

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 1 December 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.

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

**MEMBERS ABSENT:**

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

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

**PUBLIC OFFICERS ATTENDING:**

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

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

MR MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR DOMINIC WONG SHING-WAH, J.P.  
SECRETARY FOR HOUSING

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

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

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

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

MRS LILY YAM KWAN PUI-YING  
HEAD, TASK FORCE ON REORGANISATION OF MUNICIPAL SERVICES

**CLERKS IN ATTENDANCE:**

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

MS PAULINE NG MAN-WAH, ASSISTANT 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> |
|--|-----------------|
| Road Traffic (Traffic Control) (Amendment)<br>Regulation 1999.....   | 291/99          |
| Designation of Museums (Amendment) (No. 3)<br>Order 1999.....  | 292/99          |
| Public Health and Municipal Services Ordinance<br>(Public Markets) (Designation and Amendment of<br>Tenth Schedule) (No. 6) Order 1999 ..... | 293/99          |
| Declaration of Markets in the Urban Council Area<br>(Amendment) (No. 4) Declaration 1999 .....   | 294/99          |
| Fisheries Protection (Specification of Apparatus) Notice ....  | 295/99          |
| Provident Fund Schemes Legislation (Amendment)<br>Ordinance 1998 (4 of 1998) (Commencement)<br>(No. 2) Notice 1999.....                      | 296/99          |

**Other Papers**

No. 39 — Hong Kong Sports Development Board  
Annual Report 1998-99

Report of the Bills Committee on Protection of Wages on Insolvency  
(Amendment) Bill 1999

Report of the Bills Committee on Provision of Municipal Services  
(Reorganization) Bill

**ORAL ANSWERS TO QUESTIONS**

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

**Sea Pollution Caused by Sunken Vessels**

1. **MR WONG YUNG-KAN** (in Cantonese): *Madam President, in view of the recent incidents in which river trade vessels from the Mainland sank in Hong Kong waters and caused sea pollution, will the Government inform this Council of:*

- (a) *the existing legislation governing the activities of this type of vessels in Hong Kong waters;*
- (b) *the number of incidents in which this type of vessels sank in Hong Kong waters in the past three years; and the measures to reduce such incidents; and*
- (c) *the respective numbers of prosecutions and convictions in the past three years against the owners of sunken vessels which caused sea pollution?*

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

- (a) All vessels which operate in Hong Kong, be they local vessels, ocean-going vessels or river trade vessels from the Mainland are subject to control under the Shipping and Port Control Ordinance and its subsidiary legislation. The Ordinance sets out the provisions that all vessels operating in Hong Kong waters have to comply with, including the arrival and departure procedures for vessels, loading/unloading arrangements, speed limit and navigation safety requirements.
- (b) In the past three years, the number of accidents involving river trade vessels from the Mainland sinking in Hong Kong waters are as follows:

|                            |          |
|----------------------------|----------|
| 1997                       | 1 case   |
| 1998                       | 9 cases  |
| 1999 (January to November) | 17 cases |

We have conducted an analysis of the 17 accidents that occurred in 1999 and found that seven of them were related to adverse weather while the remaining ones were caused mainly by mechanical failure of vessels and ship masters.

The Administration has taken the following measures to reduce accidents involving river trade vessels in Hong Kong waters:

(i) *improving the statutory framework for regulating local vessels*

To improve the safety, control and regulation of local vessels, the Merchant Shipping (Local Vessels) Bill introduced into this Council in March was subsequently enacted in July this year. The new Merchant Shipping (Local Vessels) Ordinance seeks to improve the regulatory framework of local vessels by simplifying the classification of vessels; strengthening the regulation of the stowage and securing of cargoes on board; more transparent safety survey standards; and extension of compulsory third party insurance to all local vessels operating in Hong Kong waters including licensed river trade vessels. This new regulatory regime will enhance the regulation of local vessels in Hong Kong waters. We are drafting the relevant subsidiary legislation which will be put before this Council as early as possible.

(ii) *Strengthening ties with marine authorities of the Mainland*

The Director of Marine and his colleagues frequently hold meetings with the officials of the Mainland's marine authorities to discuss matters of mutual concern. In recent meetings, we have conveyed our analysis of the ship sinking accidents to the mainland side. In addition, we have raised for discussion the need to tighten up the monitoring of vessel maintenance and enhancement of crew training.

- (iii) *Increase the capability of monitoring of river trade vessels in Hong Kong waters*

The Marine Department is taking steps to establish a new river trade vessel control centre to streamline the procedures for processing the entry and exit of river trade vessels. If necessary, the control centre will impose specific requirements and assign routes for river trade vessels during their operations in Hong Kong waters. The control centre will also stipulate navigation safety requirements to strengthen the monitoring and control of river trade vessels operating in Hong Kong waters. The control centre is expected to come into operation next year. In addition, we are planning to introduce an automatic vessel identification system to strengthen our monitoring functions on vessel navigation. The new system is expected to come into service in 2002. In addition, the Kwai Chung marine traffic control station that came into operation last month has helped to improve marine traffic control in the Kwai Chung area.

- (iv) *Step up patrol*

In the first 11 months in 1999, we have carried out some 74 000 hours of harbour patrol, representing an increase of 34% compared with the same period in 1998.

- (v) *Enhance education and promotion*

To familiarize operators of river trade vessels with the latest port regulations and development, Marine Department organizes seminars in the mainland ports and Hong Kong. In the first 11 months of 1999, we have held nine such seminars with attendance of over 1 000 persons.

- (c) In the last three years there has not been any prosecution against owners of sunken river trade vessels which caused sea pollution. However, we have conducted nearly 6 000 inspections on board these vessels and initiated more than 500 prosecutions for offences other than causing sea pollution during the last three years.

**MR WONG YUNG-KAN** (in Cantonese): *Madam President, I wish to ask a supplementary question on part (c) of the main reply, and I wish to ask what charges were laid by the Government in all those prosecutions. Now, according to the Government, it has conducted nearly 6 000 inspections on board those vessels and has initiated more than 500 prosecutions for offences other than causing sea pollution over the past three years. But what kind of charges have been laid in all those prosecutions? In the case of sunken vessels, for example, should the ship masters involved be held responsible for any failure to protect human lives?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the inspections and prosecutions I have mentioned basically involved the following offences: failure to take proper actions as required by the relevant regulations at times of collision, failure to obey the regulations governing the use of waterways, failure to give appropriate signals when anchoring, or mooring close to the sides of other vessels illegally, and violations of the rules governing the use of typhoon shelters and so on.

**DR RAYMOND HO** (in Cantonese): *Madam President, in view of the drastic increase in the number of accidents involving sunken vessels within Hong Kong waters over the past three years, may I ask the Secretary whether there is any need to enhance the efficiency of our automatic computerized system in monitoring the waterways? I understand that the Government has already installed some new equipment; point (iii) of part (b) of the main reply revealed that a river trade vessel control centre will soon commence operation, and there is also a plan to introduce an automatic vessel identification system to strengthen our monitoring functions on vessel navigation. In this respect, can it be said that the need for implementing all these future plans is a reflection that the existing measures are somewhat inadequate?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, from my main reply, Dr HO should have noticed that we have actually made a lot of efforts, insofar as the setting up of control centres is concerned, we have recently opened a marine traffic control centre in Kwai Chung, and also hope to enhance this type of facility on Green Island. Of course, the most important thing is to have a control centre dedicated to the regulation of river

trade vessel traffic. Besides, we also plan to introduce an automatic vessel identification system in 2002. Such a system will enable the control centre to make out the registration numbers and other information of each and every vessel. We will thus be able to know the conditions under which vessels leave our harbour, making it easier naturally for us to find out their identity.

**DR RAYMOND HO** (in Cantonese): *Madam President, the question I want to ask the Secretary is: Would the present plan of introducing new monitoring functions on vessel navigation reflect that the existing facilities are somewhat inadequate?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): The existing facilities are already adequate, but this does not necessarily mean that there is no room for further improvement. We naturally hope to make improvements.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, regarding the question asked by Mr WONG Yung-kan, I wish to ask a follow-up question concerning the causes of accidents mentioned on page 3 of the main reply, namely, mechanical failure of vessels and ship masters' poor control. May I know the number of accidents caused by shipmasters' poor control? Were there any substantial prosecutions laid? If yes, what was the extent of these prosecutions?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, actually, I have already explained that of the 17 accidents involving sunken vessels, seven cases were attributable to severe weather conditions. We are not trying to lay all the blame on the weather, but the fact is that we have had very poor weather so far this year. Members should still remember that Typhoon Signal No. 8 has been hoisted at least five times this year, and the severe weather conditions I mentioned were basically connected with black rainstorm warnings and strong gales. As regards mechanical failure and ship masters' poor control, I think each is the cause of about five accidents. With respect to ship masters' poor control, there were accidents in which a vessel sank because it lost balance after some improperly secured cargoes had fallen into the sea. Therefore, as I mentioned in the main reply, we will take steps to improve

the subsidiary legislation on the regulation of local vessels, such as by strengthening the regulation of the stowage and securing of cargoes on board. But since I do not have the relevant statistics at hand, I can provide a written reply to the Member. (Annex I)

**MRS MIRIAM LAU** (in Cantonese): *Madam President, in connection with the accidents involving mainland vessels sinking in Hong Kong waters during the past three years, may I ask the Secretary whether any of these accidents was caused by a collision of mainland vessels and local vessels? If yes, how many? Did they lead to any casualties? If yes, again how many?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, I do not have any information at hand concerning the collision of mainland vessels and local vessels, nor do I have any statistics about the casualties involved. But I will compile the relevant statistics after this meeting and provide a written reply to Mrs Miriam LAU later on. (Annex II)

**MR LAU KONG-WAH** (in Cantonese): *Madam President, it is mentioned in point (ii) of part (b) of the main reply that actions are being taken to step up ties with the marine authorities of the Mainland. Well, I do not doubt that there have been some discussions about ways of strengthening maintenance and training, but have all these been mere discussions, and nothing more? What specific steps have been taken so far? What kind of training has been given? Can more details be given?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, in view of the great number of mainland vessels coming to Hong Kong, it is very important that we must step up our ties with the marine authorities of the Mainland. The Director of Marine is right now in Beijing, discussing matters relating to marine traffic with the local marine authorities. And, the transport authorities of the Mainland will also send officials to Hong Kong later this month to hold discussions with us. All these show that there is very good communication between the Mainland and Hong Kong with respect to marine matters. The Marine Department also holds frequent meetings with the relevant authorities of Guangdong, Guangzhou, Shenzhen and Zhuhai, and the scope of

discussions, as I mentioned a moment ago, covers ways of tightening vessel regulation to ensure proper vessel maintenance. The mainland authorities are also very concerned about vessel maintenance; before a certificate of seaworthiness is issued, they will always conduct stringent inspections to make sure that the required standards are met. And, they also attach a very great importance to crew training. On our part, if our observation and analysis can enable us to identify any causes of the accidents, such as mechanical failure and ship masters' poor control, we will notify the relevant mainland authorities accordingly, and they will make corresponding improvement and step up their education and publicity efforts. Our co-ordination efforts also include seminars held in mainland ports, marine safety campaigns and so on. All these aim to enable both sides to exchange their views and conduct reviews on an ongoing basis.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, from the Secretary's main reply, we can see that there have been more and more marine accidents in Hong Kong waters over the recent two years. Regarding the causes given by the Secretary, I think one of them should actually be related to the fact that despite the westward relocation of the port, many river trade piers, and even cargo handling piers, are still located in the eastern part of the harbour. Will the Government review the locations of our piers to see if there is any need for a revision?*

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, the answer is "yes". We will keep the situation under constant review. However, I also wish to raise one point here. There has no doubt been an increase in the number of marine accidents. But Members should bear in mind that every year, there is an average of about 300 000 vessels trips made by river trade vessels into or out of our port. And, for that reason, a figure of 10-odd accidents does not actually make Hong Kong anything worse than other ports in the world. And, in fact, we have recently conducted a study on the safety in our port; the consultancy study reveals that our port does not compare any less favourably with other major ports in the world.

**Illicit Use of Credit Card Information**

2. **MR LAU KONG-WAH** (in Cantonese): *Madam President, with regard to the obtaining of personal particulars and personal particulars being used illegally, will the Government inform this Council:*

- (a) *whether, in the past year, the Administration received any complaints about culprits who used the personal particulars of job-seekers, obtained under the guise of staff recruitment, to apply for credit cards; if there were such complaints, of the number of such cases; whether existing legislation prohibits potential employers from obtaining certain types of personal particulars from job-seekers; if there is no such legislation, whether the Administration will consider enacting legislation and formulating measures to prevent such acts; and*
- (b) *of the number of cases handled by the Administration in the past three years which involved the unlawful use of other people's credit card information for purchases on the Internet or over the phone; of the means through which the offenders obtained such information, and whether the Administration has discussed with the credit card issuing organizations measures to be adopted to ensure that the personal particulars on credit card payment receipts will not be stolen?*

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

- (a) On part (a) of the question, the Administration does not keep separate statistics on the number of complaints about suspected offenders who used the personal particulars of job-seekers, obtained under the guise of staff recruitment, to apply for credit cards. Such cases are classified as "deception". The Administration's records do not differentiate between cases of credit cards obtained under the guise of staff recruitment and other "deception" cases.

Under the Personal Data (Privacy) Ordinance, all data users, including employers, shall not collect more personal data than necessary and shall not, without the data subjects' consent, use the personal data for a purpose different from the original purpose of collecting the data. The Privacy Commissioner for Personal Data

has published, for public consultation, a draft Code of Practice on Human Resources Management, which provides that an employer is permitted to collect, from a job applicant, only personal data that are relevant to the specific tasks, responsibilities and reporting lines of the job. The draft Code, when adopted after public consultation, will also require an employer to inform a job applicant of the purpose for which the data are to be used and the classes of persons to whom the data may be transferred.

- (b) As regards part (b) of the question, the police have, during the past three years, dealt with 17 cases in which credit card data was used unlawfully, or without the knowledge of the data owners, to make purchases on the Internet. However, the police do not keep any separate figures on the number of "deception" cases which involved the unlawful use of other people's credit card information for purchases over the phone.

The operational experience of the police has shown that credit card information is mostly obtained by the offenders through theft of personal letters and pick-pocketing. The latter often resulted in the loss of identity cards. The police and the Independent Commission Against Corruption (ICAC) have also detected frauds committed with the theft of credit card account information by corrupt employees of hotels, restaurants and other retail outlets. The offenders used "card skimmers" to steal credit card information by lifting the data from the magnetic strip of a credit card and memorizing it in the skimmer. The stored information was then transferred onto fake cards.

The police hold regular discussions with the credit card industry to prevent and combat crimes in relation to credit card fraud. A leaflet on the prevention of credit card fraud was produced with the input of the credit card industry and circulated widely to the industry and members of the public in late 1998. An updated version is being prepared and will be available in early 2000. Also, during each investigation in corruption related credit card crimes, the ICAC maintains contact with the credit card industry to discuss relevant problems.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, if the purchase receipt of a credit card holder is obtained by other people, his card data may easily be lifted and used unlawfully. In third paragraph, part (b) of the main reply, the Secretary says that the Government has produced a leaflet on the prevention of credit card fraud. However, he has not given full details on the ways of preventing credit card fraud. The Secretary also says that the leaflet is being updated. May I ask which part of the leaflet is being revised? What are the preventive measures listed in the leaflet? And, are these preventive measures effective enough?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President, the Crime Prevention Bureau of the police maintains frequent contacts with banks and credit card companies and advises them on ways of preventing the unlawful use of credit card data and various security measures. For example, they are advised to reduce as much as possible the number of staff responsible for handling card information, to prepare a list of all staff members who can access card information, and to record all attempts to access such information. Card issuers are further advised to keep all card information strictly confidential by, for example, handling the storage of transaction stubs with care. The management level is also advised to regularly remind their staff of the importance of maintaining the confidentiality of card holders' information. Finally, during their frequent contacts with banks and credit card companies, the police will, on the basis of their experience, advise them on how to amend the relevant code of work practices.*

**DR TANG SIU-TONG** (in Cantonese): *Madam President, it is mentioned in part (b) of the main reply that in the past three years, the police handled a total of 17 cases relating to the unlawful use of other people's credit card information. How many people were convicted as a result of these 17 cases? What penalties were imposed on them? Are these penalties effective enough as a deterrent?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, with respect to these 17 cases in the past three years, there were two in 1997, one in 1998 and 14 in 1999. For the 14 cases in 1999, investigation into six of them has ended, while investigation into the other eight of them is still in progress. And, in connection with these eight cases, 13 persons in total have been arrested, of whom eight persons are teenagers. These eight teenagers have been put under the SP's Discretion Scheme. For all the 14 cases, no one has been prosecuted, and the amount of money involved ranges from \$500 to \$14,000.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, in part (b) of the Secretary's main reply, it is mentioned that the police have, during the past three years, dealt with 17 cases in which credit card data were used unlawfully, or without the knowledge of the data owners, to make purchases on the Internet. May I ask whether the police have instituted any prosecutions against any person in connection with all these cases?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have already answered this supplementary question. No one has been prosecuted in connection with these 14 cases.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, why is it that no one has been prosecuted?*

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I said a moment ago, investigation into six of these cases has ended, while investigation into the other eight of them is still in progress. And, in connection with these eight cases, 13 persons in total have been arrested, of whom eight persons are teenagers. These eight teenagers have been put under the SP's Discretion Scheme.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, in her reply to our supplementary questions, the Secretary touched upon juvenile crimes, and we learnt from her that the teenagers arrested were not subsequently prosecuted. Does the Government think that this will make the situation more serious? I wish to ask this question because we can see that the number of such cases in 1999 is much larger than those of 1998 and 1997.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, we are of course very concerned about the problem of juvenile crimes, and we have been paying close attention to any rising trends of juvenile crimes. Besides preventing and combating these crimes, we will also, as we frequently say in the Fight Crime Committee, give chances to young people as much as possible, so that they can reform themselves. One way of doing this is to put these young people under the SP's Discretion Scheme. This means that if a teenager below a certain age admits an offence or a wrong doing, and if he has no previous criminal record, then subject to certain conditions, a Superintendent will have the power to place him under his discretion instead of instituting a prosecution against him. We think this is really a good system because we can thus strike a balance between preventing and combating crimes on the one hand and helping young people to reform themselves on the other.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the Government seems to have placed all the focus on credit card companies. But at present the simple presentation of card information is acceptable for transactions by companies which sell their goods on the Internet and by many courier companies. Does the Government agree that arrangements for such transactions are indeed much too loose? Are there any ways to plug this loophole, because the victims would be those cardholders whose card data have been stolen?*

**PRESIDENT** (in Cantonese): Which one of the Secretaries is going to answer this supplementary question? Secretary for Security? I am waiting for the Secretaries to decide among themselves which one of them is going to answer this question.

**MR LAU KONG-WAH** (in Cantonese): *I think my supplementary question should be considered clear enough.*

**PRESIDENT** (in Cantonese): The time we spend on waiting will not be counted as part of the question time. *(Laughter)*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, we may have to answer this question with a written reply, because it seems that the relevant scope involved is probably beyond the purview of responsibilities of the three Secretaries present here now. Mr K C KWONG should be the Secretary to answer this question, so we may have to provide the answer in a written reply. (Annex III)

**PRESIDENT** (in Cantonese): Does any other Member wish to ask a supplementary question?

(No Member responded)

### **Detention of Hong Kong Residents in the Mainland without Trial**

3. **MR KENNETH TING** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the number of cases since the reunification in which the Government has made inquiries with the relevant mainland authorities regarding the reasons for the detention of Hong Kong residents in the Mainland without trial and the present conditions of the detainees; among those who are still being detained in the Mainland, of the number of detainees who have been detained for over six months;*
- (b) *apart from conveying to the relevant mainland authorities the requests of the families of the detainees to visit the detainees, of other assistance that it has rendered them; and*

- (c) *given that the relevant mainland authorities tend to demand payment by the families of the detainees of huge amounts of bail amounting to millions of dollars, whether it has sought on their behalf clarification from the relevant mainland authorities of the basis for determining the amounts of bail; if it has, of such basis; if it has not, whether it will offer these families assistance in this regard?*

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

- (a) In accordance with the Mainland's Criminal Procedure Law, all criminal suspects will be brought before the People's Court for prosecution only after substantial and sufficient evidence are found against them following investigation. During investigation, the law-enforcement agencies may detain or subject suspects to compulsory measures such as "residential surveillance" or "obtaining a guarantor pending trial" in accordance with laws as necessary.

From the reunification to 23 November this year, in respect of cases in which our assistance is sought for Hong Kong residents who are detained by the mainland authorities and such detention is related to investigation, we have conveyed to the mainland authorities concerned the requests of the detainees' families and their inquiries about up-to-date developments in 44 such cases (involving 45 person). Among these detainees, 20 have returned to Hong Kong. Of the remaining 25 persons, 20 have been detained for over six months.

- (b) Assistance that we have provided to the families of the detainees includes: interviewing families concerned to obtain details of the cases; preparing for them their requests and complaint summaries; conveying to the relevant mainland authorities their requests and concerns of the Hong Kong Special Administrative Region (SAR) Government; relaying back the up-to-date situation of the detainees as informed by the mainland authorities; and providing information on hiring of mainland lawyers for reference and so on. Moreover, we have referred some cases to departments such as the Social Welfare Department for further assistance.

- (c) In accordance with the Mainland's Criminal Procedure Law and its Regulations on Obtaining a Guarantor Pending Trial, the competent mainland authorities may require a person who is granted bail to provide a guarantor or to pay bail amount, the minimum of which is RMB\$1,000. When setting the amount of bail, the competent authorities shall take into account the bailed person's potential risk to society, the circumstances and nature of the case, the severity of the possible sentence, the person's financial situation, the level of local economic development and so on with the underpinning principle that the person concerned will not evade or jeopardize the criminal proceedings. As far as we understand from the mainland authorities, the amount of bail for economic crimes may be set at one or three times the amount involved or that of direct property loss in the case.

On behalf of the families of the detainees in the cases we process, apart from clarifying the basis for setting the amount of bail, we have also reflected to the mainland authorities whether the amount set are affordable to the families.

**MR KENNETH TING** (in Cantonese): *Madam President, in one of these cases, the family of the detained person paid a huge bail amounting practically to all they had to the officials of a certain province. However, the detained person was not released, but was instead transferred to another province, where other officials asked his family to pay an even bigger bail. Has the Government ever confirmed with the mainland Government whether this is lawful in the mainland? In order to prevent any repetition of similar incidents, will the Government request the mainland Government to make sure that all the Hong Kong residents involved in these detention cases can be detained in the Mainland under lawful conditions?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I think I know which case Mr Kenneth TING is referring to. I do not want to comment directly on this case. But as far as I know, this case was not brought to the attention of the Security Bureau until as recently as a few days ago. We naturally understand the allegations made by the affected persons, but before we can get a comprehensive picture of the whole case, I do not think I should make

any comments at this stage. Anyway, I can say that since we first received the complaint, we have started to ask for the details from the mainland authorities; we are right now trying to ascertain whether it is really true that after the detainee had paid a bail to a city, he was still taken to and detained in another city, where he was asked again to pay a bail. We are also trying to find out whether this is lawful in the Mainland. We are now trying to clarify the situation with the relevant mainland authorities.

**MR HUI CHEUNG-CHING** (in Cantonese): *Madam President, "prevention is the best cure", as the saying goes. It is pointed out in part 1 of the Secretary's main reply that from the reunification to 23 November this year, the Government has made inquiries with the relevant mainland authorities concerning 44 such cases. In order to reduce the incidence of such cases, will the Government consider the idea of holding talks on laws governing financial disputes for Hong Kong manufacturers, especially small and medium enterprise manufacturers, who operate their production lines in the Mainland, so that they can know their legal rights and obligations in the Mainland?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I understand that some organizations such as the Trade Development Council have been making regular efforts to familiarize Hong Kong manufacturers investing in the Mainland with the laws in force there; some private law firms and even universities also hold frequent seminars on mainland laws for Hong Kong manufacturers.

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, when the Government answered questions on a similar subject in the past, it mentioned a mechanism for the release of information, but this time around, it did not say a single word on this in the main reply. Can the Secretary tell us whether efforts are still being made to implement such an information mechanism? If yes, what progress has been made so far? What departments are involved? And, what are the details about this mechanism?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the Beijing Office of the SAR Government and we in Hong Kong have been liaising with the mainland departments on this mechanism for quite some time. In principle, there has not been any big difficulty, and our discussions now are basically focusing on the technicalities for operation. If information about the detainees is to be given to the SAR Government, or to the detainees' families through the SAR Government, quite a number of mainland departments will be involved, examples being the Public Security Bureau, the Customs Department and the People's Procuratorate. That is why we are still holding discussions on how precisely such a channel should be set up. However, I do not think that the remaining issues will pose any great difficulties, and in fact, we hope to conclude the negotiations late this year, or early next year at the latest, by which time we will be able to announce a series of measures agreed between us and the Mainland to assist those Hong Kong residents who are detained in the Mainland.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, LU Yu-cheng and LIANG Yong-sen, who were arbitrarily detained by the Chinese Government, both told of their actual experiences upon their return to Hong Kong, strongly criticizing the Hong Kong Government for failing to discharge its responsibility of protecting the safety and lawful rights of Hong Kong residents in the Mainland. Does the Government feel guilty and ashamed of itself after hearing all these criticisms? In particular, should the Beijing Office of the SAR Government, which did not seem to bother much initially and turned out to be so out of wits later, be criticized for dereliction of duty?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the first thing Mr CHEUNG assumed was that Mr LU had been detained arbitrarily in the Mainland. But as I said a moment ago, we have not been able to grasp all the information about each and every detention case. No doubt, we have heard a lot of criticisms from the detained persons and their families, but I must also say that when we met with the public security authorities of the Mainland, we did hear their side of the story. For this reason, as the Government, we cannot agree with Mr CHEUNG's judgment that the mainland Government has been trying to detain Hong Kong residents arbitrarily.

It is only natural for Mr LU and his family to voice their grievances, and it is not at all surprising to hear them grumble about the failure of the SAR Government to rescue them quickly. We appreciate their feelings and we are sympathetic with them. But I must still mention the point that following the return of Mr LU to Hong Kong, officials of the Immigration Department and the Security Bureau, in particular the officials of the latter, did try to tell him in great detail what actions we had taken in response to his case. I believe Mr LU should subsequently understand that since he was kept in isolation in Inner Mongolia at that time, he was unable to know what the Government was doing for him. But this certainly does not mean that the Government has not done anything. Therefore, I do not agree with Mr CHEUNG that the Government should feel guilty and ashamed of itself.

