainly meet with strong objection from this Council and the citizens.

The reasons used by the Government to justify the proposed raise of water charge are that there has not been any adjustment for nearly five years, and that it is unhealthy for the Government to substantially subsidize water supply services as it is now doing. However, having read the report of the Director of Audit, we now know the reason for the consistent increase of water service cost is serious waste, to the tune of \$1.7 billion in the past five years. If the Government does not properly deal with the problem of buying excessive quantities of Dongjiang water that results in the wasteful overflowing of local reservoirs, but proposes instead to raise the water charge, to milk the citizens, it will lose more public support.

Honourable Members are aware that in the past year and more, my stand has been to demand a freeze on government fees and charges relating to people's livelihood, and also a freeze on the charges for other services, including those relating to trades and businesses. My reason is that during a recession, the whole community, SMEs included, face difficulties, so a freeze on government fees and charges will to some extent help the operation of SMEs, and will have a positive effect on economic recovery and job creation. My stand has not changed today, I still insist that the Government must freeze all fees and charges across the board.

There is a report today that the economy of South Korea has strongly rebounded recently, with the unemployment rate dropping in October to 4.6%, the lowest in 21 months, even better than Hong Kong. That the unemployment

situation in South Korea has improved is of course closely related to the continued increase in the number of SMEs there that create a large number of jobs. I believe that a continued freeze by the Government on all fees and charges will benefit the operation of SMEs, and they in turn, I hope, will bring about improvements to the overall employment situation.

Madam President, I would now turn to the reduction of charges by public utility corporations.

Many of our major utility corporations insisted on their yearly fare and tariff increases though they made rising profits year after year when our economy was booming. Their reason was to follow inflation. Therefore, even if we discard the point of tiding over the difficulties, I believe, taking the current deflation in Hong Kong alone, public utility corporations have to cut their charges. When there was inflation, they imposed increases "with and without justifications", but when there is deflation, they are not prepared to cut. Is it not a case of "heads I win, tails you lose"?

I think that the major theme of this motion debate is the hope that the Government and the public utility corporations can share the hardships of the citizens, and will take into account the difficulties now facing the whole community when they look at their charging policies. Irrespective of the results of the vote later on, I hope that the parties concerned will get this clear and strong message.

Madam President, I so submit. Thank you.

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

**MR CHAN WING-CHAN** (in Cantonese): Mr Deputy, in October the Financial Secretary consulted Members of this Council on the revenue and expenditure part of the next budget. Though he promised to carefully consider Members' views, proposals to raise the various government fees and charges and to introduce the land departure tax have been made now before he is through with his consideration.

The justification forwarded by the Financial Secretary is that the government fees and charges have not been adjusted for many years, resulting in the proportion of revenue from government fees and charges in the overall government expenditure dropping from 20% to the current 8% in the past 10 years; and that there is a need to find more revenue sources now that last and the present fiscal years both see a deficit. Another justification is that our economic growth for the third quarter is expected to be positive, meaning an improvement to our economic environment and better ability of the citizens to afford paying more.

But I wish to point out that the reason for such significant drop of the revenue from fees and charges as a percentage of overall expenditure in the past 10 years is the drastic increase in government expenditure. We shall have some idea on this if we compare the expenditure and revenue for 1988-89 with those for 1998-99. In 1988-89, the revenue from fees and charges was \$8.8 billion, and that for the year 1998-99 is \$15.3 billion, an increase of 74%. But the increase in government expenditure in the 10 years is even more shocking. The expenditure for 1988-89 was \$48.9 billion, rising to \$194.6 billion in 1998-99, an increase of 298%. Thus it can be seen that the rate at which government expenditure grows far outpaces that of fee rises. This alone is the main reason for the revenue from fees and charges not being sufficient. Mr Deputy, the Director of Audit has repeatedly reported on wastes by government departments. On the other hand, the Enhanced Productivity Programme (EPP) of the Government is often achieved through the simple method of cutting front-line staff, instead of slashing expenditure in the right places. As a matter of fact, if the Government can cut wastes, cut unnecessary expenditure, it can improve the ratio between the revenue from fees and charges and the expenditure.

On 27 August the Government forecast optimistically that the trend of economic recovery in Hong Kong would be sustained, and the Financial Secretary would use the figures of our economic growth as the indicators when he considered if the fees and charges were to be increased. However, while our overall economy has showed signs of growth, this does not mean that there is improvement to the livelihood of the vast majority of our citizens. The latest unemployment rate is 6.2%, representing over 223 000 jobless, with another 108 000 being underemployed; these do not include any hidden unemployment. Moreover, many workers who are at present holding jobs are still facing wage reduction or even repeated reductions of wages and benefits. It does not give us the full picture simply by looking at statistics.



Mr Deputy, many among the government fees and charges are related to people's livelihood, such as government secondary school fees, water charge, sewage charge, trade effluent surcharge and medical charge. These charges should not be increased under the present economic circumstances, they should be frozen. Further, public utilities should also lower their charges. Mr Deputy, given that citizens of Hong Kong are still living a hard life, it is necessary for the fees and charges, fares and tariffs to be lowered so that everybody can tide over the difficulties together.

Mr Deputy, the Hong Kong Federation of Trade Unions (FTU) and the Democratic Alliance for the Betterment of Hong Kong (DAB) request the Financial Secretary, or the Financial Secretary through the Secretary for the Treasury, to consider the heavy burdens of the citizens, to understand that everybody is still catching his breath after the fall, and to continue to freeze all the fees and charges in the year 2000.

Mr Deputy, I so submit, thank you.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, the economy of Hong Kong has ended the negative growth recorded in five quarters in a row, and eventually grew 0.7% in the second quarter this year. The gross domestic product figures to be released day after tomorrow are forecast to show a positive growth of 2% to 3%. On the other hand, the announcement of the agreement regarding the Disney theme park, and the Sino-American agreement over the World Trade Organization have both given the local economy a shot in the arm. All these signs indicate that the Hong Kong economy seems to have seen its worst, and is rebounding from the bottom.

However, if we care to make a careful analysis, it will not be hard for us to find out that the local economy is only beginning to see some light at the end of the tunnel; it is still some distance away from a true recovery. Though the rate of unemployment has stabilized, it still hovers at a high level. Deflation shows signs of easing off, but there has not been any real improvement. The number of tourists coming to Hong Kong has also increased, but tourist spending, instead of rising, has actually dropped. Hong Kong's overall export has also stopped dropping and is going up, but internal spending is still weak. Under the circumstances, if the Government and the public sector mistakenly think that our economy is beginning to recover, and so falling over each other to increase fees and charges, a heavy blow will certainly be dealt to the citizens and the business sector, slowing down the pace of recovery for the local economy.

Naturally, the Hong Kong Progressive Alliance (HKPA) appreciates that the Government is in a dilemma: on the one hand it has to effectively control expenditure, to retrench and to seek new sources of revenue; on the other it cannot easily raise taxes which will hurt the people. It is a really big headache to cover the aggregated deficit of close to \$60 billion. So, though the HKPA does not agree with any across-the-board increase for all government fees and charges, we do not oppose the increase of those items that do not affect people's livelihood. Other Members from the HKPA will elaborate on this, and I am not going to pre-empt them now.

Nevertheless, in respect of those specially well-endowed public utility corporations that operate under franchises from the Government, with profit protection and huge profits year after year, such as the CLP, the HEC, the Towngas, the Hongkong Telecom, the bus companies and the two railways, I think they not only should continue to freeze their charges, but even suitably lower them. In fact, the majority of the public utility corporations still reap huge profits even after the financial crisis. Information shows that the MTRC and the KCRC respectively made a profit of around \$1.8 billion and \$1.6 billion last year; the two power companies around \$2 billion and \$5 billion of profits after-tax; the Hongkong Telecom had a profit as huge as \$6 billion. The various public utility corporations all made tremendous profits in the past. So would it not be a bit unreasonable of them not to freeze their charges in the present economic circumstances, but to propose an increase instead? I understand that public utilities are not charities, and must operate according to commercial principles. But as the local economy is yet to recover, public utility corporations must consider their social obligations in addition to their responsibility towards their shareholders. The Government, as the owner of a majority of public utilities, should also urge the corporations to freeze their charges for the coming year, so as to ease the burden on the citizens and the business sector.

The CLP and the Towngas announced earlier that their tariffs for next year would be frozen. This act of repaying society is worth our support and other corporations should follow suit. On the contrary, the Hongkong Telecom, despite its over \$6 billion of profit last year and the present recession, has not considered public sentiments, and hiked last August the local residential telephone charge from \$68 to \$90. On the other hand, the liberalization of the telecommunications market in Hong Kong has not progressed satisfactorily, over 90% of the local telephone business is still in the hands of Hongkong Telecom in

a monopolistic way, forcing citizens to use its expensive service. With the local telecommunications market still being dominated by a monopolistic corporation, the tariff increase introduced by the Hongkong Telecom is unreasonable. But the Government duly approved the increase unconditionally. This is really disappointing!

Public utilities have long provided services to the citizens of Hong Kong and are therefore closely related to people's livelihood. Many public utility corporations have stressed in their advertisements their close relationship with the citizens. So, now that the local economy is at a stage of adjustment, the public utility corporations, having maintained their huge profits, should share the sentiments of the public, and should not stress on profits. They should, while making reasonable profits, shoulder bigger social responsibility and consider the well-being of the citizens.

Mr Deputy, I so submit.

**DR RAYMOND HO** (in Cantonese): Mr Deputy, the economy of Hong Kong has yet to see a full recovery. Our unemployment rate is still relatively high. This is of course not an opportune time to propose to raise the fees and charges for public services. However, when we consider this issue, we must also take into account the financial realities confronting the Government as well as the commercial consideration of the public utility corporations. At the same time, the bottomline should be the overall interest of Hong Kong as a whole.

In view of the weak economy of Hong Kong in the past couple of years, the Government has introduced some special measures and made certain tax concessions so as to ride out the storm together with the citizens. Certain government fees and charges have not been adjusted for four to five years. Under the circumstances, government revenue is sure to suffer. According to statistics, government fees and charges accounted for 20% of the total revenue of the Government 10 years ago, the percentage has now dropped to 8%. In the face of the continually dwindling proportion of the revenue from government fees and charges, the Government is indeed facing tremendous pressure in balancing its revenue and expenditure.

According to Article 107 of the Basic Law, the Hong Kong SAR shall follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of the gross domestic product. In fact, Hong Kong has been running deficits since 1998. If this continues, international investors might begin to doubt the determination of Hong Kong in sticking to the principle of prudent financial management. This will harm our long-term interests.

Of course, at the same time when the Government considers increasing the various fees and charges, it should strengthen its effort in controlling the cost of providing public services as far as possible. It should also seriously study the feasibility of widening the tax base so as to secure steady revenue income. On the other hand, the Government must ensure that the increased fees and charges will not hamper our economic recovery and that the increases stay within reasonable limits. Consideration should also be made to phase in the increases so as to avoid hiking all fees and charges at the same time.

Regarding public utilities, while we urge the corporations concerned to make reasonable adjustments to their charges in view of the current economic climate, we must also appreciate that they have their own commercial considerations. Hong Kong has always been an economy based on free market principles, and this is a major factor for our successful development. Over the matter of the level of fares and tariffs charged by public utility corporations, we can make known our views and wishes through different channels, but we should not influence the corporations' decisions in this respect through political pressure because this contravenes the operation of a free economy.

Mr Deputy, I so submit. Thank you.

**DR YEUNG SUM** (in Cantonese): Mr Deputy, the title of the motion moved by my colleague Mr LEE Wing-tat is "Freezing and reducing fees and charges". To avoid repetition, my speech shall focus only on government fees and charges and the revenue and expenditure of the Government.

First of all, from a macroscopic angle, it is not hard for us to find out from the background information on the overall financial position of the Government as supplied by the Finance Bureau that the problem of deficits Hong Kong now

faces is not as extremely grim as the Financial Secretary repeatedly stressed in the last few days. Statistical data show that there was deficit in the year 1998-99 (last year), is one in 1999-2000 (this year), and will be one in 2000-01 (next year), and that for the current year the deficit will be as high as \$36.5 billion. This is doubtless rare in the history of Hong Kong, and deviates from the proven principle of prudent financial management practised in Hong Kong. However, only if we bother to look carefully, we shall see that the nearly \$90 billion surplus for 1997-98 alone is able to totally cover all the deficits of these three years. On top of it, the latest figures show that Hong Kong has a fiscal reserve of US\$90.5 billion. So, can we take this position, though worrying but in no way despairing, as "extremely grim"? If our financial situation is not extremely grim, why have the officials of the SAR Government been so desperately pulling out all the stops to win approval for increasing the government fees and charges that can only add \$250 million to the government coffers? Are there really no other ways to increase government revenue apart from imposing new taxes and increasing fees and charges? The public offer of the Tracker Fund of Hong Kong, for example, has brought several ten billion dollars of profit, does it not strengthen the fiscal reserve of the Government in an indirect way?