**MR EDWARD HO** (in Cantonese): *Madam President, in the main reply to Mr Kenneth TING's question, it is said that there are still 20 people who have been detained in the Mainland for over six months. Does the Government know, or has it ever tried to find out, whether the detention of these 20 people is lawful under the laws of the Mainland? If their detention is unlawful, what actions will the Government take to help them? Or, will it bring these cases to the attention of the relevant mainland authorities?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, we will follow up all these cases with the relevant provinces, cities and departments. But the question is that it is often difficult for us to ascertain whether it is unlawful to detain a person, or a Hong Kong resident, in the Mainland for more than one month or two or three months. I have actually submitted some information about this to the House Committee of the Legislative Council some time ago. The Flow Chart of Procedures on Criminal Detention, Referral to the People's Procuratorate and Formal Arrest in the People's Republic of China, which I now have in hand, for example, states that in accordance with mainland procedures, the lawful detention of a person may be as long as seven and half months. Besides, under Article 128 of the Criminal Procedure Law, if new evidence is found or new charges are laid during the period of detention, the period of lawful detention can be calculated afresh, and the person concerned can be detained for a further period of some seven months. That is why we cannot make any judgment easily. And, that is precisely why the Beijing Office of the SAR Government has commissioned some mainland law experts to give it advice so that when it comes across similar cases in the future, it can base on the circumstances of individual cases and ascertain more easily whether the mainland

authorities are acting in accordance with the laws there. If it is found that the lawful procedures are not being adhered to, it will notify the relevant departments such as the Supreme People's Procuratorate.

**MISS EMILY LAU** (in Cantonese): *Madam President, since the families of some detainees have criticized the SAR Government for failing to help their detained family members, may I ask the Secretary this question: How many people out of the 20 detainees who have returned to Hong Kong have been released as a result of the assistance offered by the SAR Government? And, in regard to the question asked by Mr HO about the 20 persons who have been detained for more than six months, may I know the length of detention for the person who has been detained for the longest period of time?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, it is very difficult for us to answer this question, because not all detainees would complain after their return to Hong Kong; some even do not feel any need to approach us any further at all. Therefore, it is very difficult for us to judge on our own whether anyone has been released as a result of our efforts. Well, even if we know that a person has really been released as a result of our efforts, we will not be complacent because of that, because this is our job and duty, something that we should do. And, I must add that we can never say with any absolute confidence that whenever we approach the mainland authorities, it is probable that some Hong Kong residents will be released.

Regarding the length of detention, perhaps, I have to state that some people may indeed have been detained for a very long time, but at the same time, we must not forget that there are also those have been sentenced to imprisonment. These people are different from detainees because they are serving their prison sentences. As for the length of imprisonment, I do not have any information at hand, but I will submit a written reply to Miss LAU's question later on. (Annex IV)

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

**MISS EMILY LAU** (in Cantonese): *Madam President, it is the first part. I referred to the 20 persons who had returned to Hong Kong and asked her to point out the cases for which they could "claim the credit". The Secretary, however, replied that it was difficult to say. But following the return of a Hong Kong resident surnamed LEUNG, I read from the press that the Secretary attributed his release to the assistance of the Government. Therefore, I asked this question, thinking that the Secretary would know the answer. Well, if she did not know the answer, how could she "claim the credit" at that time?*

**PRESIDENT** (in Cantonese): Miss LAU, this is only your personal opinion, not a part of the question you asked.

**MISS EMILY LAU** (in Cantonese): *I do not agree with you, Madam President, because the Secretary did once say in public that it was due to the assistance of the Government that the release of that Hong Kong resident was achieved. And, because of this, I thought she might know which one of those 20 persons had received assistance from the Government.*

**MR HO SAI-CHU** (in Cantonese): *Madam President, the Secretary refers to "criminal suspects" right at the beginning of her main reply. May I therefore ask the Secretary whether all the figures subsequently given in her main reply are related to criminal suspects? Our main concern actually is about those Hong Kong businessmen who are detained in the Mainland because of pecuniary and contractual disputes arising from their business dealings there. Does the Secretary have any such relevant figures? Has anyone been detained simply because of these disputes, and not because of any criminal offences?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, all the figures I now have are about detention cases arising from criminal offences. Nearly half of the Hong Kong residents now under criminal detention or serving their prison terms were involved in fraud cases or commercial and pecuniary disputes. The rest of them were involved in smuggling, tax evasion, bribery, acceptance of bribes, embezzlement, production of narcotic drugs and homicides.

**MR ALBERT HO** (in Cantonese): *Madam President, I know that the Government is not prepared to challenge the legality of the decisions made by mainland authorities in respect of matters like the detention of Hong Kong businessmen. But does the Government agree that it is obliged to ensure as far as possible that the detainees can at least be treated in accordance with the lowest acceptable humane standards? For instance, first, their family members should be allowed to visit them. To me, this is the most basic humane requirement. Second, in some cases, the detainees are supposed to be kept under residential surveillance. But since they usually do not have any place of residence, they are in effect kept in imprisonment. Is it possible to allow such detainees to be kept residential surveillance at the residences of their own choice? Finally, about the amount of bail. I understand that in some cases, the detainees may have to be held responsible for all the related financial losses. But does the Secretary agree that this should not prevent us from trying to fight for a more reasonable way of assessing such losses for the detainees? Is it possible to ensure, through bilateral negotiations, the lowest acceptable humane standards we have in mind?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President, I am afraid that we cannot possibly play the role of a commissioner for complaints or an ombudsman in the Mainland. But our approach has always been that whenever we raise any case with the Mainland, we will request them to handle the case in accordance with their laws and humane standards. In the case of Mr LU, for example, he was detained in Inner Mongolia, where the weather was bitterly cold. His family members said that he was in poor health, and so we reflected their requests to the Mainland several times, hoping that he could be given humane treatment. All the requests and opinions we reflect to the Mainland are aimed at urging them to handle the cases concerned in accordance with their laws. Take for example residential surveillance. In the more well-known case of Mr LU, following the imposition of mandatory residential surveillance on him, the mainland authorities did not casually drop him at a place of residence. At first, he was kept in a detention centre, after imposition of a lawful residential surveillance, arrangements were made for him to live in a guest house. I hear that he was allowed to watch television in the guest house, though he was still not given the means to contact his family on the phone.*

As regards the question of bail, whether in the case of Mr LU or Mr LIANG, we did approach the mainland authorities, asking them how much bail money was required under the relevant laws and regulations in force there. And, in this type of cases, if we know that the persons detained are financially unable to pay any bail money, we will seek to clarify whether a guarantor can be accepted for the same purpose, and if yes, we will find out who can qualify as a guarantor. The laws of the Mainland in this respect are indeed very strict, for example, as I said a moment ago, the amount of bail may be two to three times the amount of money involved, but as Members are aware, the Central Government eventually asked for just a very small amount of bail from Mr LU; and, Mr LIANG was even allowed to have a guarantor in place of bail money.

Here, I may as well answer the question asked by Miss Emily LAU. The SAR Government has never thought that it should claim the credit for anything it has done. For the two cases in question, we did make some comments in the press, chiefly because we were attacked by many unreasonable criticisms that we had never done anything for the detainees. We feel obliged to point out that in connection with these two cases, we had already put forward some specific requests in accordance with the laws of the Mainland, and we believe that the Mainland had considered our requests.

**PRESIDENT** (in Cantonese): The last supplementary question.

**MR ALBERT HO** (in Cantonese): *Madam President, just now I had actually wanted to ask whether the Secretary would agree that there was a need to — or whether the Government was prepared to — negotiate with mainland authorities on the setting down of some minimum standards which can ensure the reasonable and humane treatment of all detainees. I wish to ask whether there is such a need, because different places are now adopting practices that are inconsistent.*

**PRESIDENT** (in Cantonese): I wish to remind Members that the Question Time is just meant for short questions. If some Members ask very long questions, no time will be left for others. Actually, there is another Member who wishes to ask a question, but no more time is left now.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, let me reiterate our policy on this matter. We have always requested the Mainland to handle all these cases in accordance with the law. In other words, we ask them to handle these cases in accordance with their laws, and we also ask them to give humane treatment to all detainees. We regard these as the minimum requirements, and we will always maintain doing so.

**PRESIDENT** (in Cantonese): We have already spent 21 minutes on this question. Let us now proceed to the fourth oral question.

### **Testing of Cumulative Amount of Dioxins in Human Bodies**

4. **MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, in view of the harmful effects of dioxin on human health, will the Government inform this Council:*

- (a) *of the details and progress of the regular surveillance programme for dioxins in food; and*
- (b) *whether it knows if local medical institutions currently carry out sample tests on the cumulative amount of dioxins in human bodies, especially pregnant women; if such tests are carried out, of the details; if not, whether the institutions concerned will consider conducting such tests?*

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

- (a) Since August 1999, the Department of Health (DH) and the Government Laboratory (GL) have included dioxins into their regular food surveillance programme, under which DH officers collect food samples at import, wholesale and retail levels and deliver them to the GL for testing. As dioxins are a group of environmental contaminants and accumulate mainly in foods with high fat content, sampling for dioxin tests is targeted at high-risk foods, such as poultry, eggs, meat, milk and fish and their related

products, originating from industrialized areas. So far, all available results of the dioxin tests have shown levels at no more than 0.38 ppt (parts per trillion), which is significantly lower than the maximum tolerance level of 1 ppt currently adopted by the United States Food and Drug Administration.

- (b) As far as we know, none of the local medical institutions is currently carrying out tests on the cumulative amount of dioxins in individual human bodies. Conducting testing of dioxins in humans are extremely complex and associated with technical difficulties, requiring large sample volumes of around 300-400 cc for testing in order to achieve reliable test results. Only a limited number of highly specialized laboratories in the world have the capability to conduct these tests, which are usually performed as part of research to evaluate the impact of cumulative dioxin levels in human bodies.

On the other hand, the World Health Organization (WHO) has estimated that 90% of human exposure to dioxins is through food supply and monitoring dioxin level in foods can help monitor and reduce the impact of dioxins on the population. The WHO recommends the assessment of dioxin levels in human bodies of the exposed population when there are suspected incidents of contamination.

We will keep abreast of the above research findings and determine the best way forward, as appropriate.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, it has been referred to by the Secretary in paragraph (b) of the main reply that "The WHO recommends the assessment of dioxin levels in human bodies of the exposed population when there are suspected incidents of contamination". As a matter of fact, Madam President, we all know that the Government has intended to turn the Tsing Yi Chemical Waste Treatment Plant into a clinical waste disposal centre; besides, the Government has also admitted in the past that dioxin will be discharged during the waste disposal process. For these reasons, we are concerned about the lack of measures to assess the dioxin level in human bodies of the exposed population in the event that any problem should arise with the waste incinerators or that there should be any incidents of contamination.*

*Could the Secretary inform this Council how we are going to handle the situation? Could the Secretary also inform us of the measure to ensure that the dioxin level in human bodies could still be maintained at a safe level in case any incidents occurred?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, just now I have already mentioned that according to the results of the studies conducted by the WHO, the majority of the dioxins in human bodies comes from contaminated food, the dioxins found in the air are of very limited level only. Besides, relevant researches conducted in Spain and Germany have indicated no evidence in support of any increase in dioxin level in human bodies resulting from the operation of waste incinerators. For these reasons, for the time being, there is no need for us to worry about the safety of the system in operation in the Tsing Yi plant.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, my question was not on whether or not we should worry. My main concern is does the Government have any system to know clearly whether or not our bodies have been contaminated by dioxin.*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, as far as I understand, the developer of the treatment plant at Tsing Yi will spend plenty of time monitoring the level of dioxin discharged by the waste incinerators. Besides, the developer will also regularly submit reports to the Government to ascertain whether dioxin level is within the maximum tolerance limit. As such, there is no need for any tests on the level of dioxins in human bodies.

**MR MICHAEL HO** (in Cantonese): *Madam President, it has been referred to by the Secretary in paragraph (a) of the main reply that sampling for dioxin tests would be targeted at high-risk foods originating from industrialized areas.*

*Could the Secretary inform this Council what criteria would the Government base on to classify the areas concerned as industrialized areas? Would the classification be based on countries, states or cities?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, with regard to the surveillance programme which has been in operation for about five months, the sampling tests are targeted at the industrialized areas mainly because foods originating from these areas are exposed to higher risk of contamination. Over the past few months, food samples have continuously been sent to Hong Kong for testing from different areas, including, naturally, the industrialized areas. While the food samples sent to Hong Kong are originating from a wide spectrum of areas, we will certainly obtain samples from all areas that are considered industrialized in our opinion.

**MR MICHAEL HO** (in Cantonese): *Madam President, my supplementary was on the criteria for classification. Take, for example, a country vast in area would comprise many states which, in turn, would have many cities; however, it is not possible for all areas within that country to be industrialized areas. So, based on what criteria would the Government classify the areas concerned as industrialized areas when obtaining the food samples? Would the countries, states or cities where the areas belong to be any classification criteria?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, as a matter of fact, it is very difficult for us to say which areas should be classified as industrialized areas. During the growing and manufacturing processes of foods, many areas of a country may be involved and food contamination may take place in any of these areas. As such, initially we will draw samples from the country of origin of the food concerned, and then basing on the level of contamination we will determine whether samples should be drawn further from the relevant cities. Given that the surveillance programme has been in operation for only five months, the quantity of food samples we have obtained so far is very limited.

**MISS CYD HO** (in Cantonese): *Madam President, in about half a year ago there has been an incident of suspected contamination of many dairy products and eggs by dioxin. At that time the eggs were being refrigerated in Hong Kong pending the examination results; however, the Government did not indicate whether the eggs, if found contaminated, would be incinerated, buried into the ground, or returned to the exporting countries concerned. But since it was later found out that the eggs had not been contaminated, the issue was not being followed up. May I ask the Secretary whether the Government has in place any measures to handle the matter if in the future we should find any foods being contaminated? Will the foods be sent to Tsing Yi for incineration? Could the Secretary also inform this Council whether the incineration of a large amount of foods contaminated by dioxin would have any effect on the residents nearby; if so, should we return the foods to the exporting countries concerned instead; and whether the Government has already made the necessary arrangement in this respect?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, under the existing arrangement for incidents of food contamination, the Government will try its best to return the contaminated foods to the exporting countries concerned. In the event of a failure to return the contaminated foods, still we will not try to incinerate them; instead, we will dispose of them at the landfill sites in southern New Territories.

**MISS CYD HO** (in Cantonese): *Madam President, part of my supplementary was on "whether the Government has already made the necessary arrangement in this respect", rather than "what the Government would try to do". I should like the Secretary to inform us whether the Government has made any arrangement with the exporting countries; and if so, of the kind of arrangements made.*

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

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, I believe no arrangements can be made until something has happened. This is because different arrangements have to be made for different food items, and we also need to study the feasibility of such arrangements as well.

Nevertheless, the Government has already made adequate preparations in this connection.

**MR LAW CHI-KWONG** (in Cantonese): *Madam President, it has been referred to by a government official the other day that so far there was no specific evidence showing that dioxin is carcinogenic, or will affect human reproduction or growth. In this connection, will the Government consider conducting local research into questions as to whether dioxins are carcinogenic, or whether they will affect human reproduction or growth?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): *Madam President, actually a number of researches have been conducted in many places worldwide to find out whether dioxins are carcinogenic or will cause any other effects to the human bodies. However, most of these researches are conducted in countries where serious incidents of contamination have taken place. For those places where no serious incidents have occurred, the level of dioxin contamination is not very high. As regards the maximum amount of dioxin contaminated foods that human bodies can tolerate per day, guidelines and the relevant data are available from the WHO already. If future dioxin tests should show that the food samples have not exceeded the maximum tolerance level of dioxins, then it would follow that the cumulative dioxin levels in the human bodies of the local population has not exceeded the safety level and will not affect human health. Of course, provided that we have obtained the relevant information, the appropriate tests and studies would of course be conducted then.*

**DR RAYMOND HO** (in Cantonese): *Madam President, it has been mentioned by the Secretary for Health and Welfare that conducting testing of dioxins in humans are extremely complex, and since we do not have in place the highly specialized laboratories required, we do not have the capability to conduct those tests. In this connection, could the Secretary inform this Council whether the Government has any plan to allocate resources to the local universities to enable them to conduct researches into this respect? I believe the techniques concerned will benefit not only Hong Kong, but we could also transfer such techniques to our neighbours.*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, actually the Government Laboratory is capable of conducting such tests. Of course, conducting these tests involves not only technical issues but also the need to collect large food samples of around 300 cc to 400 cc in volume. In view of the large amount of samples required, we will not conduct the tests unless we have very special reasons calling for them. Since there is no evidence showing that the present level of dioxin contamination in Hong Kong has become serious enough to affect human health, there should not be any need for such tests for the time being. However, if the Government should in the future reckon that the dioxin levels in human bodies has exceeded the maximum tolerance level set by the WHO, the Government would consider conducting the appropriate studies.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, may I ask the Secretary how accurate are the existing facilities of the Government in testing the level of dioxins in foods?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, the testing of dioxins in foods is concerned conducted by the Government Laboratory is highly accurate, thanks to the large sampling volumes collected for the purpose. As regards the testing of dioxins in humans, since the samples drawn from human bodies are comparatively smaller in volume, the accuracy of the tests conducted would be relatively lower as well.

**PRESIDENT** (in Cantonese): Since Mr CHENG who is to ask the fifth question is not in this Chamber at the moment, Council will now proceed on to the sixth question first.

### **Services of the Electrical and Mechanical Services Trading Fund**

6. **DR RAYMOND HO** (in Cantonese): *Madam President, starting from 1 August this year, government departments are permitted by stages to choose whether or not to continue to use the services of the Electrical and Mechanical Services Trading Fund (the Trading Fund). In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the business prospects of the Trading Fund in the next three years, and whether its service standards and charges are capable of competing equitably with those of the private sector providing the same services;*
- (b) *of the government departments that have by now procured or will shortly procure services originally provided by the Trading Fund from other service providers by means of open tender, and the service items involved; and*
- (c) *whether it will request government departments to enter into long-term service contracts with the Trading Fund for five years or longer, so as to safeguard stability in the business of the Trading Fund?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, the Trading Fund was set up in August 1996 with a view to providing the most cost-effective and value-for-money services for government departments and public bodies. In the past three years, the performance of the Trading Fund has exceeded all its financial and productivity targets.

The most important factor affecting the business outlook of the Trading Fund is the untying of client departments and agencies. Clients departments will, over four phases in three years, be given the freedom to choose to continue using all or part of the services provided by the Trading Fund or to select a service provider through tendering. In preparation for the untying programme, the Trading Fund has introduced a number of productivity and service quality enhancement measures.

Over the past three years, the Trading Fund has achieved a productivity gain of 15% through re-organization and streamlining of business process. The productivity gain has benefited its customers by corresponding price reduction in real terms. The Trading Fund aims to make productivity gains continuously, and the target for the year 2000 is a further 5% gain.

The Trading Fund has also provided continuous professional development for all its staff in order to maintain a multi-disciplinary professional team. In August 1999 it has acquired ISO 9001 corporate certificate. It has also won a Service Productivity Merit Award presented by the Hong Kong Productivity Council. In short it aims to deliver the most comprehensive, reliable, cost-effective and quality electrical and mechanical services.

The first phase of the untying programme commenced on 1 August 1999 involving nine departments. So far the Trading Fund has not lost any customers. Only the Urban Services Department and the Regional Services Department have put a part of their vehicle maintenance services to open tenders and the Trading Fund has won one of the contracts. This is a good indication that the Trading Fund is capable of competing equitably with private sector operators in terms of service standards and charges.

Since early this year, the Trading Fund's tenders for the provision of services to the Airport Authority have been very successful. The Trading Fund has also opened up new business areas including the services to enhance energy efficiency and to improve indoor air quality. As a result the volume of business gained has exceeded the small amount of business lost.

Winning or losing tenders is normal under open competition, and hence some fluctuation in the Trading Fund business is inevitable in the short term. In the medium to longer term, it is expected that the commissioning of new public facilities will increase client departments' demand for electrical and mechanical services. In view of the expansion of existing services and introduction of new services, it is anticipated that the business of the Trading Fund will grow steadily.

Long-term service contracts have a lot of benefits for the customers as they provide a guarantee of service and price over an extended period. They also benefit the Trading Fund by providing a more secure source of business and revenue. The Trading Fund will do its best to promote the adoption of long-term service contracts among its customers. The ultimate decision rests with the customers as determined by their needs. The Trading Fund will monitor closely the stability in business and tailor its services to the needs of its customers.

**DR RAYMOND HO** (in Cantonese): *Madam President, I was glad to hear from the Secretary for Works that with a change in policy the Trading Fund has seen an enhancement in its efficiency as well as its service quality. But in fifth paragraph of the main reply the Secretary told us the Trading Fund has won only one contract in the open tender for part of the vehicle maintenance services put up by the Urban Services Department and the Regional Services Department. It seems the success rate was not too high. Has the Electrical and Mechanical Services Department (EMSD) employed consultants or carried out research of its own to collect more information from the market in order to know more about the market trend and hence raise its success rate?*

**SECRETARY FOR WORKS** (in Cantonese): *Madam President, as I said, winning or losing tenders is normal under open competition. Although in the open tender put up by the Urban Services Department and the Regional Services Department, the Trading Fund won just one contract, we have found out the conditions on other tender documents were very close to those of ours. We do have consultants appointed to study the trends and fees in the market to make the Trading Fund a competitive one.*

**MR LEE KAI-MING** (in Cantonese): *Madam President, in the fifth and sixth paragraphs of the main reply, we know the Trading Fund will open itself to the market and compete with private operators in a healthy manner. What we can see is that in all government projects, when contracts are due to expire, tenders are open to the Trading Fund and private operators to enhance healthy competition. But the private operators' market is not open to the EMSD for healthy competition. Is this fair? Can the EMSD suit itself to their market? Recently, the EMSD had won a contract in a tender from the Kowloon Bay Vehicle Examination Centre, but it has to relinquish the contract because of some pressure. How can this be considered a healthy competition?*

**SECRETARY FOR WORKS** (in Cantonese): *Madam President, Mr LEE's supplementary question can be divided into two parts. The first part is whether there is healthy competition between the Trading Fund and private operators. It is clearly stated in the law that the Trading Fund provides services to government departments and public bodies. It will not compete with private operators unless they have a special need, such as a lack of expertise, whereupon the Trading Fund will handle their projects. The second part is about a recent tender at the Kowloon Bay Vehicle Examination Centre. We understand the*

Trading Fund had the lowest bid, but we were notified that the tendering process had some flaws in its arrangement which eventually lead to the successful bidding by a private operator rather than by the Trading Fund.

**MR CHAN WING-CHAN** (in Cantonese): *Madam President, in paragraph seven of the main reply, it was said the Trading Fund will expand its existing services and introduce new ones. Will the Secretary inform this Council what plans does the Trading Fund have to promote its services and attract new clients?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, the Trading Fund in fact has been closely in touch with our clients to find out in what ways we can improve. As I mentioned in the main reply, our new business areas basically include services to enhance energy efficiency and to improve indoor air quality. We hope to make more business in these two areas.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, I would like to assess the efficiency of the Trading Fund. When we compare the rate of return on the assets of the Trading Fund with the expected return originally set over the last couple of years, what is the result?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, basically, we have several targets. In terms of finance, we have targets for rate of return on income and rate of return on fixed assets. For the latter, for example, we have a target of 13.5, and in fact we achieved 36.1. The rate of return on income set per annum is 4.5% and we have also reached the target as well.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, I was glad to note from first paragraph of the main reply that the performance of the Trading Fund has exceeded all its financial and productivity targets. Will the Secretary inform this Council whether in setting these targets the Government has made reference to existing targets for private operators? How far better has the Trading Fund performed after comparing its own targets with those of private operators?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, we have made reference to the overall targets for private operators. As I said, in terms of finance, we have set a target for 4.5% per annum for the rate of return on income. The rate of return for fixed assets is set at 13.5%. We have achieved the percentage for both targets.

**DR RAYMOND HO** (in Cantonese): *Madam President, according to my direct understanding, many staff in the Trading Fund are worried that some business would be lost through keen competition with the private sector. Under this circumstance, they feel anxious about the uncertainties in future workload. Has the Administration discussed with these staff about this with a view to allaying their anxiety?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, first of all, as I said in the main reply, our overall operation has indeed increased in volume, compared with the past. But we have still been holding regular talks with our staff. I myself have met with staff representatives recently. They gave me the impression that their morale was very high and they were willing to co-operate with the management to improve the operation of the Trading Fund.

**DR RAYMOND HO** (in Cantonese): *The Trading Fund is at present servicing nine departments in the Government and many public bodies. The Government has indicated that it would encourage the Trading Fund to sign long-term contracts with existing clients. But I do not think it is good enough to just encourage them to do so. Operators from the private sector must not be invited to tender. That is because if such operators sent in their bids at very low prices, the Trading Fund would easily lose a lot of contracts in future. Then, in the long run, it would lose much of its workload. Will the Government do more than just giving encouragement? I hope it could impose pressure on departments asking them to sign some long-term contracts with the Trading Fund to help it maintain a steady workload. In fact, since the resources are allocated by the Government to the said departments and bodies, I trust they would accept the proposal.*

**PRESIDENT** (in Cantonese): The question raised by Dr HO just now should be another supplementary question. Clerk to the Council, please put this on record.

**SECRETARY FOR WORKS** (in Cantonese): Madam President, as I mentioned a while ago, the overall productivity of the Trading Fund has not diminished. Of course, we hope to gain more long-term contracts, but it is still up to the clients to decide at the end of the day. The ultimate purpose of setting up the Trading Fund is to enhance productivity so that they can compete with private operators. So, if the productivity of the Trading Fund is enhanced, there should be no fear of competition with private operators.

**PRESIDENT** (in Cantonese): We have spent more than 14 minutes on this question. Next question.

### **Relative Importance of HOS and HPLS**

5. **MR GARY CHENG** (in Cantonese): *Madam President, the Government has decided in principle to gradually reduce Home Ownership Scheme (HOS) production and increase the Home Purchase Loan Scheme (HPLS) quota. In this connection, will the Government inform this Council:*

- (a) *whether it has evaluated the reasons for the drastic decrease in the number of applications received in the last HPLS exercise; if it has, of the reasons for the decrease, and whether the authorities will modify the above decision;*
- (b) *whether it will assess the public's demand for HPLS loans and HOS flats before finalizing the increase in the HPLS quota; if so, of the details of the assessment; and*
- (c) *of the implications of a reduction in HOS flat production on the annual production target of 85 000 residential flats?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, in 1998-99, the Housing Authority (HA) provided 10 000 loans under the HPLS, and about 23 500 applications were received. In the current financial year 1999-2000, the HA has invited applications for 4 500 loans under the HPLS. By yesterday (30 November), over 8 000 applications have been received. Based on the current take-up rate, the HA is confident that the number of loans will be fully taken up before 31 March 2000. Since the number of loans provided by the last two HPLS exercises is not the same, they cannot be compared. However, the number of applications received in each exercise indicates that the loan arrangement is a popular channel for home ownership.