Article 107 of the Basic Law stipulates that "The Hong Kong Special Administrative Region shall follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of the gross domestic product." The Democratic Party does not oppose the objective of this provision. In fact, the word "strive" in the sentence "strive to achieve a fiscal balance, avoid deficits" has provided the Financial Secretary some leeway to, in extraordinary and non-recurrent circumstances, initiate some necessary response and remedial measures not in keeping with the established practice. I wish to emphasize that Hong Kong is now in such extraordinary and non-recurrent circumstances, and the Financial Secretary really has to exercise his discretion, until such unusual circumstances have completely disappeared.

The Financial Secretary and the officials concerned have recently and repeatedly said in unison that the Hong Kong economy is turning around and stressed at the same time the grimness of the deficits. No doubt they are paving the way for new taxes and for putting the issue of fees and charges increase back on the agenda. But can this wishful propaganda cover the truth and the fact? We all know that the economic recovery forecast by the Government has not materialized, the latest rate of unemployment rises instead of dropping; the

various trades and businesses have yet to see any rebound. It is sure that the present so-called economic recovery is more psychological than real. The third-quarter gross domestic product figures to be released this coming Friday might shed some relatively real light in this respect. However, undeniably, all the negative signs are still there, and there is a possibility that they will remain there for quite a long time to come. The community can really not accept some financial measures that, though in line with the Basic Law, affect people's livelihood.

From a microscopic angle, high-level government officials have repeatedly stressed the sustained deterioration of the fiscal deficit problem which is undeniably a fact. But I must emphasize that increasing expenditure is perhaps not necessarily a step towards resolving the deficit problem; rather, retrenchment is the most appropriate way of tackling it during an economic downturn. The Chief Executive announced in his 1998 policy address that government departments and bodies would cut 5% of the operating expenditure in four fiscal years through the Enhanced Productivity Programme, and about \$1 billion could be saved in the next fiscal year through it. The Democratic Party hopes that all senior government officials would understand that, even given the slower pace of government reforms as compared with those in the private sector, the Government can achieve in one year savings equivalent to four times of the revenue from the increases in government fees and charges. Moreover, the Government can further tackle the issue of serious waste of public money as revealed in Report No. 33 of the Director of Audit just published, including a waste of \$300 million in inordinate payment of allowances to civil servants, the waste of \$170 million resulting from management confusion of the Vocational Training Council, the \$90 million and \$80 million because of over-staffing respectively of the Urban Services Department and the Immigration Department, the \$60 million from poor management of the Company Registry and the \$110 million under-collection of meter and parking fees by the Transport Department. These add up to a total of \$800 million, sufficient to totally off-set the income from the recent controversial land departure tax and the new income from the proposed increases of government fees and charges combined. Mr Deputy, I have not mentioned the payment of \$21 million as compensation for the termination of the West Kowloon works project and the loss of as much as \$6.6 billion in land sale as estimated by surveyors.

Mr Deputy, I hope that government officials present and Honourable Members bear with me for meticulously listing some of the amounts that in the eyes of the Government might be quite insignificant. But in fact, all these are wealth jointly owned by all the citizens of Hong Kong. Therefore, when using public money, all government departments must take the cautious attitude that there must be value for money and the money is spent in the right places. When the economy and people's livelihood are in very poor shape, the Government should do its best to seek effective means of retrenchment; only as a last resort should financial measures that will add to the burden of the people and undermine the momentum of recovery be considered.

With these remarks, I support the motion of Mr LEE Wing-tat. Thank you.

**MR CHAN KWOK-KEUNG** (in Cantonese): Mr Deputy, the Finance Bureau proposed to increase 3 000-odd items of government fees and charges last June, and only dropped the proposal when it drew criticisms from all quarters. At that time, the Financial Secretary hinted that he would consider reviving the proposal when Hong Kong's economic figures showed positive growth. With his words still lingering in our ears, the Government announced at the end of August that the local economy grew by 2% in the second quarter. True to his words, the Financial Secretary began to talk about the increase of fees and charges again at the end of October, claiming that the increase was necessary as the revenue from government fees and charges as a percentage of government expenditure dropped from 20% 10 years ago to the present 8%. I cannot agree with his claim.

Though the local economy shows signs of gradual recovery, the gross domestic product recorded a 3% growth for the second quarter for example, this does not mean that there has been real improvements to the livelihood of the citizens. The rate of unemployment, as published in mid-November, has gone up again. Hard times seem to be still with us.

Moreover, a study conducted by the FTU in September revealed that economic growth is not directly proportional to employment. Statistics show that our gross domestic product grew at the high rate of 6.3% from 1986 to 1992, but growth in employment was a mere 0.63%, so the former did only very little to boost the latter. From this it can be seen that economic growth does not help

very much in raising the employment rate. Further, we find that the rate of unemployment is mainly affected by the speed with which the labour content in production diminishes. From 1986 to 1992, despite the high rate of economic growth, the increase of employment remained slow, the main reasons being, on the one hand, the northward relocation of manufacturing industries with high labour content, resulting in sharp reduction in the size of our employed population; on the other hand, the rapid development of low-labour-content sectors such as financial services, real estate, the import/export sector, has lowered the overall labour content in our economy.

Therefore, even there is growth in our economy, the ability of the citizens to pay more is not necessarily raised correspondingly. The crux of the problem is still our unemployment situation. A high rate of unemployment means that citizens cannot afford increases in government fees and charges. The rate of unemployment just announced has given the Government a very clear message, that is, freeze or reduce the fees and charges, and solve the unemployment problem as soon as possible.

On the issue of the revenue from government fees and charges constituting a smaller proportion of expenditure, the drop does not mean an unsatisfactory income position of the Government, instead it reflects that government expenditure has expanded greatly. This cannot but make people doubt if the administrative efficiency of the Government has improved. As Mr CHAN Wing-chan just said, while the revenue from government fees and charges increased by 74% in 10 years, the expenditure quadrupled during the same period. This is surprising. When revenue cannot cover expenditure, the Government should further increase its efficiency rather than relying on increasing the fees and charges. Though the Government has launched the Enhanced Productivity Programme, it is still at the initial stage, and its effectiveness remains to be seen. Moreover, some basic rank civil servants have questioned if the aim of this programme is to squeeze them to solve the deficit problem.

In the past 10 years, the Government made many commitments. In the areas of housing, medical, environmental protection and education, it has provided more and better services. As a result, government expenditure has increased sharply. More and better services are actually a good thing. It is a pity that the colonial government in the past knew only to depend on its high land price policy to finance the huge expenditure and, as stability was of top priority



during the transition, no reasonable adjustments were made to the revenue sources and the tax regime, resulting in a less than healthy fiscal system. Time has changed. Hong Kong has a poorer economy now, and the property market is in the doldrums, and unavoidably, the Government will run into deficits. This has compelled the Government to resort to all means to get additional revenue so as to cut the deficit.

However, are the citizens not also retrenching? Are they not leading a hard life? The unemployed and the ordinary citizens have ceased hoping for the Government to provide them sufficient employment opportunities. So, the Government should not "rob" these poor citizens to feed its "rich" self. While still holding several hundred billion dollars of fiscal reserves, there is no point for the SAR Government to think of asking the citizens to pay more. Government assets are public assets, and any increase in government fees and charges will affect the masses. I believe that as long as the Government has huge fiscal reserves, the people do not like the Government to raise fees and charges to add to their burdens.

Mr Deputy, I so submit.

**MRS MIRIAM LAU** (in Cantonese): Mr Deputy, many people are saying that Hong Kong is now rebounding from the economic bottom, our economy is recovering. But the original motion talks about "uncertain economic prospects" in Hong Kong. I am no expert in economics, and I do not know how to use statistics and data to prove if our economic prospects are uncertain, or if our economy has rebounded from the bottom. However, observation tells me that there are signs of sustained improvements to our economy. Crowds of people and long queues of vehicles that were once nowhere to be seen are reappearing. Restaurants, virtually empty not too long ago, are again having customers waiting for tables. Shops nobody went in are now filled with shoppers on a buying spree.

The rate of unemployment in Hong Kong remains high. Many unemployed or underemployed citizens are still leading a hard life. It will be some time before Hong Kong sees a full economic recovery. Any suggestion for the public utilities to reduce their charges is sure to be supported and welcomed by many citizens. As a matter of fact, even when our economy was booming, any such suggestion would still be well supported. But we must not ignore the consequences of such a reduction.

I wish to analyse the matter from the angle of public transport. Indeed, since the financial crisis struck, our public transport companies have been very cautious in pricing their fares, so as not to increase the burden on the public. The fares of the three railways and some of the bus companies have remained frozen since last year. A certain bus company has not even had any increase since 1997.

With fares frozen, some public transport corporations are suffering negative growth in revenue as a result of reduced passenger volume. As commercial undertakings, their only way to continue their operation, to provide good transport service to the citizens, and to earn reasonable profits for their shareholders, is to find new sources of income and to cut cost. In the area of new income, we can see that the transport corporations have devised ingenious schemes; most bus companies use the bus panels and the new-style bus stops to carry advertisements; the Mass Transit Railway trains are for the first time carrying external advertisements, even the walls in the concourse of the stations are now used for advertisements. Why do they do that? It is all for increasing income. There are but two ways to cut costs: to cut services or to do something about their employees. With the very keen competition among our public transport operators, cutting services is tantamount to suicide. The companies will never consider doing so. We, Members of the Legislative Council, or the Government, will also not allow them to do so. What alternative is there for them? Well, that leaves the employees. In fact, the three railways and the three bus companies have frozen the salary of their employees for the past one year. I believe everybody is well aware of this.

The fare freeze has obviously produced some effects, and that is, the employment problem — a point of concern for many Members. In order to maintain their competitiveness, individual companies have introduced schemes for voluntary retirement so as to cut staff, apart from freezing salary. Some companies that must increase their staff have hired the bare minimum number of employees. If we ask the public transport corporations to further reduce their fares, they must further retrench, resulting in the inevitable cut in salary or even layoffs, thus forcing more people to join the vast unemployed ranks. We must know that employees of the public transport companies are themselves ordinary citizens, we are also very much concerned about their employment. Further retrenchment will also have a bearing on the quality of service. Even though services are not reduced, needed improvements cannot be made or have to be shelved, for lack of resources as a result of retrenchment. Who are the ultimate victims? The public at large.

Another consequence is not too obvious to the public, and that is the credit rating of the two railway corporations might be affected, resulting in increased interest payment. In his speech earlier, Mr LEE Wing-tat mentioned that many companies are making profits. This corporation made money, that company also made money. The MTRC made profits, the KCRC made profits. My impression is that he seemed to suggest it was a sin to make money, it was wrong to have a profit, and losing money was the only right thing to do. We appear to have forgotten one thing, that the two railway corporations have huge railroad development projects that call for financing to the tune of several hundred billion dollars. The MTRC and the KCRC have respectively started the construction of the Tseung Kwan O MTR line and the West Rail. These are soon to be followed by the Ma On Shan Rail, the Tsim Sha Tsui Extension and the Sheung Shui-Lok Ma Chau Line. Further away is the East Kowloon railway development project. All these railway projects have to be financed with huge loans, on top of their own resources. If the two railway corporations give up the prudent commercial principles and accede to the fare reduction demands of Members championing the people's livelihood, how would the credit-rating agencies view such actions? Will this affect the credit rating of the two railway corporations? If so, interest payment will escalate, and if interest payment increases, who is going to pay? Passengers will eventually have to pay; citizens will eventually have to pay. So, can it be said that such a move bring all harm and no benefit to the citizens?

Having said all this, I still hope that public transport operators will, as they did in the past, adopt a cautious attitude when they deal with the issue of fare increase, bearing in mind the current economic situation and the ability of the citizens to pay. If it is within their capability, I also hope that they can freeze their fares for the coming year. However, if we force them to reduce their fares, we must carefully weigh the consequences. If we are not sure of the consequences, my advice is that we should take a prudent view.

Mr Deputy, I so submit.

**DR TANG SIU-TONG** (in Cantonese): Mr Deputy, other Members from the HKPA will speak on the charges of public utilities and other things, I shall focus on the Government's policy regarding fees and charges.

The Financial Secretary indicated in the 1998-99 Budget that in order to relieve people's hardships and lower business costs, most government fees and charges would be frozen. In his Budget speech this year, he expressed again that, considering the state of the Hong Kong economy which would only begin to turn around in the second half of the year, the freeze on the fees and charges would be extended for six months, that is, they would maintain their "current level". However, I would point out that the "current level" of the fees and charges is in fact what was current in 1997-98, determined according to the prices before the onslaught of the financial storm. So this "current level" is in fact "the level at that time". Is such a level reasonable under the present circumstances?

Mr Deputy, according to the Census and Statistics Department, the Consumer Price Index (A) that measures local inflation has been dropping since March 1998, and reached the lowest at -5.2% in August. I wish to point out that, if the Government wishes to "genuinely" tide over the difficulties together with the people, it should have long ago adjusted the majority of government fees and charges downwards to bring them in line with the level of consumer prices. We all know that in the wake of the financial turmoil, local businesses, including restaurants, retail outlets and services, have been offering big discounts to persuade local shoppers and tourists to part with their money. It is also easy to notice that most prices on the market have gone back to their levels five or six years ago. This is the result of deflation. Some government officials have indicated there is a need for prices to go down so as to restore Hong Kong's competitiveness. However, have government fees and charges been adjusted downward to help Hong Kong restore its competitiveness? This is a rhetorical question, everyone knows the answer. I therefore think that as the Government has not, in the presence of deflation, lowered the fees and charges which have therefore remained at their "relatively high level of the past", it should not raise the proposal of adjusting all government fees and charges at a time when our economy just shows some signs of recovery.

Moreover, the Finance Bureau indicated that it based on the principles of "user pays" and "full cost recovery" when determining the various fees and charges. I fully agree with the spirit of "user pays", but I do have reservations about the principle of "full cost recovery". Why? Because I accept the "recovery of reasonable cost not inflated by wanton waste". I cannot agree that the Government must "recover unreasonable cost that is inflated by serious waste". The Water Supplies Department is a good example. The recently

published report of the Director of Audit reveals that in the past few years, as much as 700 million cu m of potable water overflowed from our reservoirs, representing an economic loss as high as \$1.7 billion. Before the Government asks the community to pay more, it should do some self-examination.

If the Government increases the fees and charges just to recover the "cost" that is suspiciously the result of serious waste of public funds before a comprehensive and detailed review of the "cost" of the various departments is made, I think it is requiring the citizens to accept the consequence of something for which they are not responsible. This is absolutely unfair to the citizens as well as the business sector that has been actively seeking ways to lower operating costs.

Furthermore, though the Government has launched its Enhanced Productivity Programme (EPP) aiming at a 5% saving, I think that the result of applying the programme across the board to all departments has not been satisfactory. The Government should review the EPP as soon as possible so that there will be different targets of "enhanced productivity" for different departments. For departments with a record of serious squandering, a higher "enhanced productivity" should be demanded. And what departments must produce a higher "enhanced productivity"? I think the Audit Department's report provides the best suggestions. On the other hand, departments that have already been retrenching, have been putting great effort in enhancing productivity should have their "enhanced productivity" targets suitably adjusted so as not to add to their financial pressure to the detriment of the quality of their services. The pressure to increase the fees and charges will be further reduced with more rational redistribution of resources within the Government.

With these remarks, Mr Deputy, I support the amendment moved by Mr HO Sai-chu.

**MR NG LEUNG-SING** (in Cantonese): Mr Deputy, the Government has indicated recently that if our economy shows positive growth, the proposal to increase government fees and charges will be reconsidered. According to the Government, the revenue from fees and charges as a proportion of the overall revenue has been dropping in the past decade, from the 20% 10 years ago to the present 8%, and some fees and charges have in fact not been adjusted for four or five years.

I appreciate the financial difficulties the Government is facing, and Members of this Council must also be concerned about the need to maintain healthy public finance. However, in the present economic climate when the business and industrial sectors are still having difficulties in their operation, and the citizens are similarly subject to all sorts of pressures, even our economy has turned round a bit, the community needs longer time to recuperate. If the Government proposes to increase fees and charges, it should carefully consider if this is the opportune time.

What is more important is that the Government has only spoken part of the truth when it said that fees and charges have to be increased in the face of tight finances. According to what the Secretary for the Treasury said in June, the level of civil service remuneration directly affected the level of any increase to government fees and charges. The other part of the truth is that though Hong Kong is having deflation, not only are the salaries of the civil servants not lowered, half of them still get their annual increments. This has resulted in the rise of government expenditure while the overall consumer price index dropped.

So, to maintain its huge and growing establishment, the Government is considering to increase the fees and charges in order to maintain healthy public finance. But such an approach is in itself an unhealthy one. Since the strike of the financial turmoil, the operating cost in the private sector has generally lowered, and the income of the citizens falls correspondingly. But the costs in government and quasi-government bodies simply keep on mounting. In many government departments, staff emolument and benefits account for 70% to 80% of their total cost. Under the circumstances, increasing fees and charges is obviously not the only means to stabilize public finance and to ask "users to pay". On the contrary, rationalization of the establishment and expenditure of the Government should be the priority task. If the Government cannot demonstrate to the public that its staff cost is reasonable, citizens will find it hard to accept any fee and charge increase. Therefore, I hope that the Government can do more to control the cost of maintaining the Civil Service. Irrespective of the dates of entry, irrespective of ranks, the level of civil service remuneration and benefits should reflect the actual economic climate and the realities in the private labour market. At the same time, I believe that Honourable Members supporting this motion for a freeze on the fees and charges will also support the Government in improving the control over its establishment and costs as well as other related reforms of the Civil Service.

As to the call in the original motion for public utility corporations to reduce their charges, and the amendment urging a freeze instead, I think that in the present economic climate in Hong Kong, these corporations certainly need to exercise restraint in pricing their charges. In fact, many have already offered a freeze, including the CLP which announced that its tariff would be frozen for the coming year.

On the other hand, I believe the various political parties and groups will share the view of the Chief Executive, presented in his policy address, that the role of the Government in the economy is that it should interfere as little as possible with market operation, and leave commercial decisions to commercial enterprises. Therefore, in the past one year and more when Hong Kong was experiencing extreme economic difficulties, and under very special circumstances, this Council did urge the executive authorities to pay attention to the charges of public utilities so as to foster the social consensus and environment of hardship sharing. That produced positive effects under the unusual circumstances. It must be noted that the unusual period lasted a relatively short time. And if our economy can be, as is said in the amendment, deemed as gradually recovering, albeit not a full revival, and if the Government is asked to continue to direct market mechanisms such as increase of commercial charges, investors, local and overseas, and businessmen will query if it is appropriate for the Government to play such a role in the economy. Such government actions might even affect the free adjustment mechanism of the market, hurt the change sensitive development of commercial undertakings, and derail arrangements for salary increases and employment expansion, or even might thwart the recovery of the overall economy.

Therefore, as the subjects of this debate involve commercial operation under different circumstances, Honourable Members should think twice.

Mr Deputy, I so submit.

**MR ANDREW CHENG** (in Cantonese): Mr Deputy, I shall speak on the part of the motion calling for reduction of public transport fares, that is, the railways, the MTR and buses in my capacity as the deputy transport affairs spokesman of the Democratic Party.

Mr Deputy, I remember a publicity catch-phrase of the MTR at the beginning of its operation, namely, "MTR — Growing for You". This phrase signifies that the MTR was built to serve the people of Hong Kong. It was constructed with the hope that life in Hong Kong would be better and more convenient. As important infrastructure facilities, the construction of the MTR did serve a social purposes. Therefore, the MTRC must not regard the MTR as purely a business concern solely in pursuit of commercial return and must not always stress profits.

As the amount of investment involved in the MTR is enormous, the MTRC has over the past 10-odd years deliberately set its fares at a higher level in order to service its loans and interest payments. With regular fare increases and growth in passenger volume, the MTRC eventually had its first aggregate surplus in 1997 and paid the Government a dividend of \$1.252 billion. It is a pity that its improved financial position has not made the MTRC ease its fare increases.

Mrs Miriam LAU of the Liberal Party questioned Mr LEE Wing-tat's allusion to the huge and regular profits of the MTRC and said that he seemed to suggest it was a sin to make money. The Democratic Party thinks that making money is not a sin, but reducing fares is certainly a charitable act, is surely a gesture of sharing the hardships with the citizens. A small and short-term reduction of fares, we believe, will absolutely not affect the credit rating of the MTRC or the KCRC.

The Democratic Party conducted a survey at the end of October to see how the citizens judged the level of MTR fares. The results show that among the 509 citizens polled, 71.1% opined that the current MTR fares were on the high side. Thus it can be seen that though the MTR brings convenience to the people of Hong Kong, with its relatively high fares, it has gradually become a burden to them because it relentlessly pushes up the citizens' expenses in transport.

During the recession in the past two years, the citizens of Hong Kong have faced salary freeze, wage reduction, and even layoff; deflation has kept worsening. But with its huge profits, the MTRC has never considered a fare reduction. I hope that the Corporation still remembers the purpose of building the MTR. It is a public service, not a commercial concern run purely for profit. What is more, as of 30 September 1999, the MTRC has a retained surplus of \$6.477 billion. The Democratic Party urges the MTRC, with such a sound financial position, to introduce a fare reduction in 2000 so as to reduce the burden on the citizens.



The KCRC, like the MTRC, is a public transport operator, with a similar role and similar responsibilities. As the main provider of public transport in East, West and North New Territories, the KCRC and the Light Rail will help greatly reduce the transport expenses of the citizens travelling to the urban areas if they can cut their fares. The KCRC is also in very good shape financially, with an after-tax profit of \$1.639 billion in 1998, and a retained surplus of \$7.073 billion at the end of 1998, even better than the MTRC. Though the KCRC is building the West Rail, the Ma On Shan Rail, the Tsim Sha Tsui Extension, and the Sheung Shui-Lok Ma Chau Line, the corporation should not use such projects as the pretext for not lowering its fares. They are long-term investment projects that will bring a return for the KCRC in the future. It will be extremely unfair for the corporation to ask the present passengers of the East Rail and the Light Rail to finance the projects. In fact, fare reduction is only a special measure in an unusual time. As the corporation has the ability, it should make its contribution so as to show that it will tide over the difficulties together with the citizens.

Regarding franchised bus services, there are at present three franchised bus operators in the urban areas, the biggest among them is the KMB. In 1988, the KMB carried 27% of the entire passenger volume of the whole of Hong Kong, and now enjoys the largest market share. Though the KMB announced that there would not be any fare increase this year, we think that the company as the public transport operator with the biggest market share has the capacity to lower its fares. In fact, the net profit of KMB reached \$300 million for the first half of 1999, representing an increase of 4.6% over the \$287 million it gained in the same period last year. In the present depressed economic climate, and without profit control, the profit of KMB increased rather than decreased mainly because its passenger volume has kept growing. The sustained development of the various new towns in the New Territories has given the KMB the space for expansion.

Even if the KMB lowers its fares, it will not incur a loss. The reduction will mean only smaller profits. In the face of the present depressing economic climate with persistently high rate of unemployment, the KMB should take the lead in fare reduction so as to tide over the difficulties together with the citizens.

The Citybus Limited and the New World First Bus Services Limited (Firstbus) that has been in operation for only one year, we believe, also have the capacity to reduce their fares. Indeed, the Firstbus lowered the fares for certain of its routes (the one to South Horizon for example) in a tactical move last month to enhance its competitiveness. This shows that even the new operator has the room and ability to cut fares.

Franchised bus service is a long-term investment. Fare reduction only in unusually hard times will not seriously undermine the financial position of the companies concerned; it will only put a little dent in their profit for the short term. Therefore, in the current very difficult environment, I think that the several franchised bus companies should meet their social obligations, lower their fares so as to relieve the hardship of the people.

With these remarks, Mr Deputy, I support the motion of Mr LEE Wing-tat.

**MR HUI CHEUNG-CHING** (in Cantonese): Mr Deputy, I am very pleased to see that the Government has viewed with a heightened sense of crisis the problem of "scissors' fork" and "lion's mouth" that emerged following the persistent expansion of public expenditure and the shrinking of the gross domestic product. The Hong Kong economy has so far not fully recovered, and government revenue and land sale proceeds for the Government are still not stable for some time to come. At the same time, the Government has commitments in areas like social welfare, public housing and medical services which are easy to expand and difficult to be scaled down. In the face of such a difficult situation, it is not easy for the Government to achieve fiscal balance. Therefore, the Government wishes to raise the fees and charges for its services with a view to easing the pressure of a deficit. I can appreciate that.

In fact, even if the Government raises all the 3 000-odd items of fees and charges by the 3% to 5% as now proposed, the Treasury will only receive \$200-odd million. This does not help feed the "lion's mouth" created by the imbalance in revenue and public expenditure. The Government should be clearly aware that to achieve fiscal balance, the most important thing is to float the shares of the MTRC, to sell the stock it is holding and to enhance productivity. To stimulate the economy for an early recovery, the most important task is to shape up the business environment, particularly raising the

competitiveness of the pillars of our economy such as trading, financial services, tourism, retailing, innovation and technology.

The Government might think that the majority of the fees and charges for public services have not been adjusted for over one and a half years, and among them, the water charge and sewage charge have not been increased for five years. However, there is no reason that the Government is not aware that in the past one and a half years, the consumer market of Hong Kong went from mild inflation to serious deflation. In the presence of the serious deflation, should government fees and charges be reduced or increased in real terms? As to the water charge and sewage charge that have a direct bearing on our trades and industries as well as people's livelihood, any increase should not be rashly considered. The reasons for the proposed increase and the data supporting such a proposal should be clearly explained to the citizens so that they can fully understand the details.