Demand for HOS flats is assessed in accordance with the established Housing Demand Model. We carried out public consultation on this Model several years ago and it was accepted. Loans to be provided under the new scheme, on which the HA will be consulted in the near future, will be granted to those applicants who are eligible to apply for the HOS. Therefore, there is no additional demand.

In terms of public housing, the Government has a public housing production target of 50 000 flats a year. As loans to be provided under the new scheme to replace HOS flats proportionately, the total number of households benefiting from housing subsidy given by the HA will remain unchanged.

**MR GARY CHENG** (in Cantonese): *Madam President, building HOS flats might result in fewer people buying private residential flats, since HOS flats are cheaper, while the HPLS might result in more people buying private residential flats. The present HPLS certainly has the possibility of reducing the likelihood of people buying HOS flats. In introducing this replacement scheme, has the Government considered how the scheme will affect the whole property market? I am not just talking about the 50 000 public housing flats, since it would be unreasonable just to cover that figure.*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, of course, in the beginning, we will implement the scheme at a relatively slow pace. Therefore, the number of loans provided will not be too high each time. This number also replaces some demands for HOS flats. From this point of view, therefore, it would not have too great an impact on the overall property market.

**DR YEUNG SUM** (in Cantonese): *Madam President, in 1998-99, the oversubscription rate for Phases 19(c), 20(a) and 20(b) of the HOS was eight, six and five times respectively, while the oversubscription rate for the HPLS for the same period was only 3.6 times. If the Government knows perfectly well that the people's demand for HOS flats is much greater than that for HPLS loans, according to what rationale has it decided to increase the HPLS quota while reducing HOS production?*

**SECRETARY FOR HOUSING** (in Cantonese): *Madam President, we cannot simply make use of the oversubscription rate as a criterion. Of course, statistically, we can use the data this way. However, as I pointed out in the main reply, we have seen that this loan arrangement is also popular. Both HOS flats and HPLS loans have a high take-up rate. Our main objective is, as long as there are people supporting a certain scheme, we will implement it.*

As to why we want to replace HOS production with the loan scheme, the main reason is that it has many advantages. First, it will give home buyers more choices so that they have greater flexibility in purchasing their home and it will also meet the needs of individual households. Another advantage is that it will stimulate the development of the property market. For taxpayers, it will ease the burden of public housing on them, since this loan scheme is a more cost-effective method to help people purchase homes. Due to the various reasons given above, we have very good grounds to support our decision to partially replace HOS production with the offer of loans.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, I hope the Secretary could explain the third paragraph of the main reply clearly. After I read the third paragraph, I have the feeling that the Government had already changed its target of building 50 000 public housing flats. I am talking about "building". Is it no longer the Government's intention to "build" 50 000 public housing flats a year? The main reply has clearly indicated that the loan scheme would replace HOS flats, and HOS flats are included in the 50 000 public housing flats. May I remind the Secretary that many people are still on the public housing waiting list. Why not stick to the target of building 50 000 public housing flats even after reducing HOS production, so as to shorten the waiting time for public housing flats? Moreover, does the HA agree with the new policy?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, of course, in terms of numbers, after reducing the number of HOS flats included in the public housing flats and replacing them with the loan scheme, the total number of public housing flats to be built will be less than 50 000. However, we undertake that 50 000 low-income households will continue to receive allowances or assistance in home purchase. For low-income households which cannot afford to purchase their homes and have to move into public housing flats, the Government also undertakes to gradually shorten the waiting time over the next few years. By 2005, the waiting time will be shortened to three years on average. We will fulfil this pledge. The slight changes we are now making will not affect the supply of public housing flats and public rental housing flats. This is surely our main basis.

**MR LEE CHEUK-YAN** (in Cantonese): *What about the HA?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, as for the HA, just as I have said, we will talk to the HA officially about the details of this scheme and what to do with them in the near future, in fact, this very month.

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

## WRITTEN ANSWERS TO QUESTIONS

### Disposal of Wastes in the Streets

7. **MR BERNARD CHAN**: *Madam President, it is noted that every morning large quantities of waste papers are left behind after newspaper vendors finish sorting the newspapers in the streets. In this connection, will the Government inform this Council:*

- (a) *of the parties responsible for clearing up such waste papers; if public funds are used for clearing up such waste papers, of the reasons for that; and*
- (b) *whether such waste papers are separated for recycling purpose?*

**SECRETARY FOR HOME AFFAIRS:** Madam President, on the basis of information provided by the two municipal services departments (MSDs), the replies to Mr Bernard CHAN's questions are:

- (a) Papers left behind by newspaper vendors after the sorting process are usually returned to the distributors or sold to the recycling companies. The small amount of waste newspapers discarded on the streets is regarded as refuse and cleared by the two MSDs and their contractors as part of the street sweeping services. Nonetheless, anti-littering messages are disseminated to the newspaper vendors and special blitz operations against litter offenders are taken out by the two MSDs where necessary.
- (b) Discarded newspapers are mixed with other street wastes in the course of street sweeping, thus making separation for recycling purpose impossible.

### **Dissemination of Information to Hong Kong Businessmen in the Mainland**

8. **MR HUI CHEUNG-CHING** (in Chinese): *Madam President, will the Government inform this Council whether:*

- (a) *the Special Administrative Region (SAR) Government will seek detailed information from the relevant mainland authorities about the changes that the Central Government is planning to make in the laws, policies and regulations concerning business operations and taxation in the Mainland before such changes are implemented; if it will, whether and how such information is disseminated to Hong Kong businessmen doing business in the Mainland;*
- (b) *the SAR Government has collaborated with the mainland authorities concerned to disseminate the relevant information and explain the changes to Hong Kong businessmen doing business in the Mainland; if it has, of the details; if it has not, the reasons for that; and*
- (c) *the SAR Government will discuss with the relevant mainland authorities the establishment of a mechanism for helping Hong Kong businessmen in the Mainland to understand and adjust to such changes expeditiously?*

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

- (a) The Trade Department, Trade Development Council (TDC) and the Beijing Office of the SAR Government actively maintain links with relevant mainland authorities to gather information on updated laws, regulations and administrative measures concerning business operations, as well as macro-economic and trade developments in the Mainland. Information so gathered will be collated and then disseminated to the business community in Hong Kong via the Trade Department's Commercial Information Circulars and the TDC's website. The Trade Department also posts these Circulars on its website for public access. Through their contacts with Hong Kong and mainland trade bodies and associations as well as various seminars, the Trade Department, the TDC and the Beijing Office also collect views about doing business in the Mainland from Hong Kong businessmen, which will then be reflected to the mainland authorities concerned. For matters which will have significant impact on Hong Kong businessmen, the Trade Department will contact the relevant mainland ministries and commissions directly to reflect their views and suggestions.

In view of the importance of mainland commercial laws, regulations and measures to Hong Kong businessmen operating in the Mainland, the Trade and Industry Bureau (TIB) of the SAR Government and the Ministry of Foreign Trade and Economic Co-operation (MOFTEC) of the Central People's Government agreed at the first meeting of the Mainland and Hong Kong Special Administrative Region Joint Commission on Commerce and Trade (the Joint Commission) held on 8 and 9 November that there should be timely exchange of information between the two parties in future before the promulgation of new policies and measures which would affect the economic activities of Hong Kong businessmen in the Mainland. Both parties also agreed that information exchanges in respect of trade and investment affairs should be enhanced. Once we have obtained the latest information on changes of economic and trade measures in the Mainland, we will disseminate it to business community in Hong Kong through the above channels.

- (b) The Trade Department and the TDC have been monitoring closely the development of trade and investment policies in the Mainland. If any measures introduced in the Mainland will affect Hong Kong businessmen in general, the Trade Department and the TDC will contact the mainland authorities concerned and invite them to hold seminars jointly so that mainland officials in charge of economic and trade affairs can brief Hong Kong businessmen on the relevant policies and answer their questions directly. For instance, a delegation led by an Assistant Minister of MOFTEC visited Hong Kong in September this year and held a seminar on "New Measures on Mainland Processing Trade", during which the Shadow Margin Account Scheme of the Mainland processing trade was explained. The seminar was very well received. In addition, at the first meeting of the Joint Commission, both parties agreed that information regarding the Mainland's latest policies, laws and regulations, as well as its macro- and micro-economic and trade developments would be disseminated through the TDC's "Trade Portal", a website to be set up soon. This additional channel will enable the mainland authorities to explain their policies to Hong Kong businessmen effectively.
- (c) As mentioned above, in view of the close economic and trade relations between the SAR and the Mainland, the TIB and the MOFTEC have established the Joint Commission to serve as a forum for the SAR and mainland authorities dealing with trade and commercial matters to exchange views regularly on matters of mutual interests. The first meeting of the Joint Commission was held at Beijing on 8 and 9 November, marking the formal coming into operation of a high-level liaison mechanism on commerce and trade between the SAR and the Mainland. The meeting set up four working groups to hold discussion on a wide range of issues relating to the economic and trade relations between the two places. The Working Groups on Trade and on Investment have agreed to exchange views in a timely manner on new policies and measures which may affect Hong Kong businessmen doing business in the Mainland. The Joint Commission also agreed that the working groups could invite business and trade bodies to participate in their

discussions if there were specific issues on the agenda or where necessary.

The next meeting of the Joint Commission will be held in late 2000. Meanwhile, the Working Groups on Trade will meet again in the first quarter and the Working Group on Investment the first half of 2000 respectively.

### **Compensations in respect of Abusive Use of Power by Police**

9. **MR JAMES TO** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of compensation claims lodged by members of the public against the Government in each of the past three years in relation to violation of rules by police officers on duty, together with a breakdown of these claims by the cause of action; and*
- (b) *among these claims,*
  - (i) *of the number of cases adjudicated by the court, and the number of such cases in which the plaintiff won the lawsuit, as well as the amount of compensation awarded to each successful plaintiff; and*
  - (ii) *of the number of cases settled out of court and the amount of compensation awarded to each of these plaintiffs?*

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

- (a) According to the police's records, the number of compensation claims lodged by members of the public against the Government in each of the past three years in relation to violation of rules by police officers on duty is as follows:

|                              | <i>Year</i>  | <i>1997</i> | <i>1998</i> | <i>1999</i> |
|------------------------------|--------------|-------------|-------------|-------------|
| <i>Cause of action</i>       |              |             |             |             |
| Assault                      |              | 4           | 5           | 1           |
| Unlawful seizure             |              | 2           | -           | -           |
| Negligence                   |              | 1           | -           | -           |
| Misfeasance in public office |              | -           | -           | 1           |
|                              | <i>Total</i> | <i>7</i>    | <i>5</i>    | <i>2</i>    |

- (b) (i) Among the 14 cases, two cases were adjudicated in 1997. Both of them were ruled in favour of the Government and hence no compensation was paid to either of the plaintiffs.
- (ii) Three cases were settled out of court and the amount of compensation awarded were \$50,000, \$100,000 and 700,000 respectively.

### **Theft Cases in Primary and Secondary School Premises**

10. **MISS CHOY SO-YUK** (in Chinese): *Madam President, recently, there were several cases in which computer equipment in schools was stolen. In this connection, will the Government inform this Council:*

- (a) *of the number of theft cases in primary and secondary school premises in each of the past three years; the categories and the estimated total value of items stolen; the distribution of those schools; whether the number of such crime is on the rise; if so, if it has assessed the causes;*
- (b) *of the total funding allocated to primary and secondary schools for the installation of security devices in each of the past three years; the major kinds of security devices on which the fundings were spent;*
- (c) *of the measures in place to combat such crimes; and*

- (d) *how it will ensure that information technology education in the relevant schools will not be affected by the theft of computer equipment?*

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

- (a) According to police records, the number of burglary cases<sup>(Note 1)</sup> in secondary and primary school premises in each of the past three years is as follows:

|                           |           |
|---------------------------|-----------|
| 1997:                     | 322 cases |
| 1998:                     | 310 cases |
| 1999 (up to end October): | 282 cases |

As shown from the above statistics, the number of such crime is not on the rise.

The estimated value of items stolen and the distribution of the relevant schools by district are set out in Annex. The police does not keep records on the categories of items stolen. However, through its day-to-day contact with schools, the Education Department understands that the stolen items are mainly cash, audio and visual equipment, and computer equipment. Since schools do not necessarily report to the Education Department each and every burglary case, the Department does not have statistics on the categories of items stolen.

- (b) Government schools, schools under the Bought Place Scheme and caput schools may apply to the Education Department for funds to install security devices. Aided schools, on the other hand, may make use of the recurrent School and Class Grant to install such devices. If the cost of the security devices exceeds a certain amount (\$3,000 in the case of a primary school and \$8,000 in the case of a secondary school), schools may apply to the Education

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<sup>(Note 1)</sup> In the reply to this question, "burglary cases" refer to cases in which a person enters the school to steal or attempt to steal anything.

Department for a one-off grant. Common security measures installed by schools include window iron bars, iron gates and roller-shutters. The Education Department does not keep statistics on the total amount of funds allocated to schools for the installation of security devices or the categorization of these devices in the past three years.

- (c) The Education Department maintains close contact with the police on security arrangements for schools. The Department has also, on the basis of police's advice, issued circulars and guidelines on crime prevention measures for schools' reference. These suggested measures include locking all doors and gates of the school premises properly after school hours and during holidays, installing good perimeter light to deter trespassing through climbing walls, and keeping the cash holdings in schools to a minimal.

Separately, apart from increasing patrols in surrounding areas of schools, the police will also make detailed investigations into school burglary cases with a view to bringing the culprits to justice as soon as possible.

- (d) In furtherance of the Government's policy objective of promoting information technology (IT) in education, the number of computer equipment in schools has been increasing in recent years. Since the equipment is expensive, we see the need to strengthen the security measures of schools. This said, in so doing, we also recognize that the tightening of security measures should not cause inconvenience to teachers and students in using the computer equipment. The current security arrangements suggested by the Education Department are devised after consulting the police. These suggested measures include installing window iron bars and iron gates in schools' computer rooms and server rooms, and using material which does not wear away easily to mark schools' logo on noticeable parts of all computer equipment. Works departments will install window iron bars and iron gates for schools when they conduct site preparation works for IT in education.

In addition, the Education Department will, on top of the existing security arrangements, install other security devices such as infra-red intruder detection system in schools' computer rooms. Schools may also make use of the grants provided under IT in education to install appropriate security devices should they deem necessary.

Schools may apply funding from the Education Department for replacements if their computers are stolen.

Annex

Number of burglary cases in secondary and primary school premises,  
distribution of these schools and the estimated value of items stolen (1997)

| <i>Police District</i> | <i>Estimated value of items stolen</i> |                            |                         |                           |                             |                              |                                | <i>Total</i> |
|------------------------|--|----------------------------|-------------------------|---------------------------|-----------------------------|------------------------------|--------------------------------|--------------|
|                        | <i>None</i>                            | <i>\$100<br/>and below</i> | <i>\$101-<br/>\$500</i> | <i>\$501-<br/>\$1,000</i> | <i>\$1,001-<br/>\$5,000</i> | <i>\$5,001-<br/>\$500,00</i> | <i>\$50,001-<br/>\$100,000</i> |              |
| Central                | 1                                      | 0                          | 0                       | 0                         | 4                           | 4                            | 0                              | 9            |
| Wan Chai               | 6                                      | 0                          | 1                       | 1                         | 7                           | 5                            | 0                              | 20           |
| Western                | 0                                      | 0                          | 2                       | 2                         | 1                           | 5                            | 0                              | 10           |
| Eastern                | 2                                      | 0                          | 1                       | 2                         | 5                           | 3                            | 0                              | 13           |
| Wong Tai Sin           | 2                                      | 1                          | 3                       | 1                         | 4                           | 1                            | 0                              | 12           |
| Sau Mau Ping           | 1                                      | 0                          | 1                       | 0                         | 1                           | 4                            | 0                              | 7            |
| Kwun Tong              | 3                                      | 3                          | 5                       | 4                         | 11                          | 3                            | 0                              | 29           |
| Yau Ma Tei,            | 2                                      | 0                          | 0                       | 1                         | 4                           | 2                            | 0                              | 9            |
| Tsim Sha Tsui          |  |                            |                         |                           |                             |                              |                                |              |
| Mong Kok               | 3                                      | 0                          | 1                       | 1                         | 2                           | 3                            | 0                              | 10           |
| Sham Shui Po           | 7                                      | 2                          | 1                       | 1                         | 11                          | 7                            | 0                              | 29           |
| Kowloon City           | 3                                      | 2                          | 2                       | 1                         | 6                           | 5                            | 0                              | 19           |
| Border                 | 1                                      | 2                          | 1                       | 0                         | 2                           | 1                            | 0                              | 7            |
| Yuen Long              | 9                                      | 3                          | 3                       | 3                         | 15                          | 7                            | 0                              | 40           |
| Tsuen Wan              | 0                                      | 0                          | 3                       | 1                         | 1                           | 2                            | 0                              | 7            |
| Sha Tin                | 3                                      | 1                          | 1                       | 0                         | 9                           | 3                            | 0                              | 17           |
| Kwai Tsing             | 2                                      | 5                          | 5                       | 0                         | 1                           | 3                            | 0                              | 16           |
| Tuen Mun               | 6                                      | 2                          | 3                       | 3                         | 9                           | 6                            | 0                              | 29           |
| Tai Po                 | 8                                      | 4                          | 4                       | 2                         | 6                           | 12                           | 1                              | 37           |
| Marine Port            | 0                                      | 0                          | 1                       | 0                         | 1                           | 0                            | 0                              | 2            |
| Total                  | 59                                     | 25                         | 38                      | 23                        | 100                         | 76                           | 1                              | 322          |

Number of burglary cases in secondary and primary school premises,  
distribution of these schools and the estimated value of items stolen (1998)

| <i>Police District</i> | <i>Estimated value of items stolen</i> |                            |                         |                           |                             |                              |                                | <i>Total</i> |
|------------------------|--|----------------------------|-------------------------|---------------------------|-----------------------------|------------------------------|--------------------------------|--------------|
|                        | <i>None</i>                            | <i>\$100<br/>and below</i> | <i>\$101-<br/>\$500</i> | <i>\$501-<br/>\$1,000</i> | <i>\$1,001-<br/>\$5,000</i> | <i>\$5,001-<br/>\$500,00</i> | <i>\$50,001-<br/>\$100,000</i> |              |
| Central                | 1                                      | 1                          | 1                       | 0                         | 0                           | 0                            | 1                              | 4            |
| Wan Chai               | 3                                      | 1                          | 2                       | 1                         | 5                           | 4                            | 1                              | 17           |
| Western                | 5                                      | 1                          | 4                       | 3                         | 6                           | 9                            | 0                              | 28           |
| Eastern                | 3                                      | 1                          | 0                       | 2                         | 12                          | 9                            | 0                              | 27           |
| Wong Tai Sin           | 0                                      | 0                          | 1                       | 1                         | 5                           | 1                            | 0                              | 8            |
| Sau Mau Ping           | 1                                      | 0                          | 2                       | 0                         | 0                           | 0                            | 0                              | 3            |
| Kwun Tong              | 2                                      | 2                          | 4                       | 5                         | 2                           | 11                           | 0                              | 26           |
| Yau Ma Tei,            | 1                                      | 0                          | 0                       | 1                         | 4                           | 2                            | 0                              | 8            |
| Tsim Sha Tsui          |  |                            |                         |                           |                             |                              |                                |              |
| Mong Kok               | 1                                      | 1                          | 0                       | 0                         | 0                           | 0                            | 1                              | 3            |
| Sham Shui Po           | 1                                      | 0                          | 2                       | 0                         | 1                           | 0                            | 0                              | 4            |
| Kowloon City           | 4                                      | 0                          | 0                       | 2                         | 1                           | 8                            | 0                              | 15           |
| Border                 | 0                                      | 0                          | 0                       | 0                         | 1                           | 2                            | 0                              | 3            |
| Yuen Long              | 5                                      | 1                          | 5                       | 1                         | 4                           | 7                            | 0                              | 23           |
| Tsuen Wan              | 5                                      | 1                          | 0                       | 0                         | 4                           | 5                            | 0                              | 15           |
| Sha Tin                | 13                                     | 1                          | 2                       | 4                         | 12                          | 5                            | 0                              | 37           |
| Kwai Tsing             | 15                                     | 2                          | 4                       | 2                         | 9                           | 6                            | 0                              | 38           |
| Tuen Mun               | 3                                      | 1                          | 1                       | 2                         | 2                           | 1                            | 0                              | 10           |
| Tai Po                 | 7                                      | 4                          | 9                       | 2                         | 10                          | 6                            | 0                              | 38           |
| Lantau                 | 2                                      | 0                          | 0                       | 0                         | 0                           | 0                            | 0                              | 2            |
| Marine Port            | 0                                      | 0                          | 0                       | 0                         | 1                           | 0                            | 0                              | 1            |
| Total                  | 72                                     | 17                         | 37                      | 26                        | 79                          | 76                           | 3                              | 310          |

Number of burglary cases in secondary and primary school premises,  
distribution of these schools and the estimated value of items stolen ( January — October 1999)

| <i>Police District</i>       | <i>Estimated value of items stolen</i> |                            |                         |                           |                             |                              |                                |                               |              |
|------------------------------|--|----------------------------|-------------------------|---------------------------|-----------------------------|------------------------------|--------------------------------|-------------------------------|--------------|
|                              | <i>None</i>                            | <i>\$100<br/>and below</i> | <i>\$101-<br/>\$500</i> | <i>\$501-<br/>\$1,000</i> | <i>\$1,001-<br/>\$5,000</i> | <i>\$5,001-<br/>\$500,00</i> | <i>\$50,001-<br/>\$100,000</i> | <i>\$100,001<br/>and over</i> | <i>Total</i> |
| Central                      | 0                                      | 0                          | 0                       | 0                         | 0                           | 0                            | 0                              | 0                             | 0            |
| Wan Chai                     | 2                                      | 1                          | 1                       | 0                         | 4                           | 3                            | 1                              | 0                             | 12           |
| Western                      | 4                                      | 1                          | 3                       | 0                         | 2                           | 4                            | 0                              | 0                             | 14           |
| Eastern                      | 2                                      | 0                          | 1                       | 1                         | 4                           | 1                            | 2                              | 0                             | 11           |
| Wong Tai Sin                 | 4                                      | 1                          | 4                       | 0                         | 1                           | 6                            | 0                              | 0                             | 16           |
| Sau Mau Ping                 | 3                                      | 0                          | 0                       | 0                         | 2                           | 4                            | 0                              | 0                             | 9            |
| Kwun Tong                    | 6                                      | 1                          | 2                       | 1                         | 4                           | 9                            | 0                              | 1                             | 24           |
| Yau Ma Tei,<br>Tsim Sha Tsui | 2                                      | 0                          | 1                       | 0                         | 3                           | 1                            | 0                              | 1                             | 8            |
| Mong Kok                     | 3                                      | 0                          | 1                       | 0                         | 7                           | 1                            | 0                              | 0                             | 12           |
| Sham Shui Po                 | 6                                      | 0                          | 8                       | 1                         | 7                           | 7                            | 0                              | 0                             | 29           |
| Kowloon City                 | 2                                      | 1                          | 1                       | 1                         | 5                           | 4                            | 1                              | 0                             | 15           |
| Border                       | 0                                      | 0                          | 3                       | 0                         | 0                           | 0                            | 0                              | 0                             | 3            |
| Yuen Long                    | 8                                      | 0                          | 2                       | 2                         | 3                           | 10                           | 0                              | 0                             | 26           |
| Tsuen Wan                    | 2                                      | 0                          | 1                       | 1                         | 2                           | 6                            | 0                              | 0                             | 12           |
| Sha Tin                      | 4                                      | 0                          | 0                       | 0                         | 10                          | 8                            | 0                              | 0                             | 22           |
| Kwai Tsing                   | 1                                      | 0                          | 1                       | 2                         | 2                           | 1                            | 0                              | 0                             | 7            |
| Tuen Mun                     | 2                                      | 1                          | 1                       | 0                         | 2                           | 7                            | 0                              | 0                             | 13           |
| Tai Po                       | 8                                      | 4                          | 3                       | 5                         | 10                          | 11                           | 1                              | 0                             | 42           |
| Lantau                       | 0                                      | 0                          | 0                       | 0                         | 0                           | 0                            | 0                              | 0                             | 0            |
| Marine Port                  | 2                                      | 2                          | 0                       | 2                         | 0                           | 1                            | 0                              | 0                             | 7            |
| Total                        | 61                                     | 12                         | 33                      | 16                        | 68                          | 84                           | 5                              | 3                             | 282          |

## Allocation of Clinics in Public Housing Estates

11. **MR LEE KAI-MING** (in Chinese): *Madam President, it is learnt that the Housing Authority plans to let clinic premises in public housing estates by open tender with effect from 1 January next year, in place of the existing practice of allocating such premises to doctors and dentists recommended by the Estate Doctors Association Limited and the Estate Dental Group of the Hong Kong Dental Association. In this connection, will the Government inform this Council whether the Housing Authority:*

- (a) *will use the bid prices offered by the tenderers as the only basis for determining the successful bidders; if so, how such a practice will affect the future fees charged by the clinics concerned;*
- (b) *plans to set a standard rate for the fees charged by these clinics in order to prevent overcharging in the future; if not, of the reasons for that; and*
- (c) *will consider allocating clinic premises by ballot rather than by tender; if not, of the reasons for that?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, the Housing Authority has decided recently that medical and dental clinics in public housing estates should be let by open tender in future. The new tender procedures and eligibility criteria will be finalized by January 2000. Provided that the tenderers fulfil the eligibility criteria, the Housing Authority will only consider bid prices in evaluating tenders.

An open tender system is adopted because it ensures fair competition, openness and transparency. It allows the most economical use of the Housing Authority's clinic premises and is in line with the Housing Authority's practice in letting commercial premises.

Medical fees are determined by a number of factors including market demand and supply, the type of service provided and quality. As the situation varies significantly with each doctor, it is not appropriate for the Housing Authority to set a standard rate of fees for clinics in public housing estates.

**Segregation Punishment for Young Offenders in Reformatory Schools**

12. **MR FRED LI** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *in respect of each reformatory school,*

  - (i) *of the number of times in which solitary confinement was imposed on the children under its custody, and the average duration of each solitary confinement of these children; and*
  - (ii) *of the number of children who were confined again within two days following a seven-day confinement over the past year;*

- (b) *whether each reformatory school has laid down criteria for deciding on the duration of confinement, and informed its staff and children under custody of such criteria; if not, of the reasons for that; and*
- (c) *of the measures in place to ensure that the imposition of solitary confinement is not in breach of the provision of the United Nations Convention on the Rights of the Child which stipulates that every child deprived of liberty shall be treated with humanity?*

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

- (a) (i) Of the seven correctional/residential homes operated by the Social Welfare Department (SWD) for juveniles aged 7 to 17, the practice of segregation is only permitted and therefore exercised at the O Pui Shan Boys' Home (a reformatory school) and the Begonia Road Juvenile Home (a remand home). The reformatory school deals with young offenders who are sentenced by the Court to the school for between one to three years, while residents of the remand homes are either accused or convicted juveniles detained at the home for a relatively shorter period from a few hours to six months. There are provisions in the Reformatory School Rules (Cap. 225) and the Remand Home Rules (Cap. 226) governing the

use of segregation in these homes. In the case of temporary segregation from other residents in the institutions, those concerned must still attend educational/vocational classes as scheduled, and are provided with individual help programmes such as intensive counselling by social workers, as deemed necessary.