Mr Deputy, that Hong Kong economy is showing initial signs of a recovery is the result of the hard work of our business sector and our people. Before the Government implemented in real earnest the privatization schemes, the private sector already streamlined their organizational structure and cut cost. Many business departments have introduced the responsibility system. Before the Government vigorously launched the Enhanced Productivity Programme, employees in the private sector were already aware that they had to enhance their own productivity, and put in over-time work voluntarily, even without extra pay. The Chief Executive's Council of International Advisers held their second meeting just last week, unanimously agreeing that Hong Kong needed to continue to adjust its cost structure. But why does the Government have to go the opposite way, to increase across the board all the 3 000-odd fees and charges?

Mr Deputy, the problem with the Government increasing the 3 000 items of fees and charges does not lie in the extent of the increases, but in the way the Government is doing it wholesale and in an exhaustive way. This will easily whip up a big round of increases in a chain reaction, adding to the daily expenses of the citizens and increasing the operating cost of our trades and industries. This round of increases that may emerge might not affect the profits of major enterprises, but could greatly cut into the profit margin of SMEs. This is particularly obvious given the present depressed economic climate, the withered demand and the high real interest rate. Hong Kong is only beginning to regain its feet after the financial storm in the past couple of years, if the Government starts the round of increases at this stage, could it mean killing the fledging

recovery? Would it again strike a blow to the consumer market of Hong Kong that has just begun to see some signs of revival after the past year, at the business environment that has just begun to look a bit attractive, and at the investment desire that has also started to stir?

Mr Deputy, I so submit.

**MR FRED LI** (in Cantonese): Mr Deputy, my speech will focus on energy companies.

Among the public utility corporations in Hong Kong, the operation of the power companies is probably in the best shape, because they enjoy profit protection apart from being monopolies themselves. The CLP and the HEC are companies still getting profit protection. Until 2008, no matter what happens to the economic environment of Hong Kong, they can make a stable and legitimate 13.5% to 15% return on their assets. With the rate of return pegged with the value of their assets, their actual profit will greatly increase if they choose to continue to invest in power plants, as the HEC is planning to apply to do on Lamma Island. By that time, citizens will face increased pressure to pay higher electricity tariffs.

Though the economy of Hong Kong has been weak for the past two years, prices down as well, the power companies have not voluntarily reduced their tariffs. In response to the numerous calls from the public, they only made the gesture of freezing the tariffs. I believe nobody doubts the ability and capacity of the power companies to reduce tariffs. The interim performance reports of the two power companies are very good proof.

The CLP published its report for October 1998 to 30 September 1999 which shows that its core business that is subject to power supply regulations recorded a profit of \$5.053 billion, with an increase of 1.65% over that for the same period the previous year; its development fund has swelled to \$3.083 billion. Similarly, the HEC is in very good financial shape. The HEC group recorded a profit of \$1.937 billion for the interim period to 30 June 1999, increased by 1.5% over last year's. Even with frozen electricity tariffs, the two power companies managed to increase their profits. This is really the subject of envy and jealousy of many companies and enterprises.

The Democratic Party does not oppose public utility corporations making money. The issue is whether they are making it in a reasonable manner. When the economy boomed in Hong Kong a few years back and inflation was high, the two power companies increased their tariffs every year and reaped huge profits. Now the boom busted and deflation is deteriorating, citizens face salary reduction and wage freeze, many workers have even been laid off too. At such a time, is it not too avaricious and too much for the power companies to squeeze profits from the poor citizens? If only the power companies will lower their expected returns and reduce their tariffs, the whole community will be given a helping hand. The Democratic Party thinks that only this is fair, is the way they meet their social obligations and tide over the difficulties together with the citizens. We are not asking for the impossible. All we ask for is something the power companies well capable of doing, and it is what the people expect them to do.

Another energy company of Hong Kong, the Towngas, though not enjoying profit protection by the Government, is a natural monopoly with very sound operations and financial position. Despite the repeated calls of the Democratic Party last year for the public utility corporations to reduce their tariffs, the Towngas only froze its for 1999. According to its performance report ending 30 June 1999, the corporation gained 44 200 new clients during the half year when its tariff was frozen, bringing the total close to 1.35 million. The after-tax profit of the corporation reached \$1.474 billion, a big increase of 10.2% over that for the same period last year. It can be seen that it has very good business.

The three energy companies I mentioned above have all managed to obtain high returns despite the tariff freeze and the recession, more than what they got in 1998. I hope that they can consider a bit more the position of the citizens and their business and industrial clients, and will make a tariff reduction for the next year so that the cost of living of the citizens and the cost of operation of the business and industrial sectors can be lowered, and their burden lightened.

The Democratic Party considers it insufficient to merely ask them to freeze their tariffs, because they already did. I urge Honourable Members to support the motion of Mr LEE Wing-tat.

With these remarks, I support the original motion.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may now speak on Mr HO Sai-chu's amendment. You have five minutes.

**MR LEE WING-TAT** (in Cantonese): Mr Deputy, before speaking on the amendment, I would like to respond to a few points. It seems that Honourable colleagues of the Liberal Party have made fairly strong criticisms against me, but I am actually fairly "gentle" today. Firstly, Mr HO Sai-chu has said that a fee reduction is "sugarcoated poison". I think he should not go too far because many restaurants are reducing prices now and we cannot say that they are putting poison in the food. As compared with last year, according to the calculation I have done, clothes, shoes and socks cost 40% less, and a nice pair of shoes cost only \$200 to \$300. As regards rent, the rent of a 600 sq m seaview flat in the New Territories is \$5,000 to \$6,000, 30% to 40% less than last year's. As fee reduction is not a strange market phenomenon, we cannot say that a fee reduction is "sugarcoated poison". To say so, one is going too far, just like telling others that Hong Kong people are taking sugarcoated poison every day.

Secondly, Mrs Miriam LAU said that fee reduction will give rise to two adverse consequences. The service quality will be lowered, companies cannot expand and develop, and they may lay off staff and reduce their salary. In saying so, she has failed to consider the context because whether fee reduction will certainly lower service quality depends on whether competition exists. For example, there is a very famous restaurant in Hong Kong which I dare not patron at ordinary times. However, the restaurant played 18 strokes to rescue itself from a desperate situation (as indicated on an advertisement). It has reduced its prices and a patron needs only pay a bit more than \$120 for shark's fin, shrimp and bird nest. I have tried them and I can say they are real things. This restaurant uses these gimmicks to rescue itself from a desperate situation and face up to the problem, but the quality of its service and food remains very good and its environment is very clean. I dared not enter this restaurant before because they charged too much but I dare patron it now and I have done so twice. Therefore, service quality will not necessarily be lowered as a result of fee reduction, and it depends on whether competition exists only. If there is

competition, commercial operators will maintain their service quality, if not, they will only be eliminated. Yet, what Mrs Miriam LAU said may be right because there may not be competition among transport corporations in her constituency. Even if there is competition, it will not be intense, and these corporations will usually not comply with demands even if they encounter pressure. For this reason, what she said is not totally applicable to the present problem.

Secondly, will fee reduction certainly lead to the contraction of business plans or the suspension of expansion? I do not think so. For the same reasons, if there is no competition, commercial operators can do anything they like but they cannot do so with competition.

The last point is related to layoffs. Nobody can guarantee against this or make a forecast with a crystal ball, and even the Liberal Party cannot make a pledge. If fees are frozen, can Mrs Miriam LAU guarantee that the MTRC and KCRC will not introduce wage cuts, layoffs or propose a voluntary termination programme next year? If she can guarantee this, I will support her for this can at least protect the MTR and KCR staff. Yet, the problem is that neither she nor anybody else can guarantee this. Therefore, this problem is not the focus of our discussion.

Mr Deputy, I am pleased to have many Honourable colleagues taking part in this debate but I do not want to respond to the views they expressed again. I earnestly hope that they will support my original motion. Insofar as commercial operation is concerned, fee reduction is not something very unusual, but it is very unusual if public service charges are not reduced. Mr NG Leung-sing has just asked if intervention will be made in the private market .....

**DEPUTY PRESIDENT** (in Cantonese): Mr LEE Wing-tat, I would like to remind you that you should speak on Mr HO Sai-chu's amendment, and you will have time to respond to the speeches of other Members later.

**MR LEE WING-TAT** (in Cantonese): Mr Deputy, thank you for reminding me. I would like to express my views in one go because I do not intend to speak again so that this motion debate can come to an end earlier. I appeal for fee reduction, this is an appeal but not a compulsory motion, therefore, it will not involve

intervention in the private market. We make similar appeals very often. Private companies should make a decision on their own as to whether they will implement this. Thank you, Mr Deputy.

**SECRETARY FOR THE TREASURY** (in Cantonese): Mr Deputy, the objective of the motion moved by Mr LEE Wing-tat today and the amendment proposed to it by Mr HO Sai-chu is to urge the Government to continue to freeze the various government fees and charges relating to trades and industries or people's livelihood in the year 2000, as well as to urge the various public utility corporations to reduce or freeze their charges. I am well aware that the various fees and charges payable to the Government and public utility corporations have become a major point of concern across the social spectrum over the past years. Honourable Members who spoke in the debate just now have also raised their many different views and opinions in this connection. I must point out that the Government absolutely understands the concerns and worries expressed by members of the public over fee increases, having regard to the fact that the local economy has not fully recovered. I should like to take this opportunity to stress once again that the Government will give full consideration to the question as to whether the proposed increases are affordable and acceptable to the public when determining the level of increase under the guiding "user pays" principle.

As a matter of fact, over the past two years the Government has been providing relief to the public and the business sector through tax rebate, rates concessions and a freeze on fees and charges. The cost to the revenue of these relief measures has amounted to approximately over \$50 billion altogether. We do appreciate very much that fee increases will have a certain degree of impact on people's livelihood. In this connection, a freeze on most government fees and charges was announced in February 1998. The moratorium was first intended to remain effective for a year until its expiry on 17 February 1999; however, we have subsequently extended it further considering the actual economic circumstances of Hong Kong. Besides, on 11 June the Financial Secretary also announced that the proposed increases to fees and charges scheduled to take effect from October this year would be deferred until the economy has visibly resumed its positive growth. This measure is positive proof that the Government is very much concerned with the effect of fee increases on the general public.



Although we are still imposing a freeze on government fees and charges, I wish to emphasize that the moratorium is an exceptional measure implemented only to cater for the needs of an exceptional time. It is simply impossible for the Government to extend the freeze indefinitely, and I believe Members also agree with me in this regard. As mentioned by some Members just now, fees and charges represent a rather significant part of the annual recurrent revenue of the Government. In 1998-99, for example, 9% of our total revenue was contributed by government fees and charges. Nevertheless, the ratio of revenue from government fees and charges as a percentage of our recurrent expenditure has been on the decrease. Revenue from fees and charges today represents only 8% of our expenditure, compared with 10 years ago when 20% of the Government's recurrent expenditure was met by revenue from government fees and charges. This has also pointed to the fact that the burden on taxpayers arising from the expenditure for government services now has doubled compared to that 10 years ago. In this connection, a number of fees, such as the water and sewage charges, have seen no adjustment over the past five years. In this financial year, the subsidy provided by our community for users of various government services has amounted to \$2.08 billion.

We must not forget that we are required by the Basic Law to strive to achieve a fiscal balance and to maintain a low tax policy. Bearing in mind that deferring indefinitely the proposed fee increases would only serve to add to the burden of taxpayers, the Government should never handle the matter lightly. It is the obligation of not only the Government but also this Council and the community as a whole to meet the Basic Law requirement of striving to achieve a fiscal balance and to maintain a low tax policy. We must make it clear to both the international investors and the people of Hong Kong that in order to regain fiscal balance, we will strive to increase revenue while remaining committed to the principle of "fiscal prudence". This is of utmost importance to the long-term prosperity of Hong Kong.

We adhere to the "user pays" principle when determining the majority of government fees and charges. As I pointed out during the meeting of this Council on 3 November, the Government will certainly adopt various active measures to achieve more effective cost control, with a view to ensuring that the fees and charges payable by the public are reasonable and affordable. Besides, we will also consult Members of this Council on the level of increase and the timetable concerned before resuming actions to adjust any fees and charges.

The "user pays" principle is fair and reasonable; besides, it is also an indispensable measure in support of our low tax policy. On the other hand, while pursuing the major principle of charging fees on basis of the "user pays" principle, the Government will certainly pay due regard to the social acceptability and affordability of fee increases as well. As to certain fees and charges that are closely related to people's livelihood, such as water and sewage charges and so on, we will continue to substantially subsidize the services concerned in the light of the financial capacity of the people.

The Government grants no subsidy to public utility corporations. The policy objective of the Government in this respect is to ensure that the public can enjoy reliable and efficient services at fair prices. Apart from safeguarding the interests of the public, we also need to pay due regard to both the quality of the services provided and the interests of the investors concerned. In this connection, public utility operators are allowed a reasonable return on their investments, so that investors, the capital market as well as the debt market will be willing to continue supplying enough funding for the public utility corporations to meet future development needs. This is, actually, to safeguard the long-term interests of the people. Any adjustments to utility charges should be made in accordance with the performance and financial position of the individual public utility corporations concerned. As regards the level of increase, I believe the public utility corporations will all consider whether the fees they charge are reasonable and affordable to the public.

Over the past few years, a spectrum of new policies and measures have been implemented by the Government to open up the local telecommunications market, thereby providing business organizations with yet another competitive environment. This is far better than introducing compulsory charges for telecommunications services, in line with the free and market-oriented economic philosophy of Hong Kong.

Meanwhile, public transport operators have found themselves faced with exceptionally stiff competition. Yet the Government believes that market competition is an effective means to ensure that fares are charged by the various modes of public transport at a reasonable level. As we all know, the two railway corporations as well as the major franchised bus companies have not proposed any fare adjustments for two consecutive years, the fares for the public

transport services concerned have been maintained at their 1997 levels. On the other hand, we need to understand that variations in the operating costs of public transport undertakings are not absolutely linked with the economic circumstances of Hong Kong as a whole. For example, staff remuneration which generally represents a considerable part of the operating cost cannot invariably be adjusted in line with the overall performance of the economy of Hong Kong. Moreover, certain operational necessities, such as the fuel used by franchised buses, are imported directly from overseas. There is no direct relation between their import prices and the economic circumstances of Hong Kong.

As regards the Airport Authority (AA), it should also operate according to prudent commercial principles. However, when formulating charging schemes, the AA will still take into consideration the long-term economic benefits of Hong Kong as well as the opinions from airport users. In order to sharpen the competitive edge of the Hong Kong International Airport, the AA will reduce the landing charge and the aircraft parking charge by 15% with effect from 1 January next year. Given that the AA has proposed to reduce the various airport charges on its own initiative, there should not be any doubt about its effort in this connection.

The Government is also very much concerned about the tariffs charged by the two power companies as well as Towngas. It has been maintaining close liaison with these companies in the hope that they will have some regard for the hardships confronting the public when determining tariff rates. As a matter of fact, the three companies have frozen their tariffs in 1999 after taking into consideration the economic circumstances of Hong Kong. With regard to the tariff rates for the coming year, while the CLP and the Towngas have already announced their respective decisions not to introduce any tariff increase, the HEC is still considering the matter but expects to come up with a decision towards the end of the year. The Government will continue to keep a close look at the tariff rates of these companies, and we hope that the various public utility corporations will continue to take into account the financial capacity and expectations of the public when considering adjusting their tariff rates in the future.

Mr Deputy, the regional financial turmoil has subsided, our economy is showing more and more signs of turning the corner. In this connection, the number of tourists visiting Hong Kong in the first nine months of the year has increased by 11%, compared to that in the corresponding period last year. While total exports recorded a substantial growth in real terms of around 8% in the third quarter of the year, the gross domestic product year-on-year growth rate for the second quarter of the year was 0.7%. All these figures have served to reflect objectively the fact that the most trying times are behind us, and that the economy of Hong Kong will continue to pick up.

I hereby urge Members to give the Government a chance when we consult this Council on our proposals to make adjustments to the various government fees and charges after the Hong Kong economy has visibly resumed its positive growth. We hope Members will not ask for an across-the-board freeze on all government fees and charges out of their subjective belief that the economic prospects of Hong Kong will remain uncertain in the year 2000 or that the economy has yet to recover. We hope that Members of this Council will join hands with the Government and the community of Hong Kong as a whole to face up to and shoulder the problems arising from a budget deficit and the constraints in revenue raising. We hope that Members will consider the fair and reasonable revenue raising proposals put forward by the Government in an objective, positive and constructive manner. I should like to point out in particular that many government fees and charges, such as the various charges for disposal of chemical waste, for disposal of pollutants by ships, for Construction Noise Permits and so on, are making considerable contribution to the field of environmental protection. Imposing a freeze on such fees and charges will add costs to not only the government revenue but also our environment.

In regard to the various utility charges, we should pay due regard to the interests of the investors concerned and allow the operators to enjoy a fair return on their investments. We must maintain the edge of Hong Kong in attracting international investors by allowing public utility operators appropriate room to decide whether they should adjust their charges. Bearing in mind that the economy of Hong Kong is free and open, it is inadvisable to ask all public utility corporations to reduce or to continue to freeze their charges in the coming year.

I hope that Members of this Council will give first place to the long-term benefits of Hong Kong. From our point of view, the Government cannot support the motion moved by Mr LEE Wing-tat or the amendment proposed to it by Mr HO Sai-chu.

Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr HO Sai-chu to Mr LEE Wing-tat's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat and Mr HO Sai-chu rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat and Mr HO Sai-chu have 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 James TIEN, Mr Edward HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the amendment.

Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung and Dr Philip WONG voted against the amendment.

Mr Michael HO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr LAW Chi-kwong abstained.

Geographical Constituencies and Election Committee:

Miss Emily LAU, Mr David CHU, Mr HO Sai-chu, Mr Ambrose LAU and Miss CHOY So-yuk voted for the amendment.

Miss Christine LOH, Mr Gary CHENG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr NG Leung-sing and Mr YEUNG Yiu-chung voted against the amendment.

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Prof NG Ching-fai and Mr MA Fung-kwok abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 13 were in favour of the amendment, eight against it and four abstained; while among the Members returned by

geographical constituencies through direct elections and by the Election Committee, 22 were present, five were in favour of the amendment, six against it and 10 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may now reply and you have up to four minutes 15 seconds out of your original 15 minutes.

**MR LEE WING-TAT** (in Cantonese): Madam President, I shall be very brief. Firstly, I certainly hope that Honourable colleagues will support me, and if Members nod, I will stop speaking at once. I would like to respond to some remarks made by the Secretary.

Firstly, the Democratic Party notes the long-term expenditure of the Government and the provision of the Basic Law that the Government should achieve a fiscal balance in the medium term. However, Honourable colleagues from different parties and groups have given a clear message today that the revenue to be generated from fee increase is far less than the money wasted by the Government. In other words, if this money were not wasted, many fees and charges would not need to be increased or may even be reduced.

Secondly, Secretary Denise YUE has asked us to "give the Government a chance", this is actually similar to the famous saying "Give peace a chance" of hippies in the 1960s. Similarly, I hope that the Government will "give people a chance" and will not increase fees and charges. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That Mr LEE Wing-tat's motion as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Michael HO, Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr Gary CHENG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung and Mr YEUNG Yiu-chung voted for the motion.



Miss Christine LOH, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, eight were in favour of the motion and 17 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 13 were in favour of the motion and eight against it . Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negated.

**PRESIDENT** (in Cantonese): The second motion: Allocation of secondary school places to boys and girls.

## **ALLOCATION OF SECONDARY SCHOOL PLACES TO BOYS AND GIRLS**

**MISS CHRISTINE LOH:** Madam President, I rise to move the motion which has been printed on the Agenda.

This motion arises from the publication by the Equal Opportunities Commission (EOC) report on its Formal Investigation into the Secondary School Places Allocation (SSPA) System using its powers to conduct a formal investigation, the EOC found that the SSPA System involves discrimination on the basis of sex that cannot be justified or excused under the Sex Discrimination Ordinance. In other words, elements of the SSPA System are unlawful.

The United Nations Human Rights Committee, in its Concluding Observations on Hong Kong, published earlier this month, also expressed concern that: "the education system ..... discriminates against girls in selection for secondary schools."

There are three problems with the SSPA System:

Firstly, boys and girls in the same schools are treated separately in the scaling process, where gender is a determinant factor in the final scores used in the allocation;

Secondly, boys and girls are put into two separate ranking orders in the banding process, resulting in different scores required by boys and girls to get into the different band schools; and

Thirdly, co-educational schools are required to admit a fixed proportion of boys and girls.

I believe that Members already have a copy of the EOC and the United Nations reports. Our Panels on Education and Home Affairs have also held relevant meetings, and Members have already called upon the Administration to make changes so that the SSPA System complies with the Sex Discrimination Ordinance. I am also sure that Members are aware of the Education Department's undertaking to apply a "strict policy of equality" under the Convention for the Elimination of Discrimination Against Women.

The Administration does not dispute the EOC's findings. The only question is when changes will be made to the system so that the Administration will no longer be continuing an unlawful act. The purpose of my motion is to call upon proper changes to be made so that from the next selection year in 2000, the unlawful system will be corrected.

Madam President, I am sure that Members would agree that unlawful acts must be rectified expeditiously. Respect for the rule of law would be greatly diminished if that were not so.

I ask Members to join me in urging the Secretary for Education and Manpower to give a firm undertaking to make changes in time for the next selection, which will be in the year 2000. This timetable must be the right one to follow because that is the next opportunity to rectify an unlawful act.

If it is not rectified by then, disgruntle parents may well take the Education Department to Court. Even if there is no Court action, there could well be thousands of complaints to the Administration, the EOC, and even to this Council.

If the Secretary tells us that he needs more resources to rectify the system, let him spell out what he needs and let us see how we can help him.

But, if he tells us that he needs more time, we must impress upon him strongly that he must find the time. The constitutional, legal and practical consequences are simply too great. I am sure that no civil servant would want to carry all that on his however broad shoulders.

I am worried that the Secretary could just be asking us to give him more time. He could well tell us in a moment that he is now conducting a comprehensive review of the overall education system. In oblique-speak, that means he wants to wait until the full review is completed before dealing with the SSPA System.

Madam President, the time that it would take to review the banding and examination systems, and to implement changes, will be considerable. We simply cannot allow that to be used to excuse an ongoing discrimination and an unlawful act. There is just no way round the fact that the Administration must take prompt steps to remedy violation of rights and to prevent such violations from recurring in the future.

The immediate solution is relatively simple. The Education Department only needs to stop assigning secondary school places by using two gender-based separate lists of the SSPA scores. It could combine them into one list and allocate students on the basis of their scores alone.

Madam President, I can sit down now and listen to Members' debate. But I ask for your indulgence in order to highlight a few important points in the EOC's full report.

Firstly, there are very few of us who truly understood the SSPA System until the publication of the EOC report. Even members of the SSPA Advisory Committee, a committee set up by the Education Department, was unaware of the separate processing and scaling by gender. The Education Department (ED) has certainly kept a very important mechanism under wraps for some 20 years.

Secondly, if gender discrimination is so entrenched, it may well be that other allocation systems, such as the Primary One and the Junior Secondary allocation systems, may also be infected. Indeed, Members have already raised the possibility at the relevant Panels.

I wish to remind Members of a letter from the EOC Chairperson dated 22 November. She said that the EOC has made some preliminary inquiries into the Primary One and Junior Secondary allocation systems, and concluded that "both systems appear to have elements in them that may contravene the Sex Discrimination Ordinance." Needless to say, that is extremely worrying.

I agree wholeheartedly with the Chairperson's plea to Members that:

- All the allocation systems within the education system should comply with the Sex Discrimination Ordinance in the year 2000;
- No new elements, with gender bias, should be added to the new allocation systems; and
- All education programmes and processes implemented by the Education Department must comply with the law.

I would appreciate that the Secretary, in his response, would give a clear undertaking in this regard.

The last point that I wish to make is the belief among some people in education circles that boys develop intellectually later than girls. Furthermore, in co-education, the sex ratio must be 50:50. The EOC report indicated that it was for those reasons that they were prepared to accept having a separate order of academic merit for each sex, even if it meant that girls would be disadvantaged.

The EOC report revealed that the Education Department itself believed that separate processing of boys and girls is necessary because "if boys were not given an opportunity to enter the better schools, their opportunity in later life would be affected."

But, the ED could find no research to support its belief. Recent research indicates that boys and girls develop in different areas rather than at different rates; and that girls develop speech and cognitive skills more quickly than boys do in early childhood. Members will note those research shows that differences in school achievements are due primarily to the educational settings, how a child perceives his or her capabilities, and deep-seated gender stereotyping.

Madam President, the ED contorted the SSPA System entirely on biased assumptions. Their bias was so deep-seated that they even believed that if the SSPA System was based on merit alone, that girls would dominate in the best schools. The result was many years of affirmative action for boys.

It was only because of the EOC's investigation that the Education Department did computer simulation to see whether the proportion of boys and girls in each band would be affected if boys and girls were not separately ranked and if there was no fixed number of places to be allocated. The results showed that their fear was unfounded. Of the 18 school nets in Hong Kong, only nine would have girls numbering 60% in Band 1 schools.

In conclusion, the EOC's investigation provides a mirror so that we can see how sex discrimination is very much a part of life. We may not even realize that it is there. It shows us that well-intentioned people act on wrong assumptions. It shows that government officials do not bother to test their assumptions. Therefore, we must be more vigilant in re-examining many aspects of our systems to root out gender discrimination. I am sure that Members would wish to commit themselves to doing that.

**Miss Christine LOH moved the following motion:**

"That this Council urges the Administration to fulfill its responsibility under the law and remove the discriminatory elements in the Secondary School Places Allocation System, and to ensure that, from the year 2000, boys and girls are placed into secondary schools in a manner that does not unlawfully discriminate against either sex."