In the past year, the SWD staff in these Homes have segregated residents on 47 occasions (each lasting for about five days) in the reformatory school, and on eight occasions (each lasting for under 10 hours) in the remand home.

- (ii) There was only one case involving a juvenile being segregated again, within two days, after release from a seven-day segregation for violating discipline in the reformatory school.
- (b) Instructions on the use of segregation, including the duration allowed, are set out in the Manual of Procedures for Correctional/Residential Homes. Upon admission, all residents are briefed on the reward and punishment system operating in the Home. Discipline in these SWD Homes is maintained primarily through a system of reward and punishment with an emphasis on positive reinforcement, that is, rewarding good behaviour and deterring misbehaviour.
  - (c) The operation of the SWD's correctional/residential homes, including the imposition of segregation, as laid down in the Manual, is in compliance with our obligations under the United Nations Convention on the Rights of the Child. There are strict guidelines governing the use of segregation in homes to avoid inhumane treatment. For example, the period of segregation should not normally exceed one or two days and the Reformatory School Rules specify a segregation period of not more than seven days. Segregation is not encouraged and is only used when no other feasible alternative can be applied to control residents' behaviour, such as assault or abscondence, which may be disruptive to the discipline in the home. Disciplinary Boards, comprising senior management in the homes, are convened with the participation of the resident involved, to consider the appropriate punishment in the

case of misconduct. In the light of a recent incident regarding segregation practices in a Home, the SWD has undertaken to conduct a comprehensive review of the Manual and the existing practice of segregation.

### **Air Quality Inside Air-conditioned Buses**

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

- (a) *it has stipulated the air quality standards inside a moving air-conditioned bus; if it has, of the details;*
- (b) *it has conducted regular sample checks on the air quality inside these buses; if it has, of the details; if not, the reasons for that;*
- (c) *it knows if back-up air-conditioning systems are installed in the air-conditioned buses of franchised bus companies; and*
- (d) *it knows the guidelines issued by respective franchised bus companies to their bus-drivers concerning the contingency measures to be taken when the air-conditioning system in the bus fails?*

**SECRETARY FOR TRANSPORT** (in Chinese) *Madam President, there is no specific requirement or standard on the air quality inside in-service air-conditioned buses under the bus franchises or the existing environment/transport-related legislation.*

However, the Government has set up an inter-departmental Indoor Air Quality Management Group (IAQMG) chaired by the Planning, Environment and Lands Bureau and comprising members from other relevant policy bureaux and departments to co-ordinate various activities and programmes related to indoor air quality. The IAQMG plans to develop guidelines, in the form of professional practice notes, in the year 2000 for public transport facilities including air-conditioned buses.

The air-conditioning systems of all buses provide for air recirculation. Most franchised bus companies have a special team of skilled staff to work specifically on air-conditioning systems. The air filters of the systems are replaced every one to two weeks. Also, during routine bus inspections, vehicle examiners from Transport Department will check that the air-conditioning systems are in working order. The Environmental Protection Department and Transport Department do not conduct separate checks on the air quality inside air-conditioned buses.

There is no back-up air-conditioning system on the air-conditioned buses of franchised bus companies. Bus drivers are instructed to treat a bus with a broken air-conditioning system in the same way as broken down vehicles. The drivers have to:

- (i) pull the bus to the next bus stop or to a safe location;
- (ii) advise passengers of the problem and arrange for them to transfer to other buses; and
- (iii) inform the control centre of the bus companies of the incident so as to have defective buses towed away as soon as possible.

### **Investigations Conducted by the SEHK concerning Qualifications in the Auditors' Reports**

14. **MR ERIC LI** (in Chinese): *Madam President, in reply to a question asked in this Council on 14 July this year, the Secretary for Financial Services advised that during last year and the first six months this year, the Stock Exchange of Hong Kong (SEHK) had issued 81 letters of inquiry to listed companies, seeking confirmations and/or additional information from their directors in respect of the qualifications made in the auditors' reports on their financial statements. In this connection, will the Government inform this Council:*

- (a) *of the names of the companies which received the letters and the details, set out in table form, of the qualifications made in the auditors' reports; and*

- (b) *of the disciplinary action taken by the SEHK, upon the completion of investigations, against the companies and their directors found to have violated the Rules Governing the Listing of Securities; and in cases where the relevant laws were suspected to have been breached, whether the SEHK has referred them to law enforcement agencies for follow-up; if it has, of the details; if not, the reasons for that?*

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

- (a) The SEHK has a general duty not to divulge the identity of companies or persons under inquiries under its Rules. It is therefore not possible to provide the names of the listed companies to whom the 81 letters of enquiry were issued in respect of the qualifications in the auditors' reports on their financial statements. However, the SEHK does publish in its website <<http://www.sehk.com.hk>> the list of auditors' reports with a "Qualified Opinion" and/or an "Explanatory Paragraph". Information contained in the list includes the stock code and name of the listed company concerned, date of listing, period covered by the annual report and the name of the auditors. Although the list does not provide details of the audit qualifications, such information can be readily accessible from the annual reports of the listed companies concerned. In addition, in the reply dated 14 July referred to in this question, there is a table which provides a break down by categories of the qualifications and adverse statements of the annual reports including those which are the subject of the 81 letters of inquiries issued by the SEHK between 1998 and end June 1999.
- (b) As set out in the reply to the Legislative Council's question of 14 July 1999, the Exchange has since the beginning of 1998 referred a total of 11 cases to the Securities and Futures Commission for further investigation of potential financial irregularities, and to the Hong Kong Society of Accountants for investigation of possible inconsistency or non-compliance by auditors with respect to the relevant professional standards. The Exchange is working on two further cases with a view to instituting referral actions. The Exchange has considered and concluded that no further actions would be taken for the remaining cases under the existing Listing Rules.

**Cases of Abuse of Elderly People**

15. **DR DAVID LI:** *Madam President, it was reported that 97 cases of abuse of elderly people were reported to the Social Welfare Department (SWD) in the first nine months of this year. In this connection, will the Government inform this Council:*

- (a) of the number of such abuse cases reported to the authorities in the past three years and whether these cases are on the rise;*
- (b) whether it will commission a study to examine the general causes of such abuse; and*
- (c) of its plans to contain the problem?*

**SECRETARY FOR HEALTH AND WELFARE:** Madam President,

- (a) The 97 cases quoted were derived from a preliminary survey conducted by services units of the SWD and some elderly service centres operated by non-governmental organizations (NGOs) over a 12-month period ending September 1999. We do not have in hand readily available information and analysis of such data in the past three years.
- (b) Elderly abuse is a complex problem. However, based on the analysis of the 97 reported cases and from overseas research findings, the factors which are relevant to elderly abuses are:
  - relationship problem within the family;
  - carers' stress and lack of knowledge and skills in providing care to the elderly;
  - crowded living environment and financial problems giving rise to family conflicts;
  - poor mental health or behavioural problems of the abused;

- deterioration of mental health and personal problem of the abuser.

The Administration is studying the problem and considering how best to collect the information needed for better understanding of the extent and causes of elderly abuse in Hong Kong.

- (c) Elderly abuses usually arise in families with acute relationship problems, as well as a lack of understanding of the needs of the elderly by other family members. The Administration has attached great importance to promoting care and respect for the elderly. We have produced Television Announcements of Public Interest (TV APIs) to drive home the theme of "Towards a Society for All Ages" in this International Year of Older Persons. TV APIs have also been produced to help the public to better understand elderly dementia and how to prevent elderly depression.

In addition, the following subsidized services are being provided:

- we have introduced a new service of carers' support centres which provide information, training and emotional support to families which are taking care of their elderly;
- some care and attention homes are providing respite service to carers/elderly people in need. The SWD is conducting a review on this service with a view to promoting its use; and
- we have introduced a day respite service by inviting several day care centres for the elderly to provide the service on a pilot basis.

Other than the above measures and services, we will enhance the functioning of the family through family life education and counselling, strengthen our existing services including emergency placement in residential care homes for elderly people in urgent need, social networking services for vulnerable elderly people, and referrals for medical, psychological and psychiatric treatment where necessary. We will explore with parties concerned including the SWD, the Hospital Authority and NGOs on the setting up of a reporting system on elderly abuses. Front-line staff will be given training to assist them in detecting such cases.

**Refusal to Transmit Messages by Paging Companies**

16. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of complaints received by the Office of the Telecommunications Authority (OFTA) in the past three years about the refusal of paging companies to relay messages to their subscribers; the information contained in the messages concerned; and how the OFTA handled the complaints and followed up the substantiated cases;*
- (b) *of the penalties imposed on those paging companies which have violated the licensing conditions for refusing to relay messages to their subscribers;*
- (c) *of the measures in place to ensure that freedom of communication and of speech enjoyed by the public will not be infringed by paging companies; and*
- (d) *as more and more paging companies have relocated their operation centres for paging services to the Mainland, how it ensures that freedom of communication and of speech enjoyed by the public will not be undermined by the fact that the relocated centres must observe the relevant laws in the Mainland?*

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

- (a) In the past three years, the OFTA received a total of eight complaints about the refusal of paging companies to relay messages to their subscribers. The information contained in the messages concerned included assemblies for the June Fourth Incident (six cases), discourteous wordings (one case) and Falun Gong activities (one case). The OFTA has conducted investigations into every case, pursued where the cause and responsibility lied and considered whether penalty should be imposed on the paging companies concerned.

- (b) On seven of the complaints, the OFTA's investigations did not reveal that the paging companies in question had deliberately instructed their operational staff to refuse relaying messages to their subscribers. The OFTA therefore did not consider it necessary to impose the more serious penalties such as fines or suspension of licences, but directed these companies to make improvements to avoid the occurrence of similar incidents in the future. As for the recent complaint about the refusal to deliver messages of Falungong, the OFTA has completed its investigation and is following up the legal matters with the Department of Justice.
- (c) Section 24 of the Telecommunication Ordinance and the guidelines issued by the Telecommunications Authority (TA) aim to protect the freedom of communication enjoyed by the public, and ensure that quality paging services are delivered to subscribers. To ensure that all operations of paging companies are in compliance with section 24 of the Telecommunication Ordinance and the conditions of the paging service licences, the TA issued guidelines on the transmission of paging messages to all paging companies on 24 October 1997. The guidelines state clearly that a paging service licensee has the obligation to transmit messages given to it for transmission, except those messages which have been agreed by the subscriber not to be transmitted or messages the transmission of which would be in breach of the local legislation. During 1997 and 1998, the OFTA also contacted all paging companies and required them to review the contents of their service contracts and delete any clauses that were in contravention of section 24 of the Telecommunication Ordinance and the guidelines promulgated by the TA. Moreover, the OFTA will conduct thorough investigations into each complaint it has received about the refusal of paging company to relay messages to its subscribers and take the appropriate follow-up measures.
- (d) The licences for paging companies are issued by the TA under the Telecommunication Ordinance, therefore, the services that they provide must observe the laws of Hong Kong. For the paging services in Hong Kong, the paging companies must observe the Telecommunication Ordinance and the guidelines issued by the OFTA, no matter where they have relocated their operation centres.

They are subject to the same kind of regulation as other paging companies who run their operation centres in Hong Kong. They should be responsible for the conduct of their operation centres outside Hong Kong, so as to ensure that the services they provide in Hong Kong are in compliance with the laws of Hong Kong.

### **Registration of Owners' Corporations**

17. **MISS EMILY LAU** (in Chinese): *Madam President, it is learnt that the management committee of Heng On Estate in Ma On Shan applied to the Land Registrar for registration of the owners as an owners' corporation on 18 September last year but the application has not yet been approved. In this connection, will the executive authorities inform this Council:*

- (a) *of the reasons for not yet granting approval to this application, and the expected date the approval will be granted;*
- (b) *of the number of applications for registration as owners' corporations made in the past three years which were still awaiting approval after a lapse of one year since submission; and*
- (c) *whether it will consider amending the relevant legislation and streamlining relevant administrative procedure with a view to shortening the time required for vetting and approving such applications?*

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

- (a) On 18 September 1998, the Land Registry received an application for registration of the owners of Heng On Estate in Ma On Shan as a corporation under section 7 of the Building Management Ordinance (Cap. 344) (the Ordinance). The processing of the registration has taken longer than usual to complete because the registration was (i) the subject of complaint letters to the Legislative Council which led to case conferences on 2 November 1998 and 19 May 1999; and (ii) a Lands Tribunal action by an owner seeking a Court Declaration to

stop the Land Registrar from issuing a certificate of registration. As the court proceedings were outstanding, the Land Registry could not process the application for registration. On 19 November 1999, the Land Registry was informed by the Department of Justice that the Applicant in the Lands Tribunal case had filed a Notice of Discontinuance in the Lands Tribunal on 18 November 1999.

Subject to the resignation of a member of the Management Committee, who was not an owner within the definition of the Ordinance, and compliance with other formalities under the Ordinance, the application for registration of the owners of Heng On Estate as a corporation may proceed.

- (b) There are two cases since the establishment of the Land Registry in May 1993. In both cases the delay was caused by rival parties referring the matter to the Lands Tribunal for adjudication.
- (c) We consider that the procedure for the registration of owners' corporations under the Building Management Ordinance are adequate and appropriate, and amendments to the Ordinance are not required.

### **Overcharging by Taxi Drivers**

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

- (a) *of the number of complaints that the authorities received concerning overcharging by taxi drivers in the past three years and the number of such cases in which taxi drivers were prosecuted and convicted of overcharging offences; and*
- (b) *whether it will consider stipulating that when taxi drivers receive fares, they should take the initiative to ask the passengers if they need fare receipts; if not, of the reasons for that?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, the number of complaints received by the Administration concerning overcharging by taxi drivers between 1996 and 1998 were as follows:

|      |     |
|------|-----|
| 1996 | 403 |
| 1997 | 291 |
| 1998 | 324 |

During this three-year period, the police have issued a total of 88 summonses about taxi overcharging of which 74 cases were convicted.

Under the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg.), taxi drivers are required to issue fare receipts to passengers on demand. The Transport Department has been encouraging, through its regular liaison with the taxi trade, taxi operators to post notices inside the vehicle compartment to inform passengers of their right to request for fare receipts. We understand that some operators have already put up stickers at the receipt printers inside their taxis for this purpose. Separately, the Transport Department is considering a proposal to include in the fare table displayed inside taxis a similar message on the passengers' right to request for fare receipts. This arrangement would further increase the awareness of passengers about their existing rights. We have no plan to amend the existing legislation to make it a statutory requirement for taxi drivers to ask passengers if they need fare receipts.

### **Consultancy Studies Pertaining to Land Use Planning**

19. **MR WONG YUNG-KAN** (in Chinese): *Madam President, will the Government inform this Council of the number of studies it commissioned private consultancy firms to undertake in the past three years, on issues pertaining to land use planning, and of the subject and scope, the current progress and the consultancy fees of each of the studies?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Chinese): Madam President, the Government commissioned 31 consultancy studies in the past three years on issues pertaining to land use planning with a total consultancy fee of \$456.82 million. The subject and scope, start and completion date, the current progress and the consultancy fees of each of these studies are listed in the attached table.

## Planning Department (Plan D)

|    | <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>   | <i>Fee</i> |
|----|---|-----------------------------------|---|------------|
| 1. | Urban Renewal Strategy Study — To provide a coherent planning framework to guide the improvement of the old urban areas.  | August 1997-<br>mid 2000          | Mostly completed. Some follow-up studies are being undertaken to facilitate the implementation of the proposed urban renewal actions to be undertaken by the proposed Urban Renewal Authority.  | \$6.9M     |
| 2. | Study on the Ecological Value of Fish Ponds in Deep Bay Area — Further Study — To undertake research and consolidate quantitative data for the establishment of assessment guidelines for development in Deep Bay area.                       | December 1997-<br>early 2000      | The main study was completed in September 1997 and additional work to further examine the various aspects of the ecological performance of the fish ponds will be completed in early 2000.  | \$1.21M    |
| 3. | Study on Village Improvements and Upgrading of Lei Yue Mun Area — To formulate a planning framework to optimize the development potential of the Lei Yue Mun area and examine ways to improve and upgrade the environment of the area.        | March 1999-<br>early 2000         | The consultants have just finished the preliminary assessments. A recommended outline development plan and implementation programme will be prepared in the next stage of the study.  | \$2.7M     |
| 4. | Study on South East New Territories Development Strategy Review — To formulate an up-to-date development strategy to guide both the short and long term development of the southeast of the New Territories sub-region up to 2016 and beyond. | March 1999-<br>mid 2000           | A 2-month public consultation exercise on the three initial development options on conservation, recreation and tourism was completed in mid November 1999. The study is scheduled for completion in mid 2000 with the production of a Recommended Development Strategy for the study area. | \$4.78M    |

| <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i>   | <i>Current Progress</i>  | <i>Fee</i> |
|---|-------------------------------------|--|------------|
| 5. Study on Revitalization of Tai O — To formulate a planing strategy to reverse the declining economy of Tai O with emphasis on exploring the tourism/recreation development potential while conserving the existing rural and natural landscape character.  | November 1998-<br>early to mid 2000 | Details of the recommended revitalization strategy and the implementation framework is being undertaken.   | \$1.89M    |
| 6. Study on Development Opportunities of the Former Marine Police Headquarters Site in Tsim Sha Tsui — To formulate a development scheme and implementation strategy to optimize the development potential of the former Marine Police Headquarters site with special emphasis on developing it into an attractive tourism spot, taking into account the need to preserve the declared historical building. | November 1999-<br>mid 2000          | The inception report, which has been recently prepared by the consultants, is being circulated to relevant departments for comments.   | \$0.72M    |
| 7. Stage II Study on Review of Metroplan and the Related Kowloon Density Study Review — To review the land use-transport-environmental planning framework established in the 1991 Metroplan and the Kowloon Density Study completed in 1993 with a view to producing an updated development strategy for the Metro Area.  | March 1999-<br>end 2000             | After completing the first stage Public Consultation on the Study Approach, Goals, and Objectives and Key Issues, the study has now proceeded to transport, sewerage and drainage assessments. | \$8.6M     |

| <i>Subject and scope</i>   | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>  | <i>Fee</i> |
|--|-----------------------------------|--|------------|
| 8. Planning and Development Study on North West New Territories — Examine the scope and feasibility of developing strategic growth areas in Northwest New Territories.       | October 1997-<br>mid 2000         | The study is jointly managed by Plan D and Territory Development Department (TDD). The Planning Stage has been substantially completed. A 3-month Public Consultation exercise is scheduled for completion in January 2000. Taking into account public views, the draft RODP will be finalized before proceeding to the Stage 2 of the study for detailed assessment of technical feasibility. | \$29.8M    |
| 9. Planning and Development Study on North East New Territories — To examine the scope and feasibility of developing strategic growth areas in Northeast New Territories.    | January 1998-<br>mid 2000         | The Study is jointly managed by Plan D and TDD. The Planning Stage has been substantially completed. A 3-month Public Consultation exercise is scheduled for completion in January 2000. Taking into account public view, the draft RODP will be finalized before proceeding to Stage 2 of the study for detailed assessment of technical feasibility.   | \$31.8M    |
| 10. Planning and Development Study on Hong Kong Island South and Lamma Island — To examine the scope and feasibility of developing strategic growth areas in the study area. | March 1998-<br>end 2000           | The Study is jointly managed by Plan D and TDD. The Planning Stage has been substantially completed. Detailed technical feasibility study is being undertaken under Stage 2 of the Study.  | \$18.89M   |

| <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>  | <i>Fee</i> |
|---|-----------------------------------|--|------------|
| 11. Feasibility Study for Additional Cross-border Links — Stage 2 Investigations on Environment, Ecology, Land-use Planning, Land Acquisition, Economic/Financial Viability and Preliminary Project Feasibility/Preliminary Design — To examine the feasibility, potential cumulative effects and implications of constructing additional cross-boundary links in identified possible locations in terms of environment, ecology, land-use, land acquisition, preliminary engineering feasibility/preliminary design, economic and financial viability. | November 1997-<br>end 1999        | The Final Report and Executive Summary is now being finalized. | \$21.1M    |

## Civil Engineering Department

| <i>Subject and scope</i>   | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>   | <i>Fee</i> |
|--|-----------------------------------|---|------------|
| 1. Northshore Lantau Development Feasibility Study — Feasibility study to look into the development feasibility in Northeast Lantau.   | June 1998-<br>end 2000            | The consultants have just finished the preliminary assessments. Recommended outline development plan is being circulated to relevant departments for comments | \$26.88M   |
| 2. Planning and Engineering Feasibility Study for Development at Anderson Road — Master Development Planning, preliminary engineering design, various impact assessments, landscaping. | September 1997-<br>December 1998  | Completed.  | \$12.03M   |

|    | <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>                                | <i>Fee</i> |
|----|---|-----------------------------------|--|------------|
| 3. | Planning and Engineering Feasibility Study for Development near Choi Wan Road and Jordan Valley — Master Development Planning, preliminary engineering design, various impact assessments, landscaping.                                   | September 1997-<br>April 1999     | Completed.   | \$8.20M    |
| 4. | Engineering Feasibility Study for Proposed Housing Development to the North of Pamela Youde Hospital, Chai Wan — Master Development Planning, preliminary engineering design, various impact assessments, landscaping.                    | December 1997-<br>early 2000      | The consultants have submitted the Draft Final Report. | \$4.82M    |
| 5. | Planning and Engineering Feasibility Study for Redevelopment of Mount Davis Cottage Area and Kennedy Town Police Married Quarters — Master Development Planning, preliminary engineering design, various impact assessments, landscaping. | January 1998-<br>August 1999      | Completed.   | \$8.90M    |
| 6. | Integrated Planning and Engineering Feasibility Study for Housing Development at Lung Wah Street — Master Development Planning, preliminary engineering design, various impact assessments, landscaping.                                  | April 1998-<br>July 1999          | Completed.   | \$3.00M    |

| <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>                                     | <i>Fee</i> |
|---|-----------------------------------|---|------------|
| 7. Planning and Engineering Feasibility Study for Development on Sham Tseng Further Reclamation — Master Development Planning, preliminary engineering design, various impact assessments, landscaping. | April 1998-<br>early 2000         | The recommended Master Development Plan is being finalized. | \$14.50M   |

## Territory Development Department (TDD)

| <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>  | <i>Fee</i> |
|---|-----------------------------------|--|------------|
| 1. Remaining development in Tung Chung and Tai Ho — Comprehensive Feasibility Study — To prepare a development plan, programme and costs for North Lantau New Town after conducting a series of impact assessments. | September 1997-<br>December 1997  | The study is nearing completion. The recommended RODP submitted by the consultants is being considered by the Government   | \$16.8M    |
| 2. Green Island Development — Engineering Investigation and Planning Review — To carry out engineering investigation and planning review for the proposed development.  | May 1998-<br>Under Review         | Inception Report completed in August 1998. Due to public sentiment against reclamation, the scale and scope of GID are being reviewed by the Government. The Engineering Investigation and Planning Review Study is being put on hold. | \$13.89M   |
| 3. Central Reclamation Phase III — Comprehensive Feasibility Study for Minimum Option — To establish the feasibility of the minimum option  | January 1999-<br>April 2000       | Draft final Planning and Urban Design Study Report, draft Engineering Feasibility Study Report and draft final Impact  | \$8.99M    |

| <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>   | <i>Fee</i> |
|---|-----------------------------------|---|------------|
| and to carry out planning and engineering studies.  |                                   | Assessment Study Report have been completed. Draft final EIA report is being prepared.                                |            |
| 4. Wan Chai Development Phase II — Comprehensive Feasibility Study — To determine the optimum alignment of Central-Wan Chai Bypass and to carry out detailed engineering investigation and planning study.              | June 1999-<br>December 2000       | Trunk Road Options Study completed. The reclamation strategy is being considered by the Government.                   | \$11.0M    |
| 5. Feasibility Study for South East Kowloon Development — Comprehensive study for the whole of the South East Kowloon area to enable development to proceed in the area upon relocation of the airport to Chek Lap Kok. | September 1995-<br>August 1999    | Completed.  | \$109.35M  |
| 6. Comprehensive Feasibility Study for the Revised Scheme of South East Kowloon Development — Study to formulate detailed proposals for South East Kowloon Development based on the revised outline concept plan.       | November 1999-<br>February 2001   | Draft inception report will be considered by the steering group in mid December 1999.                                 | \$30M      |
| 7. Feasibility Study for Tseung Kwan O Port Development at Area 131 — To study the feasibility of CWA development, typhoon shelter and associated port facilities in Area 131.  | September 1998-<br>mid 2000       | Draft Final Report completed. Draft report for further ecological study is expected to be available in December 1999. | \$7.88M    |

| <i>Subject and scope</i>   | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>  | <i>Fee</i> |
|--|-----------------------------------|--|------------|
| 8. Feasibility Study for Intensification and Extension of Tseung Kwan O New Town — Feasibility study and site investigation for the intensification and extension of TKO New Town.   | August 1997-<br>March 2000        | The consultants have submitted the draft EIA report. The draft final report is under preparation.                              | \$12.69M   |
| 9. Feasibility Study for Housing Development at Whitehead and Lee On in Ma On Shan, Sha Tin — The study is on three sites at Whitehead/Lee On area.  | November 1999-<br>August 2000     | The draft Inception Report is completed.   | \$2.8M     |
| 10. Feasibility Study for Housing Sites in Sha Tin District — The study is on five housing sites in Sha Tin for housing development.   | September 1997-<br>September 1999 | Completed.   | \$10.0M    |
| 11. Planning and Development Study of Potential Housing Site in Area 54, Tuen Mun — To establish an optimum development scheme for the potential housing site in Area 54, Tuen Mun.  | September 1997-<br>December 1999  | Near completion. The draft Final Report has been submitted. Finalization of Final Report and Executive Summary is in progress. | \$7.0M     |
| 12. Tsuen Wan Bay Further Reclamation, Area 35 (Engineering, Planning and Environmental Investigation Study) — Engineering, Planning and Environmental Investigation Study for the Tsuen Wan Bay Further Reclamation, Area 35. | June 1995-<br>October 1999        | Completed.   | \$14.5M    |

| <i>Subject and scope</i>  | <i>Start/<br/>Completion Date</i> | <i>Current Progress</i>  | <i>Fee</i> |
|---|-----------------------------------|--|------------|
| 13. Planning and Development Study of Potential Housing Site near San Wai Court, Tuen Mun — To establish an optimum development scheme for the potential housing site near San Wai Court, Tuen Mun. | December 1998-<br>October 2000    | Impact assessment on the initial development options has been substantially completed. | \$5.2M     |

## **BILLS**

### **First Reading of Bills**

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

### **MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1999**

### **DANGEROUS GOODS (AMENDMENT) BILL 1999**

**CLERK** (in Cantonese): Merchant Shipping (Safety) (Amendment) Bill 1999  
Dangerous Goods (Amendment) Bill 1999.

*Bills 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 Bills**

**PRESIDENT** (in Cantonese): Bills: Second Reading.

### **MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1999**

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, I move the Second Reading of the Merchant Shipping (Safety) (Amendment) Bill 1999. The purpose of the Bill is that to fulfil the obligation

of Hong Kong, as an associate member of the International Maritime Organization, to give effect to the amendments to the International Convention on Load Lines, 1966 and the International Convention for the Safety of Life at Sea, 1974 by proposing amendments to the Merchant Shipping (Safety) Ordinance. The amendments to the Conventions will come into effect in early 2000. We must therefore amend local legislation as soon as practicable in order to implement those amendments. Most of the amendments are technical in nature primarily to harmonize survey and issue of safety certificate requirements in the two Conventions, including standardizing the validity period of various cargo ship certificates, streamlining the issuance procedures and extending the validity period of certificates. These amendments can reduce the overall time a ship is out of service for the conduct of a survey and also reduce the shipowner's operative costs. Meanwhile, this will make the control of safety of ships by the Administration and classification societies more effective. Before formulating this Bill, we have consulted the shipping industry, which has expressed its approval and support to the proposed amendments.