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

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, the EOC report on its Formal Investigation into the Secondary School Places Allocation System not only points out the sex discrimination element in the SSPA System, but also reveals that the ED has acted arbitrarily over the years to the extent of contravening the principle of equal opportunities in education.

Doubtless sex discrimination exists in the SSPA System. However, I am not referring to discrimination against one of the two sexes in particular. According to the EOC report, under the present SSPA System, girls in 11 school nets needed higher scores than boys to get into Band 1, while boys must score higher in the remaining seven school nets. If it is more difficult for certain pupils to be grouped under a particular band because of no other reason but their gender, then it is a case of sex discrimination.

Of course, under this allocation system, some boys are also subject to sex discrimination, but girls have received less favourable treatment in general. However, the question is not whether boys or girls are being discriminated against. No matter which of the two sexes is being discriminated against, as long as it is discrimination and as long as the principle of equal opportunities in education is violated, we should not tolerate such an act. In this connection, I cannot but ask why does discrimination exist in the SSPA System? Why has this kind of discrimination existed for years unnoticed?

The deep-seated cultural belief in society that different attitudes should be adopted towards the two sexes is an underlying reason. Traditionally, boys are expected to achieve better academic performance. But this is not so in reality. When girls get better results, some people find it hard to accept this fact and therefore, the system used to work out students' scores for the allocation of school places is adjusted in order not to hurt boys' chances. However, I must ask why boys' superiority is taken for granted? Why can we not accept the fact that girls can do better than boys in examinations? What else can it be if it is not discrimination? The officials of the ED who designed the gender curves have probably allowed the fullest play to such discriminatory thinking. Regrettably, while the former and present Director of Education are women, the discriminatory practice has not been rectified.

Under the present SSPA System, the three subjects of Chinese, English and Mathematics each carries equal weight in internal assessment, and the proportion of the two language subjects, namely, Chinese and English, to Mathematics is two to one. Thus there are views that it is more advantageous to girls since girls develop their language skills earlier. I have no objection against reforming the system used to work out students' scores for the allocation of secondary school places. I can even support the abolition of the existing allocation system that divides students into five bands. However, I have to stress that it must be based on proper and reasonable pedagogic grounds. It must not be adjusted for the sake of adjustment only to impose a proportional ratio between boys and girls in the same band.

Madam President, as the representative of the education sector, I understand the advantages of having a gender balance in a school for the purpose of education, but I do not think that this is an overriding factor for which the principle of equal opportunities should be sacrificed. Moreover, has the situation gone so bad that it is necessary to take arbitrary steps to make students suffer losses and deprive them of their legitimate rights on the ground of their sex?

More importantly, is it inborn in all girls that their language skills will develop earlier? If this is not true for a female student whose outstanding academic achievement is actually attributed to her hard work, and if her hard work which led to her accomplishment is not duly recognized because of her sex, it is discrimination. The same applies to boys. To avoid repetition, I do not wish to elaborate here, but Madam President, it is chiefly because of the time constraint and not due to gender consideration.

Madam President, on the question of whether girls are naturally precocious in respect of learning, I think we should leave it to the academic discussions. Even if the differences in the performance of boys and girls are found to have correlation with gender, we can only carry out reforms in terms of the curriculum, teaching and so on in accordance with the principles of education, rather than unilaterally taking administrative measures, or even adopting a clandestine approach to keep the entire education sector in the dark. An allocation system as such is only convenient for administrative purpose, but the legitimate rights of students have been infringed on the ground of sex. This is unacceptable.

Madam President, with regard to the principle of equal opportunities in education in relation to gender, I will ask three questions. First, do the differences in the performance of boys and girls have a direct correlation with gender? Second, even if such correlation exists, can it not be solved by taking measures under education principles and in the context of education such as teaching and the curriculum, instead of employing administrative measures even if it means depriving students of equal rights? Third, even if such administrative measures are required, should there be open and mature discussions and consultations beforehand? I hope that the Government can answer these three questions.

Based on the above considerations, I support Miss Christine LOH's motion.

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, the SSPA System has been implemented for 21 years. In the mid-1980s, the Administration started to allocate secondary school places to boys and girls separately according to their sex. During this period, the education sector was all the while kept in the dark about this practice. In fact, the SSPA System comprises unfair elements and I will point them out one by one.

First, processing boys and girls separately in the allocation exercise is unfair to both sexes. According to the EOC report, under the existing arrangement, boys needed higher scores than girls to be grouped under Band 1 in seven of the 18 school nets, whereas girls needed higher scores than boys to get into Band 1 in 11 school nets. In terms of the number of school nets, there were certainly more girls than boys who were given unequal treatment. However, one must not forget that boys also suffered from unequal treatment in seven school nets. In my view, if places were allocated solely on the basis of internal assessment and the results of the Academic Aptitude Test (AAT), such unfairness would not arise.

The Administration claimed that if boys and girls are not processed separately in the allocation exercise, Band 1 will be dominated by girls. Why will this be the case? Has the Administration examined whether the AAT and internal assessment mechanism comprise elements which are particularly favourable to either of the sexes? According to the information in the EOC report, girls earned higher scores on average than boys in verbal reasoning in the AAT whereas boys scored higher than girls in numerical reasoning.



Besides, a similar situation arises in respect of internal assessment. In the process of internal assessment, Mathematics was given less weight in the academic score of a student compared to the language subjects. Thus, if girls earn higher scores in languages than boys in general, the whole allocation system will be partial to girls. Therefore, the Administration came up with a method, that is, processing boys and girls separately, to turn around the outcome.

If the practice of allocating school places by sex is abolished, will it be absolutely fair to the students? If the present allocation method is retained, I believe that unfairness will still exist. The pupils in each school net are divided into five different bands based on their academic performance. However, places are not allocated in such a way that the student who ranks first in the band is first assigned a place because the order of allocation in a band is based on the random number given to a student. In other words, even if a pupil has the best scores in a band, the place allocated to that pupil may compare less favourably with other pupils in the same band because he or she is given a later "number". Is this a fair system?

Moreover, there are also problems with the AAT. The AAT serves the purpose of adjusting the differences between schools, or it can be considered as a tool to "score more points" for schools. If the majority of pupils of a school did not do so well in the AAT, does it not mean that those who have good scores in internal assessment will be "dragged down" by their schoolmates?

Since there are so many problems with the allocation mechanism, it is most desirable to replace it with another method. The Education Commission is now conducting a comprehensive review of the education system. One of the proposals is to gradually replace public examinations and the banding system for the allocation of secondary school places with an uninterrupted nine-year basic education. These are just principles and the education sector is considering a number of options on the specific method of allocation. No matter which proposal is adopted, I hope that the Government can listen to and consult the views education sector and parents extensively. I also hope that the new allocation mechanism will be fairer, so that boys and girls can develop their potentials in a fair learning environment.

With these remarks, I support the original motion.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, after the Director of Education has openly admitted that the SSPA mechanism really violated the Sex Discrimination Ordinance, the allocation of secondary school places to boys and girls has become more than academic debate. The HKPA thinks that the Government must expeditiously explore and design a comprehensive mechanism to solve the relevant problem.

As far as I understand it, the ED has considered three proposals for solving the problem: firstly, to seek legal advice concerning freezing the judgment of the EOC; secondly, to adjust the existing ratio of allocation between boys and girls to 50:50; and thirdly, to adopt the "through-road" mode, and change the "two queues" practice for separate allocation to boys and girls into "one queue".

The HKPA has reservations about the first proposal because freezing the judgment of the EOC will not help solve the problem. It is only evading the problem.

The second method that abolishes the separate scores systems for boys and girls will create some other problems. A possible consequence may be a serious imbalance of the ratio of boys and girls admitted to co-educational secondary schools. As most co-educational secondary school places in the highest band are won by precocious girls, schools in lower bands will have more boys than girls. Although some people have remarked that the information of foreign countries shows that the boy to girl ratio of schools is not certainly related to the quality of teaching, and some technical problems such as inadequate female toilets in schools can be solved. However, we should not overlook the point that an imbalanced sex ratio will seriously affect the education concepts of co-educational schools. In fact, many parents want to send their children to co-educational schools but not single sex schools, for they want their school age children to join a community and get along with boys and girls, as they will similarly join the community after graduation. If there is serious "predominance of boys over girls" or "predominance of girls over boys" in schools, it will certainly affect the balanced mental development of students.

Thirdly, the "through-road" mode and abolition of the secondary school entrance assessment examination appear to be more satisfactory and feasible, and they are the key of the proposed education reform. But the problem is, the implementation of the "through-road" mode cannot be achieved in one to two

years. Besides, some schools may not be able to establish a pegging system immediately. Therefore, the HKPA is of the view that, in the long run, the Government should solve the problem by adopting the "through-road" mode. In the short run, the Government should expeditiously improve the internal assessment system to avoid laying excessive emphasis on subjects girls are good at. Moreover, the Government can consider letting secondary schools admit some students themselves while allocating the remaining places by drawing lots.

"A beautiful world. A world without discrimination". As a relatively free and equal society, Hong Kong must try its best to maintain social equality. I hope that the Government will expeditiously improve the existing phenomenon of unequal allocation of secondary school places to boys and girls.

Madam President, I so submit.

**PROF NG CHING-FAI** (in Cantonese): Madam President, the Formal Investigation Report on SSPA System published by the EOC has aroused much argument. Some people agree to the points made in the Report that the SSPA System has discriminatory elements.

The SSPA decides the secondary schools most local primary school students will enter and it has a banding function. The banding is, to a very large extent, based on the pupils' aggregate result of their respective schools' internal assessments in the final examination of Primary Five, and the mid-term and final examinations of Primary Six, scaled by the Academic Aptitude Test (AAT). Just like the Hong Kong Certificate of Education Examination (HKCEE) and Hong Kong Advanced Level Examination (HKALE) students have to take subsequently, the SSPA actually affects social mobility.

Every parent wants his child to become a useful person and whether he can enter a "good" secondary school seems to determine whether he will receive good education and then enter university. Every year, parents try their best to help children enter good secondary schools and schools spare no efforts to demonstrate that they are good schools.

When parents evaluate a primary school, they will base their evaluation on the performance of the school in SSPA. Under the existing SSPA system, every primary school naturally regards attaining good results and high banding as

the most important task. We can easily see the consequence so given rise. Schools will pay particular attention to the subjects assessed under the SSPA System and doing AAT exercises which distorted the learning process. Students lack the opportunities of comprehensive learning, shoulder the burden of examination and banding prematurely, and fail to lay a foundation for life-long learning.

Madam President, I have reservations about the existing SSPA system. As pointed out above, assessment by examination is restrictive. It fails to really reflect the knowledge and skills acquired by students and deprive students of the opportunities of comprehensive learning. More importantly, it will further affect the motivation of low-score students to learn.

Madam President, the examination-based SSPA mechanism does not only have the above fundamental shortcomings. As the design of the examination obviously has deviations, examination results are biased. In the internal assessments, for example, the weighting of the three major subjects, Chinese, English and Mathematics, is nine, that for General Studies is six while that for cultural subjects such as Art and Craft and Music is three and two respectively. The weighting of mathematical ability is obviously lower than language proficiency. Out of the 150 total mark for the AAT, verbal reasoning ability accounts for 100 while numerical reasoning ability accounts for 50 only; obviously, the former is heavier and the latter is lighter. It is clearly stated in the annex of the Formal Investigation Report that from 1994 to 1998, the verbal reasoning scores of girls were higher than those of boys while the numerical reasoning scores of boys were higher than those of girls. It can be seen that the distribution of boys and girls will become different if different weightings are applied. Therefore, the existing practice of making a decision on the basis of the weightings applied is unfair and rather lopsided.

Prof TSANG Wing-kwong, Associate Director of the Hong Kong Institute of Educational Research of the Chinese University of Hong Kong, has discussed the Formal Investigation Report in detail in an article published in the *Ming Pao* on 8 November. He cited a research report of the Education Testing Service Centre in the United States — Gender and Fair Assessment. The research report pointed out clearly that there are differences between boys and girls in areas and pace of development. I suggest that Honourable colleagues should read this article. Girls are more proficient in languages than boys, on the contrary, boys are more proficient in natural science and problem solving and

inference in respect of more complicated mathematical concepts than girls. Moreover, the development of girls in language proficiency is obviously earlier than the development of boys in reasoning.

On the basis of the above, boys and girls have fundamental differences in learning cycles and areas, and the existing assessment system has intensified the difference in ability of the two sexes at this stage. We should give the disadvantaged in this SSPA mechanism arising from systemic inequality "equal" treatment and make adjustments. We should adopt an impartial principle targeted at groups to achieve real equality. A simple impartial principle targeted at individuals tends to be superficial and smacks of overkill. Yet, I do not approve of the method adopted by the ED now because it is too artificial.

The importance of equal opportunities to us is beyond doubt. So long as we are equal, we will not be restricted in terms of sex, age, occupation and religion, and we will enjoy equal opportunities of development in the community. But if we force and go after superficial equality, we have neglected the essence of it and we will only be spoiling things by excessive enthusiasm and outsmarting ourselves.