With these remarks, Madam President, I commend the Bill to this Council for an early passage.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is, That the Merchant Shipping (Safety) (Amendment) Bill 1999 be read the Second time.

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

### **DANGEROUS GOODS (AMENDMENT) BILL 1999**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I move that the Dangerous Goods (Amendment) Bill 1999 be read the Second time. The Bill seeks to improve our control of dangerous goods so as to align it with international standards and to better meet the present needs of Hong Kong. Our policy is aimed at exercising more effective control over all classified dangerous goods, enhancing public safety as a whole, yet at the same time paying regard for the mode of operation of the industry to facilitate international trade.

The Dangerous Goods Ordinance provides for the control on land and at sea of about 400 types of dangerous goods under 10 broad Categories in accordance with their inherent characteristics, such as Category 1 covering explosives, Category 3 covering corrosive substances, Category 5 covering flammable liquids and so on. When the Ordinance was first enacted in 1956, there were no international common standards governing such matters as the classification, labelling and packaging of dangerous goods. In the ensuing decades, a number of international codes based on the system laid down by the Committee of Experts on the Transport of Dangerous Goods under the United Nations Economic and Social Council have been developed and published. These codes are to be revised regularly to catch up with the development of technologies and the requirements of international trade. Many of our major trading partners such as the United States, the European Union and Australia have aligned their national rules on dangerous goods with these international codes.

Although our Dangerous Goods Ordinance has been updated since its enactment, no fundamental changes have ever been made. Furthermore, the ever-changing circumstances in Hong Kong have also called for a comprehensive review of and improvements to the control system under the Ordinance.

In 1995, a comprehensive and detailed review of the Dangerous Goods Ordinance was conducted by the Fire Services Department, the Civil Engineering Department and the Marine Department. As most of the dangerous goods in Hong Kong are imported and exported by sea, the departments unanimously agreed that the local control system should as far as possible follow the International Maritime Dangerous Goods (IMDG) Code, which was developed on the basis of the system laid down by the United Nations to control all classified dangerous goods carried by sea. The review also recommended that the control framework under the Ordinance be extended to cover more dangerous goods, with reference to the list of dangerous goods of the IMDG Code and the actual circumstances in Hong Kong. Suitable amendments were also recommended to the other arrangements under the Ordinance, including the exempted quantities, packaging and labelling of all classes of dangerous goods, as well as the penalties concerned.

Furthermore, with particular reference to the cyanide spillage incident on Tai Po Road in 1997, a consultancy study was commissioned by the Fire Services Department on the need to step up safety measures for the conveyance

of dangerous goods by vehicles. Under the existing Ordinance, conveyance of dangerous goods of Category 1 (explosives), Category 2 (compressed gases) and Category 5 (flammable liquids) by vehicles is subject to licensing control. In addition to extending the licensing regime to cover the conveyance of dangerous goods in all the other Categories, the consultancy study has also recommended introducing a mandatory scheme to train and equip drivers with the knowledge and skills need to handle dangerous goods, and that adequate information on the dangerous goods delivered must be transmitted across the conveyance chain.

Following the comprehensive review of the Dangerous Goods Ordinance, we have formulated a series of improvement proposals which can be summarized as follows:

- (a) The coverage of the land control of dangerous goods should be expanded in accordance with the IMDG scheme of classification, with some minor variations, to regroup the existing 10 broad "Categories" covering some 400 types of dangerous substances into nine broad "Classes" covering some 1 600 types.
- (b) The conveyance of dangerous goods by vessel in the waters of Hong Kong should be in strict compliance with the IMDG Code. Although diesel oil is not classified as dangerous goods under the IMDG Code, we recommend that the existing control over the conveyance of diesel oil by sea be maintained.
- (c) The penalties for offences under the legislation on dangerous goods should be increased to offset the effects of inflation accumulated over the years, preserve an effective deterrent effect, as well as impose heavier punishment on repeated offenders.
- (d) The Director of Fire Services and the Director of Marine should be empowered to issue codes of practice to promulgate detailed guidelines and safety practices to be followed by members of the industry when of dangerous goods.
- (e) The exempted quantities of classified dangerous goods should be increased.

- (f) The provisions on packaging, labelling and other requirements under the Ordinance and its legislation should be revised in line with international standards.
- (g) In addition to the conveyance of dangerous goods in Categories 1, 2 and 5 (or proposed Classes 1, 2 and 3 under the IMDG Code) by vehicles, the licensing regime should be extended to cover vehicles carrying other classes of dangerous goods. A mandatory training scheme should also be introduced for vehicle drivers.
- (h) A registration system for Class 1 dangerous goods (explosives and blasting agents) should be introduced to keep in line with the control framework and legislative arrangements of our major trading partners such as the United Kingdom, Canada and Australia.

In order to implement the above proposals, we need to amend the Dangerous Goods Ordinance and its subsidiary legislation. The Bill contains the necessary amendments to the principal Ordinance, including specific provisions on the proposed control measures and empowering provisions on future modifications of the subsidiary legislation. I hereby commend the Bill to Members for early approval.

Upon completion of the legislative process, the improvement measures will be implemented by phases with a co-ordinated programme of education and publicity for the trade and the public, so that with a better understanding of the contents and requirements of the Bill, they may make proper preparation and arrangements.

We have already consulted the Dangerous Goods Standing Committee on the proposals and obtained its support. Public consultation was conducted in March this year and the provisional district boards and the trade were generally in support of the proposed amendments. Besides, views have also been sought from the Panel on Security, which indicated its understanding and support for the amendments.

I beg to move with these remarks. Thank you, Madam President.

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

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

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Protection of Wages on Insolvency (Amendment) Bill 1999.

### **PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1999**

#### **Resumption of debate on Second Reading which was moved on 21 April 1999**

**PRESIDENT** (in Cantonese): Under Rule 21(4) of the Rules of Procedure, I have permitted Mr Eric LI, Chairman of the Bills Committee on the Protection of Wages on Insolvency (Amendment) Bill 1999, to address the Council on the Committee's Report.

**MR ERIC LI** (in Cantonese): Madam President, I submit the Committee's Report in my capacity as the Chairman of the Bills Committee on the Protection of Wages on Insolvency (Amendment) Bill 1999.

The purpose of the Bill is to enable the Commissioner for Labour, under the Protection of Wages on Insolvency Ordinance (Cap. 380) to calculate or make *ex gratia* severance payments under certain circumstances, on the basis of the employees' wage level before wage reduction, or on a level specified in the written undertaking of the employer before the wage reduction, whichever results in a lesser amount.

The discussion of the Bills Committee has mainly focused on the requirement for a written undertaking by the employer and whether the proposal will add financial burden on employers in the form of increased levy on business registration. Members have also expressed concern about the calculation of

severance payment entitlements for cases where wage adjustment takes place more than once during the 12 months immediately before termination of employment.

Members of the Bills Committee have divided views over the proposed requirement for a written undertaking by the employer. Some members of the Bills Committee have raised strong objection to the proposal. These members consider the requirement unreasonable and difficult to implement, as few employers — especially those in small business — actually give written undertakings on matters relating to the protection of employee benefits. Since verbal undertakings are recognized under the Employment Ordinance and accepted by the Labour Tribunal in adjudicating labour disputes, these members are concerned that the proposed requirement for employer's written undertaking will lead to inconsistencies and set a bad precedent for labour legislation.

The Administration explained that the requirement for employers' written undertaking was proposed in order to provide certainty for the protection of employees' benefits, and to ensure that the scheme will not be abused. The Administration, noting the grave concern expressed by some members of the Bills Committee, has further consulted the Labour Advisory Board and the Fund Board. The Administration has subsequently decided to move a Committee stage amendment to remove the requirement for a written undertaking. The proposed amendment has been welcomed by most members of the Bills Committee.

The Bills Committee also noted that the Fund's financial position is healthy, and the Administration has no plans to increase the levy on business registration for the time being. The annual levy income of the fund is rather stable, ranging from \$170 million to \$180 million in the past few years. The number of applications for *ex gratia* payments from the Fund has also stabilized in recent months following a record number of applications in the first quarter of 1999. Moreover, the *ex gratia* payments made from the Fund will be recovered from the assets of the insolvent companies.

As to how severance payments will be calculated if wage adjustments takes place more than once within the 12 months before termination of employment, the Bills Committee thinks that the highest wages specified in any undertaking should be adopted for calculation in those cases. The Administration has made further consultations and subsequently accepted members' views and will move a Committee stage amendment to this effect. This amendment has been welcomed by the Bills Committee.

A member of the Bills Committee is of the view that further improvements should be made for the protection of employees who are affected by wage reduction. The Bills Committee noted that this member will move Committee stage amendment in his own name to this effect.

Madam President, the Bills Committee is grateful that the Administration has responded speedily to our comments and has actively made improvements. Most members of the Bills Committee believe that, in cases where the employer is insolvent, the Bill, as amended by the Administration, can offer better protection for employees who had wage reductions than the Employment Ordinance.

Madam President, I would like to take this opportunity to thank my colleagues of the Bills Committee for their active participation and for having scrutinized the Bill with high efficiency. I would also like to thank the staff of the Legislative Council Secretariat for their hard work.

Here, I would also like to say a few words about my voting inclination. I think the Bills Committee has already come up with a balanced proposal which is satisfactory to both the labour and employers; in fact, we have already had very thorough discussions and I think the solution would be acceptable to both parties. I am, therefore, willing to go by the majority view and vote for the Committee stage amendments which have been thoroughly discussed and scrutinized, and endorsed by the Administration, Labour Advisory Board and the Fund Board, for I think that the above proposal has incorporated all the views of those involved. I support the conclusion reached by the Bills Committee.

I so submit. Thank you Madam President.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, after the financial turmoil, some employers have been effecting massive cuts on the wages and allowances of their employees on the grounds that the excessively high wage level of Hong Kong will weaken Hong Kong's competitive edge. During 1998, such cases happened almost on a daily basis. Although at present, Hong Kong economy has on the whole started to recover and the Gross Domestic Product of Hong Kong has also registered a growth of 4.5% during the third quarter of this year, the tide of wage reduction have not yet subsided, and cases of wage cuts and benefits reduction are still very common.

I recalled that on 18 November last year, Legislative Council Member, the Honourable CHAN Wing-chan of the Hong Kong Federation of Trade Unions (FTU), has raised the issue that amendments have to be moved to the relevant legislation in this Chamber in order to offer protection to workers who have their wages cut and allowances reduced. So, the amendments to the Protection of Wages on Insolvency Ordinance today are something we have been looking forward to. Under the amended Ordinance, in case of insolvency of the employer, workers who have their wages cut may apply for *ex gratia* severance payment from the Protection of Wages on Insolvency Fund (the Fund) calculated on the basis of their pre-reduction wage level.

In the course of scrutinizing this Bill, the FTU is very concerned about two points. The first point is a "written undertaking". The Bill provides that an employee must have a written undertaking from his employer, stating that the employer is willing to use the pre-reduction wage level as the basis for calculating *ex gratia* severance payments. In fact, this requirement is very difficult to implement, as very few employers, especially those operating in small businesses, will be willing to give undertakings on matters relating to the protection of employee benefits. So, we believe that verbal undertakings should also be recognized.

The other point is that the Bill provides that the calculation of the *ex gratia* payment should be based on a wage level before the most recent reduction. Since it is stated in the Bill that the payments could take retrospective effect up to 12 months before the termination of employment, in cases where employees are so unfortunate as to have their wages cut more than once during the 12 months period immediately preceding the termination of his employment, it is reasonable that the highest wage level should be adopted as the basis of calculation. We are very happy that the Administration has accordingly acceded to our request to remove the requirement for employer's written undertaking and to adopt the highest wage level of the past 12 months as the basis for calculation.

However, for an employee who is faced with wage cut, the amendments to the Protection of Wages on Insolvency Ordinance can only offer a reserved protection effect — that is, he can benefit from this Ordinance only if after he is subjected to a wage cut, the company also has to close down; but such protection for the employees is still inadequate. The FTU is of the opinion that the most ideal form of protection is for the present guidelines on wage reduction at least to become the law, stipulating that employers should fully consult the views of their

employees, give them sufficient time to decide whether they will accept the wage reduction proposal and allow them to put forward any counter proposals before a wage reduction is actually effected. Moreover, the wages and benefits of the employees should also be restored to their original level if the operating conditions of the employer have been improved. Furthermore, the Administration should also revise the method for calculating severance and long service payments and specify that those payments should be calculated on the basis of the pre-reduction wage level.

The Administration has always placed great emphasis on the importance of labour and management consultation, but as seen from cases of wage reduction which the FTU has dealt with, we could see that most of the time, employers have adopted a "high-handed" approach in forcing their employees to accept the wage reduction proposals with no regard for the guidelines on wage reduction. Employees, who often have no bargaining power, are left without any choice but to accept the reduction. Under such an unequal footing, an employee can only get the protection he is entitled to through regulations by the law. I hope that the Administration could look into the crux of the matter and effect further amendments to the Employment Ordinance, so that employees could be accorded more comprehensive protection in the face of wage reductions.

Madam President, I so submit.

**MR ANDREW CHENG** (in Cantonese): Madam President, in relation to the Protection of Wages on Insolvency (Amendment) Bill 1999, the Chairman of the Bills Committee, Mr Eric LI, has just mentioned that the Secretary for Education and Manpower will move Committee stage amendments (CSAs) in accordance with the mainstream consensus of the Bills Committee, including, *inter alia*, the removal of the requirement for the employer's written undertaking and acceptance of verbal undertaking as the basis for calculating *ex gratia* severance payment.

However, the Democratic Party believes that the above mentioned CSAs would still be inadequate in respect of the protection offered to employees. So, I am going to move another amendment during the Committee stage to remove all requirements for undertakings, so that an employee, who has had his wages reduced within the 24 months immediately preceding the termination of his employment, will be able to apply for *ex gratia* severance payment calculated on

the basis of his highest wages level within that period if his employer became insolvent. Since my amendment will offer more comprehensive protection to employees affected by wage reduction, I hope I can secure support from fellow Members.

In the past year or so, we have heard a lot about wage reductions initiated unilaterally by employer, and employees who do not have any bargaining power at all can do nothing, and in view of the very short time limit, they could but accept the reductions. Employee rights are thus directly threatened. Although the Administration is willing to remove the requirement on written undertaking, so that in the future, the *ex gratia* severance payment of an employee can be calculated on the basis of the agreed amount, if he secures a verbal undertaking from the employer at the time of the reduction. However, at the present time when the unemployment level is so high, and when an employee has so little bargaining power, he will not dare in any way to ask his employer for an undertaking on the future arrangement for calculation of severance payments in cases of wage reduction. Consequently, the control over the calculation of severance payment is still in the hands of the employer, and an employee who is affected by wage reduction can only hope that his employer will exercise his goodwill in making an undertaking, eventually the rights of employees are still not reasonably protected.

In fact, according to the information supplied by the Labour Department, of the 45 wage reduction cases which have come to the attention of the Labour Relations Unit, only the employers in 15 of such cases have made any undertaking in respect of the calculation of future severance payments. Five thousand six hundred-odd employees were involved in these cases, and it is revealed that only companies on larger scale will give any undertakings. Employees of small and medium enterprises may find it more difficult to obtain the same protection.

The Democratic Party is of the opinion that since the Labour Department has suggested in its guidelines on wage reduction and staff dismissal that severance payments should be calculated on the basis of an employee's wage level before reduction, the Government should set an example by calculating severance payments paid by the Fund Board on this basis. Since a ceiling has been imposed on all *ex gratia* payments (including severance payment), it will not greatly increase the financial burden to the Fund even if the wage level before reduction is allowed to be used as the basis for calculating severance payments.

The Democratic Party proposes that, to protect the interests of employees affected by wage reduction, the requirement in relation to employer's undertaking should be removed, and when applying for compensations from the Fund, employees who are affected by wage reduction should have the right to choose to have their severance payment calculated on the basis of their wage level before reduction.

Madam President, I shall further elaborate on these amendments at the Committee stage.

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

**MR HO SAI-CHU** (in Cantonese): Madam President, we the Liberal Party support this Bill after all and we will also amend it. The amendments we proposed were based on the unanimous agreement reached by the Bills Committee following a series of discussions and agreements. Members of the Bills Committee have just now spoken on the content of the amendments. The most important point is that, the Labour Advisory Board (LAB) and employers and employees originally agreed that an oral undertaking was inadmissible and an undertaking in writing was required. However, after discussions in the Bills Committee and after the LAB had reviewed the matter with employers and employees, a consensus was reached whereby an oral undertaking may be admitted as proof. If an employer goes bankrupt, compensation under the Protection of Wages on Insolvency Fund may be calculated on the basis of the wage level before a wage reduction. This is a hard-won victory, which was achieved only after agreement had been reached between employers and employees. I am very glad that they have come with this decision and the Government will move an amendment accordingly. We therefore support this amendment.

As for the further amendment proposed by Mr Andrew CHENG, we certainly cannot support it and also hope that Honourable colleagues will oppose it. The reasons are very simple. First, our amendment has a very important principle, that is, employers must follow the rules laid down under the Protection of Wages on Insolvency Fund if wage reductions have been made. However, in response to everybody's requests and the current economic situation, some companies actually have to reduce wages in order to survive and carry on their

business; and after a period of difficulties, if the companies cannot avoid the fate of going bankrupt and have to close down after struggling for a while, employees may recover their wages from the Protection of Wages on Insolvency Fund in order to have their interests safeguarded. Under these circumstances, in order to ensure that employees' protection will not be affected by wage reductions, we will tolerate this, but this is a very special circumstance. If we make a further amendment to the effect that if wage reduction has occurred within the period of 24 months preceding the termination of employment compensation may be calculated on the basis of the highest wage level during that period, it seems to be rather unfair. For instance, a company may dismiss an employee because of reasons other than insolvency. In that case, the employer, according to the Government's directions, merely has to calculate compensation on the basis of the employee's highest wage level during the period of one year preceding his dismissal if wage reduction has occurred. In other words, if Mr Andrew CHENG's further amendment is passed, employees laid off due to the bankruptcy of their company will receive more compensation than those dismissed for reasons other than the bankruptcy of their company. I find this extremely unfair.

Second, the consensus has been reached only after lengthy discussions with the LAB. Now, additions are to be made on top of this consensus and the LAB is asked to accept it. However, we are not given a chance to further discuss if a compromise can be reached between employers and employees. If a unilaterally made amendment is passed, it would break the convention of arriving at a consensus through tripartite negotiations (that is, between the Government, employer and employee) under the international labour practice. I am afraid that it might even be more difficult for the LAB to reach a compromise with employers and employees in future. In view of this, we the Liberal Party resolutely opposes the amendment proposed by Mr Andrew CHENG. We will support the original amendments and the Committee stage amendments to be moved by the Government.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, over the past year, the Government has hardly introduced any bills on the improvement of labour welfare to the Legislative Council. This is only the second time it has done so. On both occasions, the bills are related to the Protection of Wages on Insolvency Fund. From this, it is clear that the Government will only improve labour welfare in terms of the Fund. To solve the problems caused by wage reductions,

the most important thing is to amend the Employment Ordinance. If only the provisions for the Protection of Wages on Insolvency Fund are amended but not those of the Employment Ordinance, the majority of employees who were being laid off because of the bankruptcy of their company after their wage cuts will not receive any protection. They will only be given an oral undertaking after the bankruptcy of their employer that they will be compensated from the Protection of Wages on Insolvency Fund. If the Employment Ordinance is not amended, only very few employees will benefit from the protection provided by this amendment. Let me explain the reasons briefly. If the Government does not amend the Employment Ordinance, employers normally would not give an undertaking in writing or an oral undertaking when wage reductions are made. Without an undertaking in writing or an oral undertaking, under the Employment Ordinance, severance payment will only be calculated on the basis of the wage level during the last 12 months or on the basis of the last month's wages. Thus, employees will not enjoy any protection and the severance payment will not reflect the difference between the wages before and after a wage reduction. In this way the severance payment to be paid by an employer after a wage reduction will be reduced. That is why I am extremely disappointed that the Government has failed to amend the Employment Ordinance so that severance payments can reflect the employees' wage level prior to a wage reduction, in order to solve the very serious problem of wage reductions in Hong Kong now. Of course, we welcome the fact that the Government is replacing an undertaking in writing with an oral undertaking. In this respect, the Government has followed good advice readily and is not totally unresponsive. That is why we welcome this move. However, on the whole, during the past two years, employees have been greatly affected by wage reductions and layoffs and they need protection the most. Unfortunately, the Government has not introduced any amendment to the Employment Ordinance. We are disappointed about this.

Thank you, Madam President.

**MR KENNETH TING** (in Cantonese): Madam President, like the Liberal Party, the Federation of Hong Kong Industries (the Federation) also thinks that the amendment of the Government has struck the right balance between the financial position of the Protection of Wages on Insolvency Fund and the interests of employees. This amendment is also supported by both the employers' and employees' representatives on the Labour Advisory Board (LAB). For these reasons, the Federation will support the amendment moved by the Government

in the Protection of Wages on Insolvency (Amendment) Bill 1999. The amendment proposed by Mr Andrew CHENG has never been examined by the LAB, nor has it taken account of the financial implication that will be brought to the Protection of Wages on Insolvency Fund. Therefore, we will vote against Mr Andrew CHENG's amendment.

Thank you.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, to us, the amendment to be moved today seems to be a good thing. But I think the actual benefit it will bring is not substantial mainly because, as many precedents have shown, it is indeed not easy to get something out of a verbal undertaking. This is because many a times, a lot of background information is needed as evidence to prove that a verbal undertaking has been made. Hence, it is certainly a good thing to include verbal undertaking in the Bill. This, at least, provides a basis in the legislation and protection is offered. But the actual effect will not be substantial. Moreover, wage reduction does not only emerge today. It happened in the past and those affected have already suffered. It is too slow to take the action now. Moreover, as the Mandatory Provident Fund (MPF) Schemes will be set up in the future, many problems in this aspect can be handled by the MPF Schemes. As a result, not too many employees will benefit or be protected by the proposal. So, this Bill gives me an impression that it is a symbolic response of the Government which introduces a moderate amendment to the labour law granting protection to the workers as a token gesture. This, to me, it is not very satisfactory.

Besides, Members have emphasized one point just now, that is, they cannot support Mr Andrew CHENG's amendment since it has not been discussed by the Labour Advisory Board (LAB). Madam President, this in fact is a long-standing issue. In the past, I have always mentioned that the LAB is merely an advisory body. Why should the LAB influence our own decision? Why should an issue be first discussed by the LAB before we can decide whether or not we should support it? If this is the case, in my opinion, the Legislative Council is often be subject to restrictions. Will this not render our work meaningless? The LAB, as suggested by its name, is an advisory body and should play an advisory role. We can consult it if opportunity arises. Otherwise, let us forget about it. It is as simple as that. Since we represent the Legislative Council, why can we not be practical and base our arguments

purely on facts? Why can we not support something if it warrants our support, and refuse to do so if it does not? We should not refuse to give our support simply on the pretext that it has not been discussed by the LAB. Situations occur every year when the Government refuses to support a Member's amendment or bill on the same pretext that it has not been discussed by the LAB. Strictly speaking, I am of the view that the Government does not respect this Council. Members are given a mandate to move amendments. However, when a Member moves an amendment, the Government does not support it and insists obstinately that it must go through the hurdle of this LAB. That being the case, why are we given such a mandate? This is overriding us and does not respect our power. So, I urge Members to change their mind and stop arguing on what I consider a procedural matter. We should be practical and speak out our mind whether or not we are in favour of the proposal. Please just say that you support it if you are in favour of it, and say no if you are against it. Please do not make use of an invalid ground as an excuse.

Thank you, Madam President.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, I have taken part in the scrutiny work of this Bill. First of all, let me share with you my feelings concerning this work. During the process of scrutiny, the labour sector and the Hong Kong Federation of Trade Unions (FTU) are very much concerned about one issue: how can compensations for the original wage levels be settled in the face of wage cuts, benefits reduction and insolvency? During the long economic recession in the past, we had been asking the Administration to amend the Protection of Wages on Insolvency Ordinance. Hence, we welcome the initiative taken by the Administration in introducing amendment to the Ordinance.

When submitting the Bill to this Council for scrutiny, the Administration would perhaps like to strike a balance, and so the basis of wage calculation and whether agreement has been reached between both sides were put on writing. In the course of our scrutiny, we again reflected the views of the grass roots and the labour sector to the Administration, and the Honourable Eric LI, Chairman of the Bills Committee, has done a marvelous job indeed. We have spent a lot of time on the discussion of some issues. I feel that the Administration has really adopted an open-minded attitude this time. Colleagues who have participated in the scrutiny work have proposed some calculation bases and they

have also proposed that verbal undertaking should be accepted in the absence of a written one. The Administration has also agreed to that. I would like to stress that in the past, employees have their wages and benefits cut at a time when they do not have bargaining power at all, it is very rare that employers would be willing to make a written undertaking that their wages would be brought back to the original level once when the economy picks up. In the past, when we reflected this to the Administration, our views were not accepted. However, during the scrutiny process when we raised the same point in one accord and were given sufficient time to discuss the issue with the permission of the Chairman, I was glad to see that the Administration had adopted an open-minded attitude and finally agreed to two areas which we proposed. The first area is concerned about whether calculation be based on the final wage. We opine that it should not, instead, it should be based on the highest wage. This the Government has agreed. The other area is whether verbal undertaking should be accepted in the absence of a written one. The Administration has eventually acceded to this point as well. In my opinion, the Administration is commendable for this. I hope that when legislation pertaining to strike actions or other issues are submitted to this Council in the future, the Administration will also adopt an equally open-minded attitude as the Education and Manpower Bureau does this time.

Besides, concerning the amendment proposed by the Honourable Andrew CHENG regarding the validity period of 12 months or 24 months. Frankly speaking, there will be some impact as a result of extending the period because the average of the highest wage levels of some employees within the past 24 months will be taken as the calculation basis. But the FTU does not think that the impact will be too significant. Nevertheless, we consider it a good amendment. So, fellow colleagues of the FTU would support Mr Andrew CHENG's amendment. I hope the Administration would understand that under Mr Andrew CHENG's amendment, it would be fairer to the claimants. It would not have any financial impact on the Protection of Wages on Insolvency Fund since the compensation payment is subject to a ceiling. Neither would it pose any risk of exhausting the Fund. On the basis of this view, I think the Administration can be more persuasive in its lobbying.

Madam President, I so submit. Thank you.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I am grateful to the Chairman of the Bills Committee on Protection of Wages on Insolvency (Amendment) Bill 1999, the Honourable Eric LI, and also members of the Bills Committee, for their detailed scrutiny of the Bill. I also wish to thank Honourable Members for supporting the Bill. In the course of discussion by the Bills Committee, members unanimously proposed that further amendments be made by the Government to the effect that if an employee's wages have been adjusted more than once within the 12 months immediately preceding the termination of the employment contract, and should the employer subsequently become insolvent, the highest wage level as undertaken by the employer must form the basis of the calculation of the employee's *ex gratia* severance payment from the Protection of Wages on Insolvency Fund (the Fund). Besides, some members proposed that the Fund should not only recognize written undertakings given by the employer before the wage reduction and that the employer's verbal undertakings should also be accepted. I would like to respond to these two points first.

We agree on the proposal unanimously endorsed by the Bills Committee, that is, where the wages of an employee have been reduced more than once during a period of 12 months preceding the termination of the employment contract, and the employer has given an undertaking that the calculation of the severance payment will be based on the employee's wage level before wage reduction, or a wage level in between the employee's pre-reduction wages and his reduced wages, the highest wage level as undertaken by the employer will be used in calculating the *ex gratia* severance payment from the Fund should the employer become insolvent subsequently. I wish to point out that the Bill contained express provisions ensuring that the severance payment to which an applicant is entitled will not exceed his entitlement before the wage reduction, thereby preventing employers and employees from conspiring to obtain a higher level of severance payment by deception.

On the question of whether verbal undertakings should be recognized, the Bills Committee had thoroughly discussed this in its three meetings. Indeed, this is also the most contentious point discussed by the Bills Committee in the course of its deliberation. Members who supported the recognition of verbal undertakings opined that if verbal undertakings are not accepted by the Fund, it would be inconsistent with the spirit of the Employment Ordinance under which employment contracts and agreements relating to the terms of employment made between employers and employees verbally are recognized. Furthermore, some employers may, for various reasons, only wish to give verbal undertakings and not written ones. Members who opposed the recognition of verbal

undertakings contended that it is difficult to verify verbal undertakings and may at the same time lead to abuse of the Fund.

At the request of some members of the Bills Committee, we agreed to further consult the Fund Board and the Labour Advisory Board (LAB) on whether verbal undertakings should be recognized. With the support of these two Boards, we propose to amend the Bill to the effect that employers' verbal undertakings can be accepted by the Fund. Given that verbal undertakings will be accepted under the Bill as amended, it is unnecessary to retain the transitional arrangement originally contained in the Bill, which provided that employers are allowed to confirm in writing the verbal undertakings that they have previously given within two months after the commencement of the Bill.

Madam President, I will move Committee stage amendments in respect of these two proposals later on.

In the course of discussion by the Bills Committee, some members expressed concern about the implication on the financial position of the Fund. I wish to point out that the Fund's financial position remains sound. As at the end of October this year, the Fund has an accumulative balance of around \$512.6 million, which should be adequate to cover additional expenditure incidental to the Bill. As a matter of fact, the number of applications for *ex gratia* payments from the Fund in the last two quarters of this year has resumed to the previous level which is comparatively stabilized following a substantial increase in such applications in the first quarter.

I would like to turn to the amendment of the Honourable Andrew CHENG. Mr CHENG proposed that if an employee's wages had been reduced during a period of 24 months before the company became bankrupt, the employee would be allowed to choose to base the calculation of his *ex gratia* severance payment on the wage level before the wage reduction, disregarding whether or not his employer has given an undertaking to that effect. I think Mr CHENG's amendment runs counter to the fundamental spirit of the Bill, that is, the employer must, in the first place, give an undertaking to his employees before the wage reduction, and only under such a circumstance that the *ex gratia* severance payment from the Fund will be calculated on the basis of the undertaking given by the insolvent employer. I also wish to point out that the Bills Committee held a total of three meetings for the scrutiny of the Bill, and Mr CHENG's proposal was put forward only in the last meeting of the Bills Committee on 4 November. The provisions of his amendments were not scrutinized by the Bills Committee in detail. As regards the reasons why the

Government opposed Mr CHENG's amendments, I have already written to Members to explain the Government's position and I intend to explain it further in the Committee stage.

Finally, I wish to emphasize that although the hardest times for the economy may have gone now, there are still cases of wage reduction. Therefore, the measures proposed in the Bill as safeguards for employees are necessary in a practical sense. In fact, we share the same view with members of the Bills Committee, hoping that the Bill can come into operation as soon as possible in order to enhance protection for employees.

I urge Members to support the passage of the Bill and the Government's Committee stage amendments and oppose the amendments of Mr Andrew CHENG.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Protection of Wages on Insolvency (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 Wages on Insolvency (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **PROTECTION OF WAGES ON INSOLVENCY (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 Wages on Insolvency (Amendment) Bill 1999.

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 2.

**CHAIRMAN** (in Cantonese): Both Mr Andrew CHENG and the Secretary for Education and Manpower have separately given notice to move amendments to clause 2.

Committee now proceeds to a joint debate. I will first call upon Mr Andrew CHENG to move his amendment.

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, I move that clause 2 be amended, as set out in the paper circularized to Members.

Madam Chairman, last week I furnished Honourable Members with a paper explaining the purpose of my proposing an amendment to the Bill. In a while, the Secretary for Education and Manpower will also be proposing amendments to the Protection of Wages on Insolvency (Amendment) Bill 1999 to delete from it the requirement for an undertaking in writing, as well as to provide that if an employee's wages have been reduced more than once during a period of 12 months immediately before his dismissal, the Protection of Wages on Insolvency Fund (PWIF) shall calculate the *ex gratia* payment on the basis of the employee's highest wage level for which an undertaking has been made by his employer during that period.

The major difference between my proposed amendment and that of the Government lies in the requirement or otherwise for an undertaking given by the employer in relation to the manner in which the severance payment will be calculated in the future, and in whether the duration of the relevant period should be 12 months or 24 months. Without a doubt, the amendment proposed by the Government is an improvement compared to the original proposal in the Amendment Bill. However, the Democratic Party believes that at the present time when the unemployment rate stands high and the employment environment remains difficult, the amendment proposed by the Government cannot provide sufficient protection for the general wage earners who are threatened by wage reductions and layoffs. Many incidents of wage reduction and layoff have taken place over the past year, but with the unemployment rate remaining at a historical high, employees simply have no bargaining power. Basically, employees have only two options in the face of wage reduction: either to accept it and preserve the job or to resign. Who would dare to bargain with the employer for an undertaking in relation to the manner in which the severance payment will be calculated in the future? So, not many affected employees can benefit from the amendment proposed by the Government in reality.

Therefore I have moved an amendment to revoke the requirement for any undertakings, so that the employees of a company which has gone bankrupt can apply to the PWIF for an *ex gratia* payment calculated on the basis of their wage level before the wage reductions, provided that their wages have been reduced more than once during the period of 24 months immediate before they are dismissed or laid off. If an employee's wages have been reduced more than once during the period of two years immediately before he is dismissed or laid-off, the *ex gratia* payment payable to the employee shall be calculated on the basis of his highest wage level during the said period. In other words, if the monthly income of an employee had been reduced from its original level of \$12,000 to \$10,000 and then further to \$9,000 before the company concerned finally went bankrupt, the PWIF shall calculate the *ex gratia* payment in respect of severance payment payable to the employee on the basis of his original wage level of \$12,000. The provision that the severance payment shall be calculated on the basis of the employee's highest wage level is covered in the amendment proposed by the Government, hence the Democratic Party will support the Government's amendment in this regard.

As a matter of fact, the Government has submitted the Bill on the ground that the existing legislation is unable to provide employees with reasonable protection in the face of wage reductions and layoffs. But why is the Government willing to make only one small step forward when it proceeds to amend the Ordinance? The Democratic Party is certainly opposed to the requirement in the original Bill that unless an employee has obtained an undertaking in writing from the employer, his severance payment will not be calculated on the basis of the wage level agreed before the wage reductions took effect. In this connection, the Government initially considered it practically difficult to locate the insolvent employer to confirm his oral undertaking. However, why then has it declined to adopt the proposal put forward by the Democratic Party to revoke all requirements for written or oral undertakings, when it later indicated that the relevant difficulty could also be resolved? In fact, our proposal can on the one hand enable the Labour Department to save on the time, resources, and effort needed to certify an applicant's entitlement to the *ex gratia* payment in respect of severance payment under the Protection of Wages on Insolvency Ordinance, and provide better protection for the affected employees on the other. Hence, the objective of my amendment is actually consistent with that of the Government.

In addition, I should also like to respond to some of the views raised by Honourable Members during the resumption of Second Reading debate just now. Mr HO Sai-chu mentioned that the compensation payable to an employee of a wound-up company might be better than that payable to a employee laid off by a company that is not winding up. In this connection, I fully agree that such a situation will possibly arise, and it is exactly what Mr LEE Cheuk-yan has pointed out just now. Actually, the purpose of my amendment is to compel the Government to make consequential amendments to the Employment Ordinance. However, the Government does not want to do this. So I have tried to submit a private bill, but then the Government said it would involve the policies of the Government and invoked Article 74 of the Basic Law to prevent Members of this Council from moving any amendments in this connection. As regards the further protection proposed in the amendment I am now moving, the Government has reversed its argument and claimed that my amendment, if passed, would cause unfairness to other employees. Indeed, as Mr LEE Cheuk-yan has pointed out just now, the purpose of the Government is only to do some patching up to the Ordinance, rather than helping the general public or the wage earners in the face of wage reductions and layoffs. For these reasons, I hope Members could understand that the purpose of my amendment is to force the Government to consider amending the Employment Ordinance, since my previous attempt to amend it by means of a private bill has failed. I certainly look forward to the passage of my amendment; however, if the passage of my amendment should give rise to any unfairness, the Government would need to submit an amendment bill to amend the Employment Ordinance then.

With these remarks, Madam Chairman, I urge Honourable colleagues to support my amendment. Thank you, Madam Chairman.

*Proposed amendment*

**Clause 2 (see Annex V)**

**CHAIRMAN** (in Cantonese): I will call upon the Secretary for Education and Manpower to speak on the amendment moved by Mr Andrew CHENG as well as his own amendment. However, no amendment may be moved by the Secretary at this stage.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, let me reiterate that the primary objective of the Bill is to enhance the protection for employees. As proposed by the Bill, if an employer has given an undertaking before the wage reduction of an employee that the calculation of his *ex gratia* payment in respect of severance payment will be based on his wage level before wage reduction, or a wage level in between his reduced wages and his pre-reduction wages, then the calculation of the *ex gratia* payment from the PWIF shall be based on the aforesaid wage levels.

However, I must stress that the Bill is underlined by a very important principle, and that is that the employer must have given an undertaking to his employees before wage reduction. In this regard, Members should be aware that the Government has in fact made a very significant concession; later on, the Government will propose to amend its original proposal, so that in addition to written undertakings, verbal undertaking may also be accepted for the purpose. An undertaking is very important because it is only with an undertaking that *ex gratia* payments from the PWIF can be calculated as proposed in the Bill in case the employer becomes insolvent. We oppose the amendment of Mr Andrew CHENG basically for two reasons. First, as I mentioned a moment ago, a prior undertaking from the employer is not required under Mr CHENG's amendment, and the calculation of *ex gratia* payment from the PWIF will automatically be based on the pre-reduction wage level of the employee. This is totally unacceptable to us and also runs counter to the underlying principle of the Bill.

Second, the amendment of Mr Andrew CHENG proposes that the specified period between wage reduction and termination of employment should be lengthened from 12 months to 24 months. I must stress that both the PWIF Board and the LAB have discussed the proposed arrangement of the Government in great detail and considered it appropriate. We must bear in mind that the longer the specified period is, the more difficult it will be for the Labour Department to verify the evidence provided by claimants. That is why we do not agree that the period should be lengthened to 24 months. As I told Members just now, the Bills Committee held a total of three meetings, during which the Bill was scrutinized in great detail. On its part, the Government has accepted all the proposals of the Bills Committee, which cover proposals agreed by the whole Committee and proposals raised by individual Committee members. For the proposal of Mr Andrew CHENG, it was not put forward until the last meeting of the Committee. So, the Committee simply did not have any chance to scrutinize the relevant amendment.

For all these reasons, I urge Members to oppose Mr Andrew CHENG's amendment. And, for the reasons behind the amendment proposed by the Government, I have already given a detailed account when I spoke a moment ago. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Members may now speak on the amendment moved by Mr Andrew CHENG and that of the Secretary for Education and Manpower.

Does any Member wish to speak?

**MR JAMES TIEN** (in Cantonese): Madam Chairman, due to the poor economic conditions over the past one or two years, the owners of many small and medium enterprises and large enterprises have asked their employees to appreciate their financial difficulties and lower their wages as far as possible, so that they could carry on their business. Many employees have shown understanding for their employers' difficulties and are willing to accept wage reductions. Needless to say, I appreciate this very much. The economy is now starting to improve. I believe that even if the Bill as amended by Mr Andrew CHENG or other Members is passed, it will not see much application in view of the future circumstances or the present economic situation.

I certainly very much appreciate the willingness of employees to cooperate with employers when they discuss wage reductions. I am referring to one or two years ago when employees were willing to accept pay cuts when their employers were not doing good business. Mr Andrew CHENG said that some employees had to accept pay cuts more than once and their wages were reduced from \$12,000 to \$10,000, and further to \$9,000. I believe that these cases are very rare so far. Most employees will only have their wages reduced once. At present, a lot of conditions have stabilized. Wages might even go up somewhat early next year. The initial controversy was that the LAB thought that there must be a written agreement, since there was a written agreement when employees started working. However, Members from the labour sector disagreed, saying that members of the General Chamber of Commerce are well-established and will therefore provide written agreements, while many

employees do not have written agreements, only oral agreements. They also pointed out that if employees started working on the basis of an oral agreement, why is a written agreement required under these circumstances, especially after they have done their employers a favour? When we gave our views on this question, I agreed with the Members from the labour sector and also suggested this to employers' representatives in the LAB, asking them to reconsider this point. This shows that employers are also reasonable people. Later, the employers' representatives on the LAB accepted the oral agreement and supported the Government's stand. Thus, not only has the Government compromised this time, employers have also compromised.

Now, Mr Andrew CHENG has proposed an amendment at the last minute so that no agreement is required. If he had intended this in the first place, he should have raised it for discussion long ago. At first, employers wanted a written agreement. Later, someone raised objection, saying that there were only oral agreements in many cases and it would be unfair to require a written agreement. So, an amendment was made so that only an oral agreement is required. Now that we have laid down this requirement, it is said that an oral agreement is unnecessary and compensation should be paid even without an agreement. We find this unreasonable and the Government also agrees with us. We in the Liberal Party fully support the Government's amendment, since we have already agreed on it in the LAB and we also support the Bill. With regard to Mr Andrew CHENG's proposal that compensation should be payable even without an oral agreement, we cannot accept it in principle. Even if it is put into practice, there will not be many cases where it can be applied. Thank you, Madam Chairman.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, although not many people can really benefit from the amendments introduced today, there are still cases in which an employee's wages have repeatedly been reduced by the employer. In this connection, the Hong Kong Aircraft Engineering Company has recently informed its cleaning workers of the management's decision to cut their basic wages after announcing a reduction in employees' allowances. The management's decision was passed orally to the workers concerned just one week after the allowance reduction had taken effect.

As regards the purpose of extending the 12-month period to 24 months, this is partly to cater for the situation in which the wages of an employee have been reduced and then frozen at the reduced level rather than being repeatedly reduced. A period of 24 months is a relevant factor in this regard because the wages of an employee might have been reduced and frozen at the reduced level for some 18 to 24 months prior to his dismissal. Without the 24-month requirement, the severance payment payable to the employee concerned would be calculated on the basis of his wage level in force in the 12-month period after the wage reduction. Bearing in mind that the employee's wages have been frozen at the reduced level over that 12-month period, the severance payment would be calculated on the basis of the reduced wage level, instead of the level before the wage reduction took effect. Hence, the 24-month period will make a difference to the amount of severance payment payable to the employee concerned, particularly at the present time when so many trade associations are advocating a freeze on wages. Given that an employee's wages may be frozen at the post-reduction level, extending the period to 24 months should be able to better protect the interests of employees.

Actually, as I have pointed out during the Second Reading debate, while the Bill seeks to introduce amendments only within the ambit of the Protection of Wages on Insolvency Fund, not many people are eligible for severance payments under its provisions. As to those people who are eligible, there are still the requirements relating to the 24-month period and the 12-month period. I am afraid not many people could meet all the requirements concerned. After all, not many people are eligible for severance payment under the Protection of Wages on Insolvency Ordinance in the first place. Hence, even though some improvement has been made on this front, there are still many other aspects that warrant improvement. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Secretary for Education and Manpower, do you wish to speak?

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Very briefly, Madam Chairman. I call upon Honourable Members once again to oppose Mr Andrew CHENG's amendment.

**CHAIRMAN** (in Cantonese): Mr Andrew CHENG, do you wish to reply?

**MR ANDREW CHENG**(in Cantonese): Madam Chairman, I would like to make a brief response.

First of all, I do not understand why the Administration is bent on opposing my amendment so strongly that it has to reiterate its position in its last remark. One of the major principles of this Bill submitted by the Administration, as the Secretary has kept mentioning, is whether there is an "undertaking". In my opinion, this is actually a condition raised by the Administration itself. The problem we are now facing is that, according to the official statistics during the past year, basically only large companies were in a position to give such an undertaking. At the beginning, the Administration also resisted the idea of accepting verbal undertaking, saying that it would be difficult to gather evidence to verify it. In my opinion, whether or not there is an undertaking is not the most important point. What is most important is whether the Administration is willing to enforce it.

I would like to make the following points in response. The Administration said that my amendment is a belated one, but in fact I consulted the Bills Committee members in the last meeting. As I do not want to waste too much time, I have presented my ideas more thoroughly in the last meeting. In addition, I also circulated the relevant documents to all members a few days after the meeting. An additional meeting could be called if members had deemed it necessary. But since colleagues from the industrial and commercial sector thought that they would not support it, no more meeting was held. So, if the Administration opposes my amendment on the ground that my amendment has not been fully scrutinized by the Bills Committee, it does not stand. Moreover, I am sure that most members of the Bills Committee are aware that I have intended to introduce my amendment by way of a Member's Bill.

Finally, as regards the need to consult the LAB, earlier Mr LEUNG Yiu-chung also mentioned this point. I hope that colleagues would understand that the Bureau told us in the last meeting that the amendment moved by the Administration was only circulated among LAB members for collection of views instead of having been approved at a LAB meeting. In view of this, the Administration should not say that my amendment has not gone through the LAB and therefore no consensus has been reached on it. In Mr LEUNG Yiu-chung's

understanding, we, Legislative Council Members, have the right to put forward amendment for discussion. Once again, I urge colleagues to support my amendment which seeks to provide better protection to employees in the absence of employers' undertaking over a 24-month period immediately before dismissal. Thank you, Madam Chairman.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr Andrew CHENG has declared a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr 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, Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, 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:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted for the motion.

Miss Christine LOH, Mr TAM Yiu-chung, 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 CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 23 were present, eight were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 18 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.

**CHAIRMAN** (in Cantonese): As the amendment moved by Mr Andrew CHENG has been negated, I now call upon the Secretary for Education and Manpower to move his amendment.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move the amendment to para (a) (ii) of the proposed section 16(2B) in clause 2, as set out in the paper circularized to Members.

I have explained in detail the reasons for the Government to move this amendment when I spoke earlier. Now let me reiterate the contents of the amendment.

The purpose of amending para (a) (ii) of the proposed section 16(2B) in clause 2 is to enable the PWIF to recognize verbal undertakings made by employers. Following the amendment, the PWIF will recognize all written or verbal undertakings made by employers before wage reduction.

*Proposed amendment*

**Clause 2 (see Annex V)**

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

(Members raised their hands)

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

(No hands raised)

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move the amendment to para (d)(i) of the proposed section 16(2B) in clause 2, as set out in the paper circularized to Members.

The amendment seeks to empower the PWIF to, in cases where employers are found to be insolvent, calculate severance payments on the basis of the highest wage levels agreed by the employers over the past 12 months with respect to employees whose wages have been reduced more than once shortly before.

*Proposed amendment*

**Clause 2 (see Annex V)**

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

(Members raised their hands)

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

(No hands raised)

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move the amendment to para (d)(ii) of the proposed section 16(2B) in clause 2, as set out in the paper circularized to Members.

The purpose of the amendment is consistent with that for the amendment to para (d)(i). It is to make an employee who has been subject to more than one wage reduction within a short period of time entitled to severance payment calculated by the PWIF on the basis of the highest wage level agreed by the employer in the last 12 months before the employer becomes insolvent.

*Proposed amendment***Clause 2 (see Annex V)**

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 2 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam Chairman, I move that clause 3(1) of the Bill be amended as set out in the paper circularized to Members.

The proposed amendment to clause 3(1) of the Bill is a consequential amendment necessitated by the amendment to the proposed section 16(2B)(a)(ii) in clause 2. The transitional arrangement specified in the original clause 3(1) aims to enable an employer to confirm in writing within two months after the commencement of the Ordinance any oral undertaking he previously made to his employee, so that the latter's severance payment may be calculated on the basis of his pre-reduction wage level or a level in between his pre-reduction and post-reduction levels. Since we have proposed to amend the Bill to cover oral undertakings made by employers, there is no longer any need to retain such a transitional arrangement. As a result, the original clause 3(1) can be deleted accordingly.

*Proposed amendment*

**Clause 3 (see Annex V)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3 as amended.

**CHAIRMAN** (in Cantonese): 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.

## **PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1999**

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

Protection of Wages on Insolvency (Amendment) Bill 1999

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

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

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will now resume the Second Reading debate on the Provision of Municipal Services (Reorganization) Bill. Before the debate starts, I wish to remind Honourable Members that subrules 2 and 3 of Rule 84 in the Rules of Procedure are on "Personal Pecuniary Interest to be Disclosed". A Member who has a personal pecuniary interest in any matter relating to this Bill must disclose the nature of that interest before he speaks on or move any amendment to the Bill.

Now Mr Andrew WONG, Chairman of the Bills Committee, should address this Council on the report of the Bills Committee. Since Mr WONG is not in the Chamber now, I declare the meeting suspended for five minutes.

5.21 pm

Meeting suspended.

5.32 pm

Council then resumed.

## **PROVISION OF MUNICIPAL SERVICES (REORGANIZATION) BILL**

### **Resumption of debate on Second Reading which was moved on 28 April 1999**

**PRESIDENT** (in Cantonese): Under Rule 21(4) of the Rules of Procedure, I have permitted Mr Andrew WONG, Chairman of the Bills Committee on Provision of Municipal Services (Reorganization) Bill, to address the Council on the Bills Committee's Report.

**MR ANDREW WONG** (in Cantonese): Madam President, I present to this Council the Bills Committee's Report in my capacity as Chairman of the Bills Committee on Provision of Municipal Services (Reorganization) Bill. Since the Report has already given a detailed account of the deliberations of the Bills Committee, I will only speak briefly on the main deliberations.

The Bills Committee has held a total of 29 meetings — which, in reality, were equivalent to 38 two-hour sessions — to examine in detail the contents of the Bill, as well as to receive views from incumbent members of the two Municipal Councils and representatives of concern groups.

The purpose of the Bill is to effect the Administration's proposal in relation to a new structure for the provision of municipal services. After the terms of office of the incumbent members expire on 31 December 1999, the two

Provisional Municipal Councils will be dissolved. While the proposal to dissolve the two Provisional Municipal Councils is put forward by the Administration, the existing Provisional Urban Council Ordinance and the Provisional Regional Council Ordinance only provide that the terms of office of their members shall not exceed 31 December 1999. In this connection, the Administration has suggested taking up the responsibility for the delivery of municipal services, including all functions relating to food safety, environmental hygiene, as well as cultural and recreational services. The Bill comprises 13 main clauses and seven Schedules, which in turn contain a total of about 950 clauses setting out details of the amendments to the relevant existing ordinances and subsidiary legislation. In addition to repealing the Provisional Urban Council Ordinance and the Provisional Regional Council Ordinance, the Bill also proposes to amend about 58 ordinances and roughly 100 pieces of subsidiary legislation.

The Legislative Council and its Panels have discussed for many times the question as to whether the two Provisional Municipal Councils should be dissolved. In this connection, members of the Bills Committee appreciated fully the arguments expressed by certain fellow members who are strongly opposed to the Administration's proposal to resume the responsibility for the delivery of all municipal services. For these reasons, the Bills Committee agreed not to debate further this issue. Given the extensive scope of the Bill and the fact that the reorganized structure proposed by the Administration needs to come into effect from 1 January 2000, the Bills Committee agreed to adopt a pragmatic approach by confining its discussion to "operational" policy issues related to the Bill, as well as the merits, rationale, and legal effect of the detailed provisions therein.

With regard to the transfer provisions, the Bills Committee has expressed deep concern that the transfer provisions of the Bill should be specific and of sufficient legal effect, so as to avoid any unnecessary litigation over contractual obligations and liabilities after the transfer. The Administration has assured members that the provisions of the Bill can adequately deal with the transfer arrangements and to safeguard the validity of the contracts currently executed by the two Municipal Councils. The Administration has explained that the relevant clauses have assured that the legal rights and obligations of the contracting parties as well as the contractual terms and conditions will not be changed by the substitution of the Administration for the two Municipal Councils as the contracting party. However, for the avoidance of doubt, the Administration

will move Committee stage amendments to clause 5(1) and clause 8(2)(e) to expressly save those agreements and licences signed by the two Provisional Municipal Councils before 1 January 2000 taking effect on or after that date.