As I said at the outset, examination may not be a good assessment mechanism and we should further discuss how an evaluation should be made. As reported, a girl in Secondary One successfully made a school transfer in accordance with the legislation on equal opportunities. Yet, some may say that we should pace up the amendment to the existing SSPA mechanism to prevent a foreseeable wave of transfer.

Madam President, I agree that inaction on the part of the Government will arouse confusion of a certain degree. However, now that the examination-based SSPA is problematic, should we remain indifferent to the difference in the development of the abilities of boys and girls under this erroneous system as stated by the EOC? Similarly, if one builds a castle on quicksand, the castle will not be solidly built. After making one mistake, we should not make another for double negative does not make positive.

Looking forward to the new millennium, our economy is under transformation and we need a new generation with innovation and knowledge, and basic education should promote the holistic development of students. As stated in the Framework for Education Reform, basic education should help

students construct a core of basic knowledge, "..... as a favourable starting point for lifelong learning, ..... to develop their multiple-intelligence instead of just preparing them for subject-based examinations .....". Through thorough discussion in the community, I hope that a reasonable secondary school places assessment and allocation mechanism can be established to provide students with a good learning environment and equal opportunities of development.

Madam President, I have reservations about the motion.

**DR RAYMOND HO** (in Cantonese): Madam President, the EOC has recently completed an investigation report on the SSPA System. It pointed out that the present SSPA System contravenes the Sex Discrimination Ordinance. This has aroused much controversy in the education sector and among those who are concerned about the development of education in Hong Kong.

According to the EOC's findings, boys and girls are treated separately under the present SSPA System, which contains elements of sex discrimination. Most girls have to earn higher scores than boys to get into schools of the same band. On the surface, the EOC's findings are not without grounds. However, as some members of the education sector pointed out, the scope of SSPA assessment is not comprehensive and fails to reflect the strengths of boys.

At present, the primary school curriculum stresses languages and the memorization of facts. However, the strengths of boys do not lie in spoken and written language. Similarly, in terms of the relative weight of the subjects in the Academic Aptitude Test (AAT) scores, verbal reasoning is given more weight than numerical reasoning. Verbal reasoning accounts for 100 of the AAT total score of 150, while numerical reasoning accounts for 50 only. This shows the bias of the AAT. Pupils strong in verbal reasoning have an advantage over pupils who are strong in numerical reasoning. In fact, between 1994 and 1998, girls uniformly earned higher scores than boys in verbal reasoning, while boys uniformly earned higher scores than girls in numerical reasoning. This also shows that the primary school curriculum and the SSPA assessment are more advantageous to girls and unfair to boys.

From these two points, we can see that we will arrive at different conclusions if we analyse the equal opportunities issue from different angles. With regard to the SSPA, the relevant authorities and members of the education

sector should study the issue in depth and eliminate the elements of discrimination and unfairness in the existing system, including the primary school curriculum, the weight of the subjects in the AAT scores and the allocation methods.

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

**MRS SELINA CHOW** (in Cantonese): Madam President, in as early as 1993, the Government released the Green Paper on Equal Opportunities for Women and Men, in which it was pointed out that "male and female students have equal opportunities to receive education ....." and "The Education Department is conscious of the need not to condition children to gender-biased aspirations within the education system and has adopted a policy of strict equality for students of both sexes." In its Initial Report on the Hong Kong Special Administrative Region (SAR) under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women, the SAR Government clearly states that it is committed to promoting equal opportunities in education. In addition, the Sex Discrimination Ordinance outlaws discrimination in education on grounds of sex.

But regrettably, the facts do not bear out the above principles. The Government has not applied strictly the principle of equality for both sexes in its education policy. Inequality occurs in the SSPA System. In addition, the SSPA System contains a number of flaws leading to other kinds of inequality. The Liberal Party thinks the Government should come to grips with the problem by conducting an immediate review of the System.

Discrimination in the System arises from three sources. Firstly, the results curve of the Academic Aptitude Test (AAT), used to scale internal assessment, is drawn separately according to sex. As a consequence, boys and girls with the same internal assessment scores may have different scaling for the purpose of allocation. Unfairness thus occurs for individual boys and girls. Secondly, pupils are separated by sex and then further divided into five bands. Thirdly, all co-educational schools have a fixed number of places for boys and girls, making it impossible for some pupils to enter the schools of their choice purely because of their sex.

The SSPA System causes inequality to both sexes. For example, last year, in the Central and Western school net, girls had to gain a score of at least 124.25, while boys, 121.31, to be admitted to Band 1. So, girls had to gain 2.94 points more to obtain a place in this band. In the Eastern school net, boys had to gain 1.45 points more than girls to get into Band 1. Overall speaking, 2 155 more boys were allocated schools of their first choice than girls last year. In the past five years, more boys than girls were allocated schools of their first three choices.

Today, we learn from a newspaper report that a girl about to enter Secondary One appealed successfully to be allocated a place in the school of her first choice. Where did the Government send her to originally? To a school well beyond her 10th choice! But her scores were in fact higher than those of the boys who were admitted to schools of their first choice. This was obviously a case of extreme inequality.

In fact, the present allocation system contains other unfair treatment, in addition to sex discrimination. For example, in each band, a pupil's choice of his or her school is ranked by a computer-generated random number. But within the same band, pupil scores do vary. Under the present system, pupils cannot make their choices based on their actual results. Moreover, if most of the pupils' AAT scores are low for a certain school, pupils with very high scores will be adversely affected by the overall AAT scores for that school. Those pupils will get into a lower band like other pupils from that school. In addition, the banding standards in different school nets are different. For example, in a school net with a concentration of elite schools, scores of Band 2 pupils are likely to be better than those of pupils in Band 1 in another school net. Thus, inequality will obviously be caused in the allocation of school places.

The Liberal Party is of the view that to improve the allocation system, the AAT must be abolished to allow pupils to go to secondary schools on the merits of their results in internal assessments. The AAT is good for nothing. First, the AAT, which comprises mainly of multiple choice questions, focuses on verbal reasoning and numerical reasoning. It will only serve to limit the thinking and creativity of our pupils. In an attempt to obtain good scores in the AAT, many schools start to drill pupils for the AAT in the second term of Primary Four. This hinders the normal development of the pupils in other subjects. So, the Liberal Party thinks that the ED should provide guidelines for schools to follow and further standardize internal assessment standards. It



should also allow pupils to be promoted to secondary schools according to internal results.

After the AAT is abolished, male and female pupils will not be separately dealt with in the scaling curves. Top students will not be adversely affected by low overall score in the AAT of their schools.

To ensure good students in all districts have a better chance to choose schools, the ED should review the division of the territory into 18 school nets. It should enlarge the schools nets and reduce their number so that all pupils in Hong Kong are allocated secondary school places in a fair manner. It should also take into consideration the variation in the scores of pupils in the same band by abolishing the use of computer-generated random numbers to dictate the priorities in the choice of schools. Instead, to achieve fairness, it should allow choice of schools to be done in an order based on the actual results which pupils attain in schools.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, last December, the EOC received a complaint from a parent that the SSPA system has been discriminating against girls in the past 16 years and there was a public outcry at once. Yet, the problem does not only lie in the equality of the sexes but it involves whether the assessment system of primary and secondary schools is fair and whether the curricula are conducive to the balanced development of students. Moreover, this incident also reflected that the implementation of policies by the Government is not transparent and the overall administration by the Government demands a comprehensive review.

After a parent has revealed that the SSPA system is suspected of sex discrimination, an investigation made by the EOC and the heated discussion in the community, although people have divergent views as to whether the existing system is unfair to girls, we can see in the whole process that the SSPA system adopted by the ED for the last 16 years has actually regarded gender as one of the factors of SSPA. As a result, the schools allocated to some students fail to fully reflect their results. This is an indisputable fact and improvements must be made.

Although the officials of the ED think that the existing assessment system is mainly based on the results of school's internal assessments, and that girls and boys have different abilities, as the primary school curricula emphasize recitation and language, the results of school's internal assessments of girls are generally better than those of boys. If school places are not allocated separately, the ratio of boys to girls in co-educational schools will be disproportional, therefore, it is essential to adjust this allocation mechanism to balance the ratio of boys to girls. Some academics also think that the ED's practice is active discrimination, bringing the inequality of primary school curricula and the examination assessment system on boys back to the right track. In fact, this remark in defence of the existing system does not hold water. The EOC report has pointed out that the ED has not provided evidence to defend the remark that "boys and girls are different". Moreover, the practice of the ED is suspected of abusing active discrimination. Even though boys and girls are oriented differently and achieve different academic performance as a result, the Director of Education fails to illustrate to us whether this is a congenital difference or there are some other reasons for this. In fact, the ED colleagues should make an explanation and brief us on this. I think other factors may contribute to this situation, for example, are we stereotyping the sexes? Will this give rise to problems? It is a great pity that the Government has not accounted for this in detail and it has failed to suit the remedy to the case, therefore, the problem is not properly solved and there is much criticized inequality.

In fact, this incident also reflects that there are many problems with the administration of the Government. For example, if the ED really thinks that the internal assessment system is favourable to girls, why does it not conduct a comprehensive review of or change the entire curricula and assessment method instead of taking this "piecemeal" measure? Madam President, some academics have pointed out long ago that the existing assessment system for the SSPA and even the primary school curricula emphasize excessively academic results and neglect the development of other potentials of students. Regardless of the types of students, such education will be biased and not beneficial to the overall development of students. Therefore, as Ms Anna WU, Chairperson of the EOC, has said, the existing system warrants a comprehensive review and reform. I also hope that the Education Commission will carry out a comprehensive reform in this regard and take our criticisms into account.

Madam President, this incident also reflects that many government policies are unfair. But it is a great pity that the attitude adopted by the Government in the past was that it would only try to defend itself after problems had emerged and it would not ponder over the core of the problem. As a result, many problems last. This problem has been sleeping for 16 years, but someone reveals it this time because some policies are now more open and people get to know the details. This shows that our policies should be made open as far as possible to make them more transparent so that the public will understand them better before they can monitor the Government. This is actually something good for the Government. I hope that the Government can learn from this incident and make public more policies to let the public know more.

Madam President, the public has monitored the Government effectively this time. In future, I hope that the public can better monitor the Government's operation and get more information to effect better monitoring of it.

Madam President, I so submit.

**MISS CYD HO** (in Cantonese): Madam President, I rise to support Miss Christine LOH's motion. Several Honourable colleagues have already expressed their views on the details of the allocation of places and the development of boys and girls in relation to their age. I wish to focus my discussion on recent comments that exemption clauses should be added to the Sex Discrimination Ordinance.

The Government has refused to undertake to eliminate the discriminatory allocation practices in the SSPA exercise next year, that is, in year 2000. Recently, someone even proposed to add exemption clauses to the Ordinance so that the allocation method of the ED will not be governed by the anti-discrimination law. This causes us great concern. Actually, this proposal can be likened to quenching thirst with poison that will have very serious consequences. Once the exemption clauses are in place, the education authority can say that it will review the allocation system slowly and study the "through road" of basic education. It will also await the report of the Education Commission. If so, who knows how long we have to wait before the problem can be solved and the discriminatory allocation practices eliminated?

Actually, the Sex Discrimination Ordinance already contains several exemption clauses. This has set a bad precedent for the protection of human rights in Hong Kong. Various sectors are now trying to lobby the Government to abolish these exemption clauses as soon as possible in order to strengthen protection against sex discrimination. But now, someone has suggested a backward course. While there is no sign that the exemptions will be abolished, one more such clause will now be added, and we really find this very unfortunate. In November, the Government reported on the conditions in Hong Kong to the United Nations Human Rights Committee (UNHRC). The Chairperson of the Equal Opportunities Commission (EOC) Ms Anna WU raised this matter on that occasion. The UNHRC also expressed concern for this matter in its report. I hope the Government will promptly implement some effective measures so that these discriminatory practices will be abolished in the next SSPA exercise in 2000.

There are in fact many solutions. Mr CHEUNG Man-kwong has proposed some positive measures, such as calculating the scores of boys and girls separately and combining them for ranking at the end. Besides, we should not make such great distinction between schools. They should not be classified into Bands 1, 2, 3, 4 and 5. If parents and students no longer try to enter only Band 1 schools, there will not be such intense competition. Nor will there be such a discriminatory mechanism of lowering the scores of girls to give boys a chance. This is in fact a kind of systematic discrimination. Is the outcome really fair? Madam President, for instance, this mechanism is prejudiced against some students' interest. It may be unfair to boys, who may become victims. If some girls have the same academic ability as boys, that is, they are weaker in languages and stronger in Science and Mathematics, and still have their scores lowered, they are the ones who suffer most.

Madam President, the aims of education are not just teaching students to be biliterate and trilingual and helping them acquire skills in information technology. We must also teach them about fairness and justice. In terms of these basic principles, if primary pupils are to see these principles twisted by certain acts of adults when they face the second challenge of their lives — the first being in kindergarten, the second being the SSPA, it would be very unfortunate for education in Hong Kong indeed. Children may have learned some noble principles when they were young. It might be a great blow to them if they find out that all these noble principles are false and lies when they get to Primary Six. I hope that the Government will not openly contravene the Sex

Discrimination Ordinance in the SSPA exercise in 2000 and set a very bad example for our primary pupils. Thank you, Madam President.