With regard to the re-alignment of bylaws, the Bills Committee notes that the Administration will adopt a unified set of bylaws for the delivery of municipal services in urban areas and in the New Territories. In aligning the two versions of bylaws of the two Provisional Municipal Councils under the Public Health and Municipal Services Ordinance (Cap. 132), the Administration has opted for the more comprehensive and stringent version of the two, while the discarded version will be repealed. As such, some members have expressed concern over the question of how continuing offences under a repealed bylaw will be dealt with on or after 1 January 2000. According to the Administration, as long as there is a corresponding enactment, all proceedings in respect of offences committed under a repealed enactment before the repeal comes into effect may be commenced or continued on or after 1 January 2000. On the other hand, some conduct which was originally not unlawful under an existing bylaw may become unlawful after the re-alignment exercise, while the penalty imposed by the new provision may be different from that provided under the existing relevant bylaw. In this connection, the Administration has clarified that if a new offence is created by the new provision, an action or inaction will be an offence only if it takes place after the provision comes into effect; besides, the Administration has also preserved the existing penalty levels in aligning the two versions of bylaws. To remove any doubts that members might have, the Administration will move a Committee stage amendment to clause 10 to improve its drafting to expressly provide that the repealed legislation will apply only to offences committed before the repeal, and that the new corresponding enactment will apply to a continuing offence or offences committed after commencement of the new enactment.

I will now switch to the fee-setting mechanism. Members have expressed serious concern about and held detailed discussions with the Administration on the future fee-setting mechanism as proposed under paragraph 63 of Schedule 3 in the Bill. Members note that the Administration has proposed that fees and charges for licensing and regulatory schemes will be prescribed in regulations and subject to negative vetting by the Legislative Council, while other fees, which are mainly charges for cultural and recreational services, will be determined by the Administration.

While most members have no objection to the proposed fee-setting mechanism for licensing and regulatory schemes, some members have expressed strong views against the nil participation of this Council in determining the fees and charges for cultural and recreational services. Some members are concerned that the Administration will progressively increase the fee levels with a view to achieving full cost recovery. For this reason, some members have suggested prescribing the levels of subsidy to cultural and recreational services by legislative means, while some others have suggested requiring certain cultural and recreational fees and charges to be subject to negative vetting by this Council.

After repeated negotiations with the Bills Committee, the Administration has finally agreed that the fees and charges for those venues widely used by the public will be subject to negative vetting by this Council. Examples under this category include admission fees to public swimming pools widely used by members of the public and hire charges for tennis courts and football pitches. The Bills Committee also notes that the Administration will review the existing fees and charges of the two Provisional Municipal Councils within two years, during which they will maintain at the present level. In the meantime, the Administration has also undertaken to consult the relevant Panels of the Legislative Council on any changes to the fee-setting mechanism, including contracting-out and corporatization schemes. If the "scrapping" of the two Provisional Municipal Councils should be implemented, this Council would need to create a corresponding Panel to deal with the matters concerned.

Some members have suggested including market rentals in the category of licences and permits, so that they will also be subject to negative vetting by this Council. However, the Administration has responded in opposition that market rentals are commercial charges which should be set at market rates; thus it is not feasible to prescribe market rentals by way of subsidiary legislation.

I should like to speak further on the benefits of reorganizing the provision of municipal services. One principal objective of reorganizing the provision of municipal services is to streamline the existing structure for the control of food and environmental hygiene, as well as to improve the co-ordination work regarding the control over communicable food-borne diseases. As such, the Bills Committee is especially concerned about if the new structure can achieve the objective in an effective manner. Some members have even urged the Administration to expeditiously put in place an effective regulatory framework

for food and products containing pharmaceutical ingredients similar to the United States Food and Drug Administration.

In response to a request made by members, the Administration briefed the Bills Committee on the division of responsibilities under the new structure. In addition, the Administration also assured members repeatedly that with the new Environment and Food Bureau assuming overall co-ordination and policy responsibilities for food safety and environmental hygiene, it should be able to enhance its capability to deal promptly and effectively with incidents in relation to food. With regard to health food and food products containing pharmaceutical ingredients, which are currently subject to control under the Chinese Medicine Ordinance and the Pharmacy and Poisons Ordinance, the Administration is closely monitoring international developments and will make necessary changes to the regulatory framework accordingly.

The Bills Committee notes that upon the passage of the Bill, the Administration will submit detailed papers on the staff establishment and structural changes of the new structure to the Establishment Subcommittee and the Finance Committee of the Council for discussion.

On amendments to the subsidiary legislation under the Public Health and Municipal Services Ordinance (Cap. 132). The Bills Committee has scrutinized in detail the various amendments and alignments proposed to the subsidiary legislation provisions under the Public Health and Municipal Services Ordinance (Cap. 132) as set out in Schedule 3; besides, it has also pointed out to the Administration certain omissions and inconsistencies found therein. Some members have also suggested removing redundant provisions governing public meetings, and the prohibition of insufficient clothing, in government crematoria, public swimming pools, bathing beaches and civic centres, as well as removing the restriction on the erection of statute or sculpture on pleasure grounds. The Administration has agreed to most of these suggestions made by members and will move Committee stage amendments to the relevant provisions.

The Bills Committee has also discussed with the Administration the policies and measures regarding such issues under Cap. 132 as public markets and market rental policy, hawker control, licensing of food premises, food hygiene standards, as well as restrictions on the use of libraries, museums, public conveniences and pleasure grounds. According to the Administration, the existing policies of the Provisional Municipal Councils will be preserved

after the reorganization, and the new Bureau and Departments will review the policies to re-align the existing differences where appropriate. In this connection, the Administration has reassured members that it would consult the relevant Panels of the Council on any policy reviews, as well as consider carefully the implications on the trade and parties that are currently not subject to any regulation or restriction.

I will now switch to the Liquor Licensing Board and the appeal mechanism. The Bills Committee has expressed grave concern about the LLB and the two-tier appeal mechanism proposed in the Bill. Members have put forward a number of suggestions in this connection. In view of the numerous appeal cases arising from the provision of municipal services and licensing services, some members have suggested the Administration ensuring the proposed appeal mechanism's capacity for dealing effectively and fairly with the various appeal cases. Some other members have also suggested that if the two Provisional Municipal Councils were dissolved, District Council members should be appointed to the new LLB and the appeal mechanism as *ex officio* members, with a view to representing opinions at the district level and enhancing the participation of District Councils in managing the environmental matters of the districts concerned.

To address the concern of members, the Administration has agreed to make improvements to the compositions and modes of operation of the Liquor Licensing Board, the Licensing Appeals Board, as well as the Municipal Services Appeal Board. For instance, the Administration will add a Vice-chairman each to the Licensing and Appeals Boards to share out the respective Chairmen's workload. The Administration will also set out more clearly by legislative means the functions, quorum requirements and modes of operation of both the Liquor Licensing Boards and the various Appeal Boards, so as to ensure that the enormous workload shall be handled in a fair manner. The Administration has also accepted the Bills Committee's view and will remove the right of relevant government departments as licensing authorities to appeal to the Municipal Services Appeal Board. In other words, while applicants may appeal to the Board if their applications for licences should be unsuccessful, the Administration is not allowed to appeal to the Board if the licensing authorities concerned have already issued the licences. The Administration will later on move a Committee stage amendment in this connection.

As regards the suggestion that members of the various District Councils should be appointed to the Municipal Services Appeal Board as *ex officio* members, the Administration has expressed reservations about this suggestion. In its view, the current administrative arrangement of appointing District Council members as Board members should be more flexible than prescribing the composition of the Board by legislative means.

Some members have suggested extending the terms of reference of the Municipal Services Appeal Board to cover appeals against termination of market stall tenancy. Although the Administration has accepted this suggestion after some consideration, it does not agree that appeals relating to disputes over market stall rentals or the addition of cremation facilities to government crematoria should also be dealt with by the Board.

After discussions with the Bills Committee, the Administration has accepted a number of suggestions made by the Committee and agreed to move more than 100 Committee stage amendments to that effect.

Three members of the Bills Committee, the Honourable Ambrose CHEUNG, LEE Wing-tat and Fred LI, have indicated a wish to move Committee stage amendments to the Bill. In this connection, one of them had first put forward a "one Municipal Council, one department" proposal, but as things developed, there were a total of two members putting forward the "one Municipal Council, one department" proposal which the Bills Committee has also discussed in detail. The Administration indicated support for some of the amendments proposed by two of these members but raised objection to the rest of the amendments proposed; besides, it also considered the "one Municipal Council, one department" proposal to have serious implementation problems. Subsequent to a ruling made by the President, no Committee stage amendment relating to the "one Municipal Council, one department" proposal was allowed.

The Bills Committee has also discussed the question as to whether the name of the proposed Food and Environmental Hygiene Department should be amended. After careful consideration, perhaps I should say after careful further consideration, the Bills Committee has revised its original decision. In the end, it was decided that no amendments should be proposed in the name of the Bills Committee. The Bills Committee notes that one of its members, Mr LEE Wing-tat, will be moving the amendment in his own name. Since a detailed account of the discussions concerned has already been given in the Bills Committee's Report, I am not going to dwell on that here.

Madam President, I should like to take this opportunity to thank members of the Bills Committee for the efforts and precious time they have spent in scrutinizing the Bill, without which the Administration might not have accepted the many important improvement proposals put forward by us, nor could the scrutiny of the Bill proceed so smoothly.

Madam President, these are my remarks. However, I have not yet revealed whether I am in support of or against the Bill. As I mentioned at the very beginning, the merits and demerits of this "scrapping the two provisional councils" proposal should be discussed at the Second Reading debate of the Bill. In my capacity as Chairman of the Bills Committee I hereby present the Report to the Council; however, I will not reveal my stance on the Bill in the meantime. Thank you, Madam President.

**DR TANG SIU-TONG** (in Cantonese): Today, Madam President, I will speak as a representative of the Provisional Regional Council in the Legislative Council. As "pecuniary interests" are involved, I must first disclose this to the Council although this is not the most important point. I object to the Provision of Municipal Services (Reorganization) Bill.

First of all, I must stress that the Bill actually aims at handing the policy-making and supervision powers originally held by elected councils back to administrative departments and advisory bodies appointed by them. Yet it is still unknown as to whether other municipal policies, such as those related to licensing systems, policies on hawkers and cultural and recreational activities, can bring anticipated improvement to municipal services. Therefore, even if the Bill is eventually passed today, we can only "scrap the Councils". There is absolutely no guarantee that the provision of municipal services can be improved. Nor can we see any advancement or improvement with respect to the supervision of food safety and streamlining of the municipal framework. On the contrary, the passage of the Bill will deprive the public of their rights to take part in decision-making and supervision in relation to municipal affairs! Today, Members who would like to improve municipal services through the passage of the Bill are really like gambling, with the public's right to take part in municipal services being the stakes.

Before pointing out the problems of the new structure, I must first say that the dissolution of the elected Municipal Councils is weak on justification and unacceptable. All along, the Government has used the "avian flu" incidents as an excuse, attributing the incidents to fragmented responsibilities, lack of co-ordination, overlapping of work in relation to management of food safety and environmental hygiene, which are thought to have affected both the efficiency and ability of the two Municipal Councils in crisis management. It thus jumped to the theory that "food safety should be taken charge of by one single organization". In order to centralize functions and powers in accordance with the theory, the Administration used such an honourable excuse as "completing a historic mission" to resume the powers of the two Municipal Councils and devolve them to the newly established "Environment and Food Bureau" for the two Municipal Councils are currently each responsible for carrying out part of the duties in relation to the management of food safety and environmental hygiene. I want to emphasize that the Administration has never accused the two Municipal Councils of having made any mistakes in handling the "avian flu" incident. Today, the Government asks these two elected Councils to hand over their policy-making powers in respect of municipal services in spite of the fact that the Councils have not done anything wrong. This is outright "scrapping the Councils for the sake of scrapping them", having virtually nothing to do with improving the provision of municipal services. This is absolutely unacceptable.

What is even more "ridiculous" is that the so-called "theory of fragmented responsibilities" advanced by the Administration is basically contrary to the reality! For example, a number of organizations were supposedly responsible for handling matters relating to the "avian flu" incidents. They were the so-called "four bureaux": the Health and Welfare Bureau, the Economic Services Bureau, the two Municipal Councils and the four departments under the Planning, Environment and Lands Bureau, namely the Department of Health (D of H), the Agriculture and Fisheries Department (AFD), the Urban Services Department (USD) and the Environmental Protection Department (EPD). However, only two bureaux, that is, the Health and Welfare Bureau and the Economic Services Bureau, were genuinely vested with the policy-making power of regulating food safety and deciding whether or not to take the "chicken slaughtering action". The two Municipal Councils, the Planning, Environment and Lands Bureau, the USD and the EPD virtually had no say in all this. Playing the role of assistants, they were only responsible for executing orders made from top down by the Health and Welfare Bureau and the Economic Services Bureau. As the Policy Bureaux then lacked a sense of crisis and had underestimated the severity of the

crisis, they could only hastily ask other departments to "take their place" in handling the tidying-up work after the "chicken slaughtering" action when the crisis ran totally out of control. The result was naturally not satisfactory. Therefore, the critical factor causing the "avian flu" incident to run totally out of control was basically not related to "fragmented responsibilities" because the relevant responsibilities were already concentrated on the D of H and the AFD. It is rather because the Policy Bureaux — the Health and Welfare Bureau and the Economic Services Bureau — had "erred in making decision"! In the final analysis, the Government was only trying to confuse others by throwing out the theory of "fragmented responsibilities". Its real objective was to conceal the Administration's mistake of "making wrong decisions" by pulling things together to form a "super" Environment and Food Bureau in order to deal with criticisms made by the community. Therefore, to dissolve the two Municipal Councils on the ground of "fragmented responsibilities" is basically tantamount to "making use of chicken as a pretext to scrap the Councils". It is equally unacceptable!

In fact, the Administration is aware that it is unable to make up a proper charge on the Municipal Councils so that they can be scrapped. Therefore, in handling this issue, it has adopted a strategy of giving vigorous publicity to and stressing the merits of the new structure. But what are the merits of the new structure? The arts, recreation and sports sectors have, through the media and this Council as well as on other public occasions, levelled extremely harsh criticisms at the new culture and recreation framework, so I do not want to repeat them here. Nevertheless, putting the culture and recreation structure aside, the Government has at least named three so-called "merits": to enhance the efficiency and ability of monitoring food safety and environmental hygiene, to streamline the structure in order to enhance the cost-effectiveness of resource utilization and to boost accountability, and to promote public participation. In the Government's view, the new structure can bring us "enormous advantages" and it merits our support!

Insofar as the first "merit" is concerned, as I pointed out in preceding paragraphs, the critical factor leading to the Government's failure in controlling the food crisis basically lies in "inappropriate policy-making" instead of "fragmented responsibilities". However, the restructuring has basically failed to target at this point and make any improvement. We are therefore unable to solve the problem in essence.

In a paper submitted to the Bills Committee, the Administration has made a comparison between the existing and future flows of how food-related incidents are handled. According to the paper, in the event of food incidents suspected of having connection with food and animals, the Economic Services Bureau and the Health and Welfare Bureau are now responsible for, ascertaining the incidents and deciding on the action to be taken. If it is decided that action should be taken, the AFD, the two municipal services departments and the D of H will be instructed to take enforcement action. This means that two bureaux and three departments are involved at the moment. Upon the future establishment of the new structure, the Environment and Food Bureau and the Health and Welfare Bureau shall take charge of ascertaining incidents and deciding on whether action should be taken, while the AFD, the Food and Environmental Hygiene Department (FEHD) and the D of H will be responsible for enforcement. Again, two bureaux and three departments will be involved. But can we really address the issue pertaining to "fragmented responsibilities" and streamline the structure by replacing the ESB with the Environment and Food Bureau, and the two municipal services departments with the FEHD? Can we really boost the Administration's ability and efficiency of handling food crisis by just "making a superficial change"? How can it enhance its ability of handling crisis without prescribing the right medicine targeting at "inappropriate policies" and streamlining the structure? How can efficiency be improved?

As regards the second so-called "merit", the Government claimed that the new structure can save the coffers \$700 million. It also stressed that costs will be saved direct from both "scrapping the Councils" and "streamlining". However, if we take a closer look at various subheads, we will easily find that this saving of \$700 million is only a result of "figures juggling".

This sum of money is actually made up of three sets of figures. The first set is related to salaries, which amount to more than \$330 million (47% of the total amount). However, for the sake of keeping the redundant staff, the Government will need to continue to pay more than \$140 million, that is roughly half the sum. Therefore, insofar as this set of figures is concerned, only around \$190 million can be saved as a result of "streamlining".

As for the second set of figures amounting to \$280-odd million, that is the so-called "other expenses" and "costs saved from implementing other streamlining/enhanced productivity measures", we have basically no idea of what it is by just looking at the name of the subhead. The Bills Committee only

discovered upon intense questioning that \$160-odd million out of the total amount comes from "contingency funds" for the two Municipal Councils. It is all because the Government has already set a "cash allocation limit" in its general revenue account that makes it possible for this sum of money to be "saved". As a result of this, it is not necessary for the relevant item to be set under the new structure. It is indeed inappropriate to describe it as a "saving" for the Government is actually "transferring its money from its left pocket to its right pocket". It is only "figures juggling". In addition, a sum of nearly \$100 million can be saved no matter there is restructuring or not. Therefore we cannot regard the saving as a result of the setting up of the new structure. After making deduction here and there, only \$30-odd million will really be derived from "streamlining", with \$7 million saved as a result of cancelling the Regional Council Festival and the publication of the Regional Council Annual Report.

The last set of figures, adding up to approximately \$100 million, will come directly from Councillors' salaries and allowances and closing the Secretariats as a result of the dissolution of the two Municipal Councils. Combining these three sets of figures makes up a saving of \$700 million. But actually, only around \$200 million will come from "streamlining". The issue of "figures juggling" aside, comparing to the \$12.7 billion total expenditure of the two Municipal Councils for the year 1997-98, we can hardly describe it as a "saving" for only a few hundred million dollars can be saved after deploying huge manpower and resources to carry out large-scale restructuring and destroying the whole elected tier of representative assembly. The \$700 million savings are made at the expense of the rights of more than 6.5 million people to take part in municipal services by way of destroying the entire mechanism for monitoring municipal services. Such a price is simply too high!

As for the third so-called "merit", the Government claimed that the new structure can boost the chance of the Legislative Council, District Councils, members of the public and professionals to participate in municipal services and enhance accountability with respect to the utilization of public money. This is self-deception. Being elected bodies, the two Municipal Councils enjoy a high degree of credibility and accountability. The universal electoral and consultant system has also provided the public and professionals with an adequate, fair, open and impartial channel through which they can take part in making decision on municipal affairs. Apparently, no one will believe that the dissolution of elected councils can, on the contrary, enhance accountability and the chance for public participation in politics.

Madam President, as a representative of the Provisional Regional Council, I firmly believe that the two Municipal Councils can do a better job, co-ordinate with other government departments more efficiently in dealing with the work related to food and environmental hygiene, and continue with their discussion with the Government and relevant sectors with respect to the future direction to be taken in formulating policies on culture and recreation and making funding arrangements. Insofar as funding is concerned, we do not object to the supervisory role played by the Legislative Council. All these, as well as reviews of other municipal policies, have been mentioned in the "one Municipal Council, one department" proposal put forward as a result of the consensus reached between the two Municipal Councils. Although the amendment to the "one Municipal Council, one department" proposal cannot be tabled to this Council today for voting, the door to further discussion is still open as long as the two Municipal Councils are retained. However, if the Bill is passed today, the right of the public to take part in deciding on and monitoring municipal affairs will then disappear. Moreover, the chances for the public and this Council to review municipal policies, including licensing systems and rental policies, as well as the chips they are holding will also disappear. In that case, the public, relevant trades and this Council can only, under such an adverse situation of "having no bargaining power", let the executive departments "do whatever they like".

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

**MR LAU WONG-FAT** (in Cantonese): Madam President, what must come will come. Today is the big day on which this Council will decide on the retention or abolition of the two Municipal Councils. Since the Administration came up with the scheme to abolish the two Councils, objections have been raised by various sectors of the community. However, the Government is set on "scrapping" the Councils and remains unmoved.

The retention or abolition of the two Municipal Councils has been debated over and over in Hong Kong for a long time. The Legislative Council has also conducted two motion debates on this. One can say that the views for and against the matter have been fully aired. As the representative of the Heung Yee Kuk Functional Constituency, I stated the firm stand of me and that of the Heung Yee Kuk and arguments against the "scrapping" of the Municipal Councils at the meeting of this Council on 29 July last year. Since the Regional Council was set up, its services and the facilities it has built in the New

Territories have received the widespread recognition of the people. In view of this, the abolition of the Regional Council is both unreasonable and against the people's wishes.

Today, Madam President, my views remain unchanged. I am still of the view that the Government's "scrapping" of the Municipal Councils is both unnecessary and unconvincing. I am still of the view that even if the operation and performance of the two Municipal Councils are unsatisfactory and even if they have made mistakes, they do not deserve a death penalty. It stands to reason that the Government should first let the two Municipal Councils conduct a review and implement reform measures. On the basis of the results, it can then consider whether it is necessary to abolish the two Municipal Councils or whether "one Municipal Council, one department" is a better mode of operation. I cannot agree with any drastic measure, whether "scrapping" the Municipal Councils or replacing two Municipal Councils with one Municipal Council, in lieu of this pragmatic course.

As I said, the arguments for and against the "scrapping" of the Municipal Councils have been stated in many debates over the past two years. I do not wish to repeat them at length. As someone who helped to bring the Regional Council into existence years ago and who now watches its possible demise, I am not in the mood to say anything more. Let history decide its merits and demerits. As a closing remark, let me adapt a line from the *Romance of the Three Kingdoms*: "The history of the two Municipal Councils will be turned into the subject of gossip and jokes".

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

**MISS MARGARET NG:** Madam President, I oppose the Second Reading of this Bill.

Although the Bill looks hefty, and we are threatened with over 100 amendments at the Committee stage, the matter is quite simple. Everything is predicated upon this Council's approval of the Government's proposal to abolish the Provisional Urban Council and the Provisional Regional Council. If we approve, the rest follows naturally as mere technical amendments of the law. If we do not approve, there is no basis for entering into any of the amendments.

Madam President, I do not approve.

The abolition of the two Councils is a grave move by any standard. But it does not call for a cumbersome speech from me, because its significance is all too plain, and we have debated this before. I will just state my reasons simply, and briefly, for the record.

First, the way this is done: The abolition of one tier of the three-tier representative government is a constitutional change. However, the Government has deliberately introduced this under the guise of administrative efficiency. It has resorted to evasion, to stealth, to blatant denial that the real aim was political from the start. Even as this Council was urged to deal with the District Councils Bill, and then the Legislative Council (Amendment) Bill, the Government still insisted that the question remained open. Then, a couple of weeks ago, the Secretary for Constitutional Affairs came clean and told us, quite frankly, that the matter is now too far gone to be reversible. By taking this route, the Government has distorted and frustrated proper public debate.

In my view, although more than two years have passed since the Chief Executive first announced his intention, proper public consultation has never taken place.

Secondly, the abolition of the two Councils is unconstitutional. I have given my arguments in previous debates of this Council in July last year and October this year. I shall not repeat them here. In one sentence, it is unconstitutional because it takes away from the electorate a right which they have been exercising for many years without their consent.

Thirdly, even taking what the Government says at face value, the reorganization proposed in or with the Bill does not in anyway ensure higher administrative efficiency. Merely calling the provision of a service "fragmented" does not mean that combining all relevant departments or units under one umbrella will solve the problem. Within the Administration, there are huge departments which are distinguished for their bureaucracy and inadequate internal communication. There are also smaller departments which create problems because of a lack of co-ordination among them. Why should we assume that the money taken, out of the hands of the Municipal Councils, will be more efficiently spent by the new government department or policy bureau? The loss of transparency resulting from abolition is certain, and the increase of efficiency is only an earnest wish.

This contrast highlights what constitutes my fourth reason, and that is, the main purpose underlying this Bill is to remove for good some 60 originally elected seats, and so greatly reduce the area of activity of political parties and individuals dedicated to politics. It removes a platform and a public arena in which the Government may be attacked and forced to be more accountable. It shrinks the areas of power sharings. It is against the direction of democratization. With only a minority of directly elected seats in this Council, further regression is out of the question.

I would have been more ready to consider doing away with the Municipal Council tier, if more genuine powers were given on the district board tier. But the Government failed to do so in the District Councils Ordinance. The mere increase in the number of seats is no answer if the function remains advisory. Changing the name to something grander is all the more distasteful when the reality has not changed. One may say that the change in name is indeed misleading and deceptive.

Fifthly, the abolition of both Councils is against the trend of public opinion. Many polls were run, some more dubious than others. But one view turns up consistently and clearly. It is that most people who know about the Government's proposal support combining the two Councils into one. The main purpose of this Bill is incompatible with this trend of public opinion.

Last, but not least, this Council has already resolved its view on 29 July 1998, when the amended motion was carried supporting "one council, one department". To support the Second Reading of this Bill is in blatant denial of that resolution.

Madam President, I understand one reason for abolishing the Councils is that so many people have complained that they are so unpopular and so inefficient. But, if the same test is applied to government departments and officials, I am sure that we will be able to "abolish" quite a few of them. Unfortunately, that proposal is not before us.

Madam President, I am most appreciative of members of the Bills Committee, who have spent so many hours working on this Bill. I mean no disrespect to them. But for once I am unable to agree with the position they took, as stated in the written report of Mr Andrew WONG, Chairman of the Bills Committee, in which he reported, "The Bills Committee has agreed to adopt a

pragmatic approach by confining its discussion to 'operational' policy issues related to the Bill". On a matter like this, one must decide on principle. In fact, in this case, nothing counts very much apart from the principle.

Of course, there are Members who support the abolition, and it makes perfect sense for them to make sure that the details dovetail. But to the rest of us, why should we allow the Government to lead us down the garden path? Let us put an end to this shameful episode quickly.

Thank you, Madam President.

**MR FRED LI** (in Cantonese): Madam President, let me first declare an interest which I have no idea of what it really is. I am a Member of the Provisional Urban Council.

Madam President, the basic blueprint of the existing Bill tabled by the Government was actually drafted with reference to two consultancy reports compiled by Mr Albert LAM on environmental hygiene and culture, recreation and sport. Actually, the two reports were compiled on the premise that the two Municipal Councils no longer exist. The restructuring proposal has also based its consideration purely on a management angle. However, there must be a political process behind any changes in public policies and alteration of frameworks. If we ignore the meaning behind it, we will find it impossible to understand the political consequences to be brought by the new structure. The two reports compiled by Mr LAM have made it very clear at the outset that proposals are made to set up an "Environmental and Food Bureau" to co-ordinate all environmental hygiene affairs and to make the Home Affairs Bureau act as a cultural merchandiser to replace the two elected Municipal Councils in taking charge of relevant policies. If the Bill is passed today, the power to administering those policies will be transferred to the hands of bureaucrats. The public will then be unable to secure enough participation opportunities through the reorganization of municipal services.