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

(No Member responded)

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, first of all, I am grateful to Members for the valuable views that they expressed on the motion. In particular, I wish to thank Prof NG Ching-fai who explained in his speech why he has reservations about the motion. The investigation report of the EOC on the SSPA System has indeed aroused much discussion and received diverse views from the community. To begin with, I would like to state two points. First, the Government absolutely supports the principle of equal opportunities between men and women, and endeavours to put this principle into practice; and second, in formulating the existing system for allocation of secondary school places, we have no intention whatsoever to create inequality in terms of the opportunities for male and female students.

We attach great importance to the EOC report and we have referred the matter to legal experts, including lawyers on human rights, to examine in detail whether the existing SSPA violates the relevant provisions of the Sex Discrimination Ordinance. So, I do not intend to comment on this aspect today.

We consider it opportune to conduct an in-depth review of the existing SSPA which has been in operation for over two decades. As a matter of fact, schools, teachers, and even students and parents have, over the years, put forth many views on the allocation system and the Academic Aptitude Test (AAT) which is particularly designed for the purpose of SSPA. They have expressed concern about, *inter alia*, the labelling effect created by the banding system used in the allocation exercise, and the effects of the AAT on students' normal learning. The EOC report also underscored an issue that we must address squarely in the review of the allocation system.

The Education Commission (EC) is currently conducting a comprehensive review of the education system in Hong Kong. The review covers the overall structure of Hong Kong's education system, school curriculum and assessment mechanism, and specific reform proposals will be made. The EC expects the whole review to be completed in mid-2000 and recommendations will then be submitted to the Government. The SSPA will be a key area to be reviewed. In fact, the EC is discussing a number of options to reform the allocation system and will conduct extensive consultation before a final decision is taken. The EC will seriously consider the views and expectations of all sectors in the community, including the importance of providing equal opportunities for male and female students.

The Government has decided to overhaul the SSPA, but the process will involve many complications which need to be resolved properly. For example, what should we do to work out a fair and open allocation system which also caters for the discrepancies in the ability of students if it is decided that the AAT should be abolished? Furthermore, is it necessary to have a transitional period if changes are to be made to a system which has been in operation for over 20 years? If so, should we implement certain interim measures during the transitional period to rectify the inadequacies of the existing allocation method and how should such measures be implemented?

I would like to remind Members that the recommendations made by the reputable EOC in its investigation report carry the implication that we must take this matter into careful and thorough consideration. The recommendations do not explicitly call on the Government to make changes to the existing system next year. In this connection, I would like to quote paragraph 30(iv) of the EOC report, which reads "The Education Commission (and any working group formed under its auspices) should, in conducting its review of the academic system to set an education blueprint for the 21st Century, review the SSPA and its various elements in light of the Commission's findings and with a gender perspective, and:

- (a) consider whether there are other more suitable methods of scaling internal assessment scores than the current one; and
- (b) consider whether the SSPA may be replaced by another secondary school places allocation system that does not contain any discriminatory elements and that complies with the requirements of the Ordinance in all respects."

I went to great lengths to quote the recommendations of the EOC in its investigation report for I hope to point out — and to substantiate my earlier remarks — that EOC's recommendations carry the implication that we must take this matter into careful and thorough consideration, and it is stated that any changes must dovetail with the education blueprint for the 21st century. Meanwhile, the report also pointed out that the EC will conduct a review of the system across the board.

The ED is now examining the feasibility of modifying the existing measures during the transitional period. According to the EOC, changes should be made in three areas. First, boys and girls should be processed as a group in conducting the internal assessment; second, boys and girls should also be processed together in the allocation of school places; and third, no predetermined proportion of male and female students should be set in co-educational schools. We will consider these views, but we also have to take into account many more factors in detail.

These factors include, firstly, whether the existing allocation system can have due regard for the differences in aptitude and ability between boys and girls, and how internal assessment and public examination can fully accommodate these differences, thus ensuring fairness in the results of allocation. In fact, many of those in the education sector have acknowledged that the AAT lays more emphasis on students' reasoning power and boys generally do better in this regard; and on the other hand, internal assessment accords more weight to students' language and rote-learning ability and these are areas in which girls generally excel.

Secondly, whether the numbers of male and female students in some co-educational schools will be gravely disproportionate. In this connection, we have made some analysis of the results of the allocation exercises conducted last year and this. It is found that if boys and girls are processed together, the ratio of boys to girls among Secondary One students in many co-educational schools would be 6:4, but in some extreme cases, the ratio could be 7:3, or even 8:2. As a matter of fact, the purpose of co-educational education is to reflect social reality so that youngsters can learn to get along with the opposite sex. If the proportion that either of the sexes takes up in a co-educational school is too high or too low, the psychological development of students as well as the operation of the school may well be affected. Some schools may have to arrange for appropriate facilities in light of the ratio of male students to female students.

Thirdly, at present, there are boys' schools, girls' schools and co-educational schools, and a fixed proportion of male and female students is imposed in co-educational schools. Under the existing system whereby boys and girls are processed separately in the allocation exercise, we are able to allocate Secondary One places based on the supply of and demand for such places for boys and girls respectively. If boys and girls are processed as a group and a fixed gender proportion in co-educational schools should no longer exist, some single sex schools may be under-enrolled while students of the other sex may not be allocated a place. The analysis that I mentioned earlier also found that in the final stage of allocation, some girls were allocated to boys' schools where places were still available. The supply of school places will be particularly tight and fall short of demand next year when children born in the year of Dragon will enroll in Secondary One. Whether such unbalanced supply and demand in respect of school places for the two sexes will be exacerbated depends on parents' choice of schools and it is now difficult to make prediction. However, chaos can be resulted. For example, some schools may have to increase the number of students in each class, and some single sex schools may have to switch to co-educational operation.

Fourthly, is there ample time to widely consult parents and schools on the new measures to be taken if the existing system will have to be changed next year?

Fifthly, do we have sufficient time to make technical adjustment to a rather complicated computer system currently used for allocating secondary school places and carry out adequate tests on it to avoid irregularities?

Sixthly, if a system which completely reforms the existing SSPA can be put in place a couple of years later, should we rush to introduce next year a transitional mechanism which lasts for just one year, and thus leaving the public baffled by an ever-changing allocation system?

The ED is carefully examining the various feasible options as well as their consequences, and will consult the views of the education sector and parents. The EC will also be consulted to ensure that any interim measures which we decide to take and the secondary school places allocation system to be adopted in the long term will converge. It is expected that a decision on whether interim



measures will be taken to modify the allocation system for 2000 can be reached in the first quarter of next year after the Government has considered the views of the relevant parties, including the education sector and our legal experts.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Miss Christine LOH, you may now reply. You have five minutes 17 seconds.

**MISS CHRISTINE LOH:** Madam President, I was obviously mistaken that the Government had acknowledged that their SSPA System was unlawful. Now, of course, I hear from the Secretary that he is seeking legal opinion on human rights to perhaps further determine whether the EOC is right or not, but I have no doubt since I have sought legal opinion that they will find that the EOC's opinion is correct. Anyway, we will hear from the Secretary soon.

The Secretary quoted from the last part of the EOC's full report and he sought to try to explain that the EOC really did not take much of the position in terms of when the changes should take place. The Secretary perhaps did not listen to my opening remarks because I did quote a letter which all Honourable Members received from the EOC Chairperson dated 22 November. I do not know whether the good Secretary has received the copy of that letter himself, but should he be in any doubt, he must try and read the letter. Because I did state very clearly in my speech that the EOC urged us, Members of this Council, to support the position that all the allocation systems should comply with the Sex Discrimination Ordinance in the year 2000. I do not think that there is any doubt as to what the EOC is asking the Secretary to do.

Of course, there are going to be many problems. The Secretary talked about what would happen if we were to do away with the Academic Aptitude Test, and what kind of transitional period would be needed. I think my speech was justified in expressing the fear, and my fear has now been further strengthened that what the Secretary wants to do really is to ask for a very long period of time. And at this moment, we really do not know how long that is going to be. Is it going to be one year, two years or very much longer? I certainly hope not. But I think it is very important today for Members to give a resounding message to the Secretary that we want this sorted out very very soon, and that unless it comes back to us with very strong legal opinion that what the

Government is doing is not unlawful and the EOC is entirely wrong, then I am afraid he really has no choice but to correct this in the year 2000 before the next selection process takes place. Otherwise, Madam President, as I said earlier on, it will be pandemonium.

The Secretary gave us examples of other types of chaos that may happen, but the worst one will be that parents and students coming to this Council, going to the good Secretary, going to Court and going to the EOC, taking the results of the report and alleging that there is discrimination. It is going to be pandemonium for all of us and I do not think we can afford that. The Secretary might say that people are causing trouble, they are taking this opportunity to try to make chaos, but surely, we are talking about the rights of our young people to get into the schools that they want.

So, again, I know that there are perhaps some reservations amongst some Members, but we really need to give a very strong message to the Secretary that he needs to do what is right, and which is to get rid of an act which is unlawful.

Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 1 December 1999.

*Adjourned accordingly at twenty-four minutes past Eight o'clock.*

**WRITTEN ANSWER****Written answer by the Secretary for Education and Manpower to Mr James TIEN's supplementary question to Question 1**

Under section 5(4)(f) of the Employees' Compensation Ordinance, if an employee is injured in an accident when he is travelling between his place of residence and his place of work within four hours before commencement or after cessation of his working hours, and when typhoon signal No. 8 or above or the black rainstorm warning is in force, the employee will be deemed as being injured arising out of and in the course of employment. In such case, the employer will be liable under the Employees' Compensation Ordinance. However, if the typhoon signal No. 8 or above is down, or the black rainstorm warning is not in force at the time the employee is injured, the employer will not be liable unless the Court thinks otherwise after considering the circumstances surrounding the employee's injury. The following examples will serve to explain more clearly the liability of employers.

*Example 1*

Suppose an employee leaves his workplace at 5.30 pm and he is injured in an accident at 7 pm. When he is injured, the typhoon signal No. 8 is in force and he is on his way home, the employer will be liable under the Employees' Compensation Ordinance.

*Example 2*

Suppose the same employee also leaves his workplace at 5.30 pm. He is injured in an accident on his way home at 7 pm, but the Observatory has already changed the typhoon signal to No. 3 at 6 pm, and that the black rainstorm warning was not in force at the time of injury. As neither typhoon signal No. 8 or above nor black rainstorm warning is in force when the said employee is injured, his employer is not liable under the Employees' Compensation Ordinance unless the Court thinks otherwise after considering the circumstances surrounding his injury.

**Annex II****WRITTEN ANSWER****Written answer by the Secretary for Education and Manpower to Mr CHAN Kwok-keung's supplementary question to Question 1**

For the 62 claims under the Employees' Compensation Ordinance, 16 (about 26%) have been satisfactorily settled, 46 are still being processed.

## Annex III

CUSTOMS AND EXCISE SERVICE CHILDREN'S EDUCATION  
TRUST FUND BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Trade and Industry

<u>Clause</u>	<u>Amendment Proposed</u>
3(1)	By adding "(香港海關人員子女教育信託基金)" after "Fund".
4(1)	By adding "(香港海關人員子女教育信託基金受託人)" after ""The Trustee of the Customs and Excise Service Children's Education Trust Fund"".
5	(a) In paragraph (b), by adding "and" after the semi-colon. (b) In paragraph (c), by deleting "; and" and substituting a full stop. (c) By deleting paragraph (d).
6	(a) In subclause (1), by adding "(香港海關人員子女教育信託基金委員會)" after "Committee". (b) In subclause (4), by deleting "Chairman" and substituting "chairman".

**Annex IV**

## ADAPTATION OF LAWS (NO. 29) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for SecurityClauseAmendment Proposed

Schedule 10 By adding before section 1 -

"1A. The long title to the Police Children's Education Trust Ordinance (Cap. 1119) is amended by repealing "皇家香港警隊" and substituting "香港警務處".

1B. Section 2 is amended in the definition of "初級警務人員" by repealing "皇家香港警隊" and substituting "香港警務處".

1C. Section 3(3)(a) is amended by repealing "皇家香港警隊" and substituting "香港警務處".

Schedule 10, By deleting "of the Police Children's Education Trust Ordinance section 1 (Cap. 1119)".

Schedule 11 By adding before section 1 -

"1A. Section 3(3)(a) of the Police Education and Welfare Trust Ordinance (Cap. 1120) is amended by repealing "皇家香港警隊" and substituting "香港警務處".

1B. Section 5(a) and (c) is amended by repealing "皇家香港警隊" and substituting "香港警務處".

ClauseAmendment Proposed

Schedule 11, By deleting "of the Police Education and Welfare Trust Ordinance section 1 (Cap. 1120)".