Insofar as the "scrapping of Councils" is concerned, the Government has frequently labelled the Democratic Party and holds that we object to the "scrapping of Councils" for this will reduce the number of seats held by us. I find this very misleading. This is because the dissolution of the two Municipal Councils is an institutional change. Abolishing elections and depriving the

public of their chance of taking part in politics are matters concerning not only the Democratic Party, but also the public. Members of the public can take part in election without joining the Democratic Party nor the Democratic Alliance for the Betterment of Hong Kong (DAB). The District Councils Elections held earlier are one of the examples. The number of winning independent candidates is even greater than candidates belonging to two major political parties. At the moment, there is actually a fixed ratio of independent members sitting on the two Municipal Councils. They were actually elected to the two Municipal Councils. Should the Government succeeds in "scrapping the Councils", both elections and councils will no longer exist. However, the Government claimed that the public would still have sufficient opportunities to take part in public affairs. It stated that it would set up an advisory committee to satisfy the public's aspiration for participation. I think the Government is actually talking black into white.

The Government stated that it would appoint representatives from the public and professionals with a view to soliciting their views so as to put the concept of "public participation" into practice. It has consistently used this reason to pull the wool over the public's eyes, thinking that it would provide the public with sufficient opportunities to take part in public affairs. However, like most existing advisory committees, the relevant committees will have no substantial policy-making powers. According to the analysis of a scholar, S. ARNSTEIN, consultation is only a degree of tokenism judging from the level of participation for it only performs the function of window-dressing in the course of policy formulation. It is difficult to make its impact felt and improve relevant services effectively. In fact, one of the objectives proposed by the Government at the early stage of the review of district organizations is to enhance public participation in community affairs through restructuring. But regrettably, what we got at the end was just the opposite as participation remained at an even lower level. This is really disappointing. Furthermore, most advisory committees are seriously lack of transparency in their conduct of business for the public is not given the right to observe their meetings. Therefore, insofar as formulation of policies on matters ranging from food safety, environmental hygiene to culture is concerned, it will unavoidably experience a change in format from having open discussions held by the two Municipal Councils to having "close-door operation" undertaken by advisory committees.

In the past when the two Municipal Councils operated in a highly transparent manner, there was room for public monitoring. At the same time, representatives of public opinion sitting on the Municipal Councils could make decision in public on cultural subjects of public concern or issues of public controversy. The "Pillar of Shame" and the "Central Library" are some prominent examples. Should the power of formulating relevant policies fall into the hands of bureaucrats, will there be such a degree of openness as we have today? I believe when some organizations ask for permission to display such artistic exhibits as the "Pillar of Shame" in future, their applications will just be passing around in the bureaucratic system. We will have no idea as to what is going on. If the "culture commission" follows the *modus operandi* of the Education Commission or the Transport Advisory Committee, it will similarly hold meetings behind closed doors. Hong Kong's cultural policies for the 21st century will only mark the beginning of the "Dark Age". From then on, all meetings will be conducted in private. I really worry that room for Hong Kong's future cultural development will be subject to even more restraints than it is at the moment. The day for all-out control on cultural development will then come silently.

Madam President, the Bills Committee has been holding meetings for more than half a year. Mr LEE Wing-tat and I have almost attended all the meetings and deliberated on the Bill whole-heartedly. In my mind, municipal services will not become more simple as a result of the "scrapping" or abolition of the two Municipal Councils. Will the public interests be better protected as a result of the "scrapping"? The answer is obviously in the negative. Let me cite an example. Issues pertaining to environmental hygiene were originally taken charge of by the two Municipal Councils. But after taking office, Mr TUNG set up a committee on Healthy Living into the 21st Century, which is in fact an overlapping body. He even appointed Mrs Anson CHAN as the Chairman and a number of appalling policies have since been put forward. As meetings were held in private, we simply had no idea as to what had been going on. The committee would only say a few words upon the conclusion of its meetings. I believe Members should remember that it was reported in the newspapers that the Government once considered, through the committee, punishing litterbugs by asking them to parade through the streets as warning to others. It was not the two Municipal Councils which came up with this idea. Indeed the two Municipal Councils later held discussions on this issue and raised objection to the proposal. The matter was finally left unsettled. I worry that anti-human-rights proposals similar to this will come to life again in another

form after the abolition of the two Municipal Councils. Eventually, Hong Kong might transform into a society similar to Singapore where the people's behaviour is subject to a high degree of surveillance. In the course of scrutinizing the Bill, we have tried our very best to identify policies which will jeopardize public interests and suggested the Government to scrap them. Of course, the Government has adopted many of our suggestions, and some of them will have to be followed up by the Commissioner, the new Secretary or Director after the "scrapping of the Councils". A number of obsolete ordinances are now waiting to be dealt with by them. Should the Second Reading of the Bill be passed, I am sure Members will find by paying closer attention that a great number of obsolete and ridiculous provisions shall be subject to amendment at the Committee stage. Members can then sit back, relax and watch. With these remarks, Madam President, I object to the Second Reading.

**MISS CHRISTINE LOH:** Madam President, the Citizens Party is in favour of abolishing the two Municipal Councils. We believe that Hong Kong only needs a two-tier system, namely, this Council to act as the legislative and general oversight body, and a layer for district administration, where we have the District Councils.

The Citizens Party has reviewed the Administration's reorganization plans for the provision of various municipal services following the dissolution of the Municipal Councils. We are reasonably satisfied that the new Environment and Food Bureau can help protect the environment more effectively, and to establish a proper food safety system for Hong Kong. We have high hopes for this Bureau, and also in the respective food safety and public hygiene departments. While there has been much to work out in the reorganization and much still remains to be done, we feel reasonably confident that the broad direction will lead to positive results. In those areas where we think improvements can still be made, we want to work with the Administration to work towards improvement. This is an active commitment on our part. We also believe that this Council can be an effective oversight on the environment and on food regulation.

In the area of sports and arts, the Administration has not really ever come up with the proper policies to enable them to flourish. The Municipal Councils were also not able to look at sports and arts development broadly enough. For too many years, there has been too much bickering between the Municipal

Councils and other bodies charged with sports and arts responsibilities, with the result that the overall public interest was affected negatively.

There are better ways surely. We also have high hopes of the restructured approach where sports and arts will receive more significant attention within the Secretariat. This should provide a clean state to iron out long-standing problems. We are also willing to take an active approach in working with the Administration on a new era for sports and arts in Hong Kong. The Administration needs to rationalize the various venues and to devolve power in their management away from bureaucrats to professionals. In general, I also believe that this Council can provide adequate oversight for sports and arts development.

Madam President, let me repeat, we support the abolition of the Municipal Councils. We also believe that the recentralization of power at this stage can help the restructuring of the various services.

However, we do not see recentralization as the end. We see it as a means for transformation. Some of the powers, such as for food safety, should probably remain with the Administration, but some responsibilities can be devolved to the District Councils. For the development of district administration, the Administration should ensure that the District Councils are not only talking-shops, but have some real responsibilities over the quality of life at district level,

We have asked the Administration to give a broad brush undertaking that after the early period of recentralization of power, the District Councils will be more ably empowered. To date, no such undertaking has been forthcoming. I am led to believe that even a general statement in that direction cannot be given because there is as yet no consensus within the highest level of the Administration. That is a pity.

Indeed, the Citizens Party's demand will prove to be prescient. I truly believe that devolution of appropriate powers for specific responsibilities will be what will happen in the end. It is a pity that the Administration does not have the courage and foresight to give a farsighted commitment to continuous reform of Hong Kong's political system.

I am sure that the Administration can understand that without any such longer-term undertaking, the criticism in and out of this Council that the Administration only wants to recentralize power and rid itself of an elected body becomes harder to dispel. The Honourable Miss Margaret NG's speech embodied the community's cynicism.

A major concern is the entrenchment of appointed members in the District Councils. It was extremely regrettable that the Administration chose to regress instead of progress in our political evolution. When are we going to be able to rid ourselves of appointed seats? Again, in reintroducing an animal that had already become extinct, it only serves to show the abhorrence of even the mildest form of democracy at the highest echelon of the Government.

I also believe that evolution is in our favour. Appointments will become extinct once again. This period of time is an aberration and those who are responsible for its reintroduction will continue to be regarded as buckers of trends. They are wasting our time. They are wasting Hong Kong's time.

The Citizens Party debated long and hard on how I should cast my vote, as there is much that we agree with the Administration. We agree with the abolition. We see recentralization as the proper move at this stage. But yet, we are disappointed that the Government is not prepared to go a small step further by giving a broad undertaking for further reform.

I am still mystified why we need to re-entrench appointed seats in the District Councils. However, the Citizens Party remains hopeful that during the debate before Second Reading, we might hear something from the good Secretary that may allow us to help him in his efforts.

**MR GARY CHENG** (in Cantonese): Madam President, the Urban Council is a council with the longest history. Irrespective of whether this debate is a result of the "avian flu", we have been discussing the reform or abolition of the two Municipal Councils since last year. This is a significant issue. The DAB has all along insisted that we should treat the matter with great care, and we are willing to adopt an open mind towards all proposals.

I recall the Government put forward four proposals last year. We thought amalgamating the two Municipal Councils and the relevant municipal services departments, the so-called "one Municipal Council, one department" proposal, was an interim proposal that merits consideration. It signified a first step towards reform, without causing too great an impact. We agreed the "one Municipal Council, one department" proposal is the most desirable proposal.

At the time, two Municipal Councillors from the DAB already declared their position. They agreed with the "one Municipal Council, one department" proposal, as a plan for reform to the framework of municipal services provision. We maintain that it would be inappropriate to come to a hasty conclusion if we have not given full consideration to the effect of reform on all fronts. Once abolished, the two Municipal Councils cannot be easily restored.

DAB Members affiliated to the Hong Kong Federation of Trade Unions (FTU) have held different views on the three-tier structure throughout the years. We have not been able to convince them to agree to our views. These Members will explain their views in some detail later in their speeches.

We maintain that we should look at the "one Municipal Council, one department" proposal cautiously and in a realistic manner. In fact, there is no overwhelming public consensus on supporting or opposing the proposal. We should not oversimplify things by saying that supporting the abolition of the two Municipal Councils is tantamount to supporting a retrogression in democracy or a usurpation of power by the central government. More unthinkable are the reports in some of today's newspapers that link the abolition or otherwise of the two Municipal Councils to rendering the municipal service staff jobless. Obviously, it would be most unfortunate if someone should make use of the reform to the two Municipal Councils to cause a social alarm. Although we have been advocating the "one Municipal Council, one department" proposal, we must clarify this point for the avoidance of doubt. We have been adopting a calm, pragmatic and cautious stance in discussing the issue. Thank you, Madam President.

**MR AMBROSE LAU** (in Cantonese): Madam President, in recent years, there have been several cases involving food safety and environmental hygiene, all of which were complex and required professional knowledge to deal with. The incidents have certainly exposed the deficiencies of the two Municipal Councils;

however, the responsibility for the incidents should not be shouldered by the two Councils alone. In this connection, the ambiguous policies formulated by relevant government departments, their inadequate crisis management capability, ineffective co-ordination, as well as the lack of an efficient information dissemination mechanism have all contributed to the inability of the Government to resolve food safety problems and environmental hygiene incidents. The setting up of a Food and Environmental Hygiene Department should be regarded as complying with the public opinion and meeting the present needs for municipal services. The Hong Kong Progressive Alliance (HKPA) hopes that the new department can gather together the experts in food safety and environmental hygiene as well as management talents within the Government, with a view to giving full play to its role of monitoring the provision of municipal services in an effective manner.

But the Government must understand that food safety and environmental hygiene affect people's livelihood directly. Administrative efficiency alone is not enough to enable us to do well in these two areas. More importantly, we need to instil in everyone a sense of participation so that they may take up responsibility to assist in the provision of municipal services. To that end, a suitable mechanism should be put in place. Given that District Council members are front-line representatives of public opinions, and that their role in supervising the provision of municipal services is becoming more and more important, the HKPA believes the Government should put in more resources to support the participation of District Councils in the provision of municipal services.

The HKPA hopes that the Government can allow the District Councils to play a more active role in the formation of the Municipal Services Appeal Board, in setting up a mechanism for determining fees and charges for municipal services, and in conducting consultation in relation to other municipal services, so that more District Council members can participate in the relevant work. This is of utmost importance to the effort of developing and enhancing the people's capacity and interest in improving municipal services.

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

**MRS SELINA CHOW** (in Cantonese): Madam President, before the mid-1980s, the Urban Council was the only organization responsible for municipal services and hygiene of the whole territory. It was only until 1986 that the former British Hong Kong Government, for political considerations, set up a Regional Council in the New Territories to take charge of similar municipal work. This gave rise to an unnecessary situation where there were "two Municipal Councils, two departments".

With the two Municipal Councils having operated in parallel for more than a decade, a lot of problems have obviously arisen as a result of this. Firstly, there is this over-sized framework and wastage of resources. Work related to municipal services and environmental hygiene is basically of a territory-wide nature. There should be no regional distinction. The forced establishment of two Municipal Councils by region to undertake the same work will only result in an over-sized framework and wastage of resources. The two municipal services departments, acting as executive arms, have presently employed a total of more than 27 000 people, incurring salary expenditure of up to \$7 billion annually.

Secondly, the concurrent input by the two Municipal Councils and a number of government departments in some policies has brought complications to the enforcement of policies. Let me cite the food safety policy as an example. The inspection of imported food is now under the charge of two government departments. However, the hygiene management of food after importation belongs to the two Municipal Councils. Let me cite the licensing of food premises as another example. Although the two Municipal Councils are responsible for the issuance of licences and supervision, a number of government departments such as the Fire Services Department and the Buildings Department are also involved. As a result, it will take several months for a licence to be issued. Although temporary licences can be issued in the interim, still that will take three to four months. This has caused enormous difficulties to operators. The fact that a single policy involves a number of government departments will only complicate policy enforcement, leading to wastage of both time and energy.

Another problem is that the two Municipal Councils are both responsible for some non-essential work at the moment. For instance, insofar as cultural and sports activities are concerned, the two Municipal Councils have been monopolizing the related software for a long time. They are responsible for not only sponsoring professional bodies, but also the management of venues and funds allocation. This has unavoidably led to a conflict of roles and even given people a bad impression of fighting with the public for interests.

The two Municipal Councils have also failed to meet the public expectation in their supervision of front-line staff. Sometimes, their performance has caused great resentment among members of the public.

In view of these, the Liberal Party considers that it is now timely for the Government to conduct a radical review of the framework and development of district organizations. We have all along been advocating for streamlining the structure by merging the "two Municipal Councils, two departments" into "one Municipal Council, one department". This will not only save resources and boost efficiency, but also improve the co-ordination of policies on municipal services and hygiene. The Liberal Party also advocates for making new arrangements for some of the existing work of the two Municipal Councils. For instance, Hong Kong should model on the United States by setting up a "Food and Medicine Management Board" to assume overall responsibility for the management of food safety with respect to production, importation, transportation, storage as well as marketing. We should also set up a central licensing board to centralize the issuance of various business licences in order to improve efficiency. The management of large culture, recreation and sports complexes presently under the charge of the two Municipal Councils can also be contracted out to private organizations which will operate them in accordance with commercial principles so as to boost cost effectiveness.

Nevertheless, the Government is very stubborn in this area. It has not only rejected our views, but also insisted on dissolving the two Municipal Councils and retrieving all powers. Although some Honourable colleagues of this Council tried to put forward a "one Municipal Council, one department" amendment, it was turned down by the President. Today, Members can only choose between "scrapping the Councils" and "keeping the Councils". In fact, "scrapping the Councils" is not the most satisfactory option. However, such basic shortcomings as overlapping framework, wastage of resources and policy confusion will remain if we opt for "keeping the Councils". This will even be more detrimental to the public for no improvement can be made. "Choosing the lesser of two evils", the Liberal Party is left with no choice but to support the Government Bill. Nevertheless, we would still like to emphasize that "one Municipal Council, one department" may be a better solution. The Government should be held responsible if it persists in clinging to its course and withholding this option from this Council and the public.

Madam President, I so submit.

**MR NG LEUNG-SING** (in Cantonese): Madam President, the community and this Council have held extensive and in-depth discussions on the review of district organizations and the reorganization of the provision of municipal services. As Legislative Council Members, our task today is to make a decision on the legal framework for municipal services in a more rational and responsible manner after considering the views of the community.

In the face of this task, I think that there are some guiding principles in terms of policy. Firstly, the structure of district organizations and rearrangement of their functions should be built on the premise of efficiency, co-ordination and quality. The operation of executive bodies or public opinion bodies must comply with the principle of effective use of public resources with no exceptions. The old structural arrangement for the two Municipal Councils to provide municipal services is unavoidably overlapping, with each of them charting their own course. The arrangement for their respective executive departments was also overlapping and lacked effective central co-ordination which did not help increase efficiency, and the public could hardly know about the division of responsibilities among the Municipal Councils, departments and the relevant government departments. As regards accountability regarding the effective use of public money and the control of cost effectiveness, the relevant structural arrangement was also unsatisfactory. As a member of the Public Accounts Committee, I encountered these practical problems when I scrutinized the value for money report of the Director of Audit. When the Committee scrutinized the value for money reports on services provided by the two Municipal Councils, it had certain limitations in terms of authority.

Through this Bill, the Government makes new arrangements for municipal services and it will hand over work in regard to food safety and environmental hygiene to a specialized department. In the future structure, the public will be able to participate in an advisory committee and perform monitoring and advisory functions. I believe the whole arrangement can achieve the established objective of the review of district organizations. Now that Hong Kong has developed into an international cosmopolitan city and an international financial and commercial centre, I believe both the public and the business sector expect the quality and efficiency of municipal services to be further enhanced in order to create a cleaner, more hygienic and safer working and living environment, and make Hong Kong more attractive to overseas investors. As Hong Kong is only

a city, it is not essential for a three-tier structure to continue to exist under the premise of economizing and effective use of resources. Therefore, I think that the legislative proposal made by the Government under this Bill in respect of the reorganization of the structure for provision of municipal services does merit our support.

In our consideration of these legislative proposals, Madam President, I think that we should also take another guiding principle into account, that is, constitutional propriety and lawfulness. We have made reference to Article 97 of the Basic Law which stipulates that "District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation". We can see that the Basic Law has not dictated that these district organizations must be established. Even though such district organizations are established, they are not organs of political power and their functions can but not must include culture, recreation and environmental sanitation. From the legal point of view, the legislative proposal for reorganizing the structure for the provision of municipal services has not contravened the Basic Law. Under the Basic Law, district organizations are not organs of political power. Let us take a look at history. In fact, for quite a long time in the past district organizations for municipal services were returned by appointment. Therefore, logically speaking the abolition of such district organizations will not deprive people of the rights to vote and be voted. From another angle, if we think that district organizations for municipal services are organs of political power, as their status is not specified in the Basic Law, how will their abolition be unconstitutional? Therefore, in line with the spirit of Article 97 of the Basic Law, the Government must first carry out extensive consultation in order to solve this problem and achieve the aim of reorganizing municipal services by appropriate legislative procedures through a public opinion body such as the Legislative Council. Obviously, such reasonable and lawful solution will be acceptable to the public and the community.

With these remarks, Madam President, and for the above reasons, I support the resumption of Second Reading debate on the Bill.

**MISS CYD HO** (in Cantonese): Thank you, Madam President. I oppose the resumption of Second Reading debate on the Bill on behalf of the Frontier. This Bill involves many problems: Is a two-tier district council overlapping? We all know it is. Is the performance of the two Municipal Councils unsatisfactory? Yes. Have Members of the Municipal Councils wasted public money for overseas travel? Yes. Is the development of culture and recreation in Hong Kong not properly led, and is it not satisfactory even after rates revenue has been spent? Yes. Is the establishment of the Urban Services Department and Regional Services Department bulky and is their staff lazy and corrupt? Yes, all of the above. Even so, is the "scrapping" of the Municipal Councils a suitable policy? In fact, what we need badly at the moment is a review of the structure of district organizations. However, the Government has not given us room and time to conduct a detailed review, and it is going to "scrap" the Municipal Councils in a hurry. It also turns a blind eye to the public opinion expressed over the years.

The Government often says that public opinion supports the "scrapping" of the Municipal Councils. I would like to ask the Government to take a look at the report recently published by the Hong Kong Transitional Period Research Centre. Let me read out some figures listed out in the report. In January 1998, 40% of the interviewees supported merging the Municipal Councils while 9% supported "scrapping" them. In July 1998, 43% supported merging the Municipal Councils while 13% supported their "scrapping". Members may ask how the public would like Legislative Council Members to vote. Among the public, 14% supported Legislative Council Members in voting for the "scrapping" of the Municipal Councils and a combined total of 60% supported maintaining the status quo and merging the Municipal Councils. Is this public opinion? The Government often says that these public opinion polls are not too reliable. I do not know what public opinion polls the Government has conducted but it is not willing to conduct a referendum to obtain the most scientific and objective proof. Therefore, each of them sticks to its own views. This is most disappointing. It is a great pity that Hong Kong will miss a chance to review the structure of district organizations.

The Government wants to abolish the two Municipal Councils in a hurry to centralize power. What new power is given to the District Councils newly elected last Sunday? Has it taken over powers in respect of municipal services, culture and recreation and the like of the Municipal Councils in the past? No. The District Councils are still advisory bodies. The Government has promised

to enhance consultation in the Bill, yet, enhanced consultation means no policy-making power. After the allowance for a District Council Member's ward office has been increased from \$5,000 to \$10,000, District Council Members can spend money in a more relaxed manner but they still do not have power. As a result, the policy-making power in regard to municipal services, culture and recreation is transferred from the hands of the public to an executive body which is not directly elected. The public does not have a channel to take part in public affairs.

In fact, at the hearing of the Human Rights Committee of the United Nations in November, the Committee expressed concern about this and asked the Government to reconsider it. However, has the Government reconsidered it or held another consultation after the November hearing? No. The performance of the Municipal Councils is unsatisfactory, I believe Members need not evade this as public opinion has clearly indicated this. There are a lot of criticisms about the design of the central library, the performance of the Municipal Councils in various aspects and political discussions. Should the Government get rid of this elected mechanism? After the "scrapping", the Municipal Councils that performed badly would not exist but the problems may still remain. Will the problems definitely be solved after the executive and policy-making powers are handed over to the Government? The result of "scrapping" the Municipal Councils is democratic retrogression, just like pouring away a glass of water. Can we get the water back? Similarly, just like a patient suffering from stomach cancer, the cancer will disappear after the stomach has been removed. After the "scrapping" of the Municipal Councils, incompetent Municipal Councils will not exist. Yet, the cancerous cells still remain in the structure. Even worse, the performance of the Government may be worse than that of the Municipal Councils because it is not monitored by public opinion and there is no public participation. This also proves that education on media literacy is extremely important.

Insofar as this issue is concerned, Madam President, the Government is biased when releasing the relevant information and making preparations for the consultation document. The Government affix the responsibility for the "avian flu" incident on the Municipal Councils. When the Government put forward this argument, some people really supported it but the subsequent development of the issue later clarified the situation. The figures I just cited also illustrated that the public did not support "scrapping" the Municipal Councils. Yet, the Government has been making publicity and creating the false impression of popular support, turning a deaf ear to dissident voices.

I hope that people who indicated that they supported the "scrapping" of the Municipal Councils at the beginning of the consultation period can change to oppose the proposal now that they have clearly grasped the facts. Perhaps it is too late as we will know the result later or in the evening on Friday.

I hope that the public will bear this lesson in mind so that they will consider the media offensive and dissemination of information by the Government in a critical manner before indicating their support or opposition. Thank you, Madam President.

**MR CHAN WING-CHAN** (in Cantonese): Madam President, today we resume the debate on the Second Reading of the Provision of Municipal Services (Reorganization) Bill. The Hong Kong Federation of Trade Unions (FTU) approves of and supports the reorganization of the structure of municipal services in principle. Our support for this move dates not from today. Since the '80s, the FTU has always been of the view that the structural overlapping of the three-tier representative government should be reviewed when appropriate. With regard to the future development of the structure of municipal services, someone has proposed the "two Municipal Councils, one department" and the "one Municipal Council, one department" models. However, no matter which model is adopted, it still does not solve the existing problem of structural overlapping, such as the overlapping of the Urban Council and the district boards and the overlapping of the Urban Council and the Legislative Council. Why do we not make use of this opportunity to solve this problem of structural overlapping?

Madam President, Hong Kong is a small and densely populated place. In the FTU's view, it is appropriate to have a two-tier structure comprising the Legislative Council and District Councils. We fail to see the need for a third tier to supervise or monitor the provision of municipal services. Instead, this monitoring role can be played by the District Councils and the Legislative Council by having their functions strengthened.

In May this year, the Bills Committee on Provision of Municipal Services (Reorganization) Bill was formed by this Council, of which I am one of the members. The Bill sets out an outline for the Government's takeover of the work in food safety, environmental hygiene, and recreation and cultural services in future. The 13 main clauses and seven Schedules outline the new arrangements for the provision of municipal services.

The object of the 13 main clauses of the Bill is to repeal the Provisional Urban Council Ordinance and the Provisional Regional Council Ordinance, vest the property, rights and liabilities of the Councils in the Government and transfer their functions and powers to the Government or specified public officers and bodies, including the Liquor Licensing Board and the Licensing Appeals Board to be established in future, in order to continue the provision of municipal services. Due to the establishment of new authorities, many existing provisions have to be amended or renamed. The seven Schedules of the Bill contain amendments to some 58 ordinances and some 100 pieces of subsidiary legislation.

In the course of deliberations by the Bills Committee, we discussed many specific arrangements and details relating to the continuity of work, such as the effectiveness and continuity of contracts after the transfer of functions, the transitional arrangements for the prosecution of offences and the mechanism for the collection of fees and charges in respect of recreation and cultural services. The Bills Committee spent most of its time deliberating on the Bill's amendments to the Public Health and Municipal Services Ordinance (Cap. 132), that is, the seven Schedules of the Bill.

The Bill repeals certain obsolete provisions of the Public Health and Municipal Services Ordinance or by-laws that have been covered by other enactments, including the Basements (Urban Council) By-laws, the Mosquito Prevention (Urban Council) By-laws and the Ventilation (Urban Council) By-laws. Certain provisions of a number of by-laws which have become obsolete are also repealed. These by-laws include regulations relating to laundries and dry cleaners, restrictions on bringing writing materials into public libraries, rules on refusing admittance of certain persons to public bathhouses and so on.

Apart from the content of the provisions, the Bills Committee also discussed with the Administration the future policies on municipal services in relation to public markets, rentals of market stalls, hawker control, standards of food hygiene and the opening hours of cultural facilities. Members were also concerned about whether the licensing mechanism for restaurants and eating establishments would become more effective and whether licences would be issued within a reasonable timeframe after the reorganization of municipal services. The most important question is whether the licensing system is

business-friendly, whether it is convenient to the public and whether it will help increase employment opportunities. Members were also concerned about the division of responsibilities in respect of food and drugs, as well as the staff arrangements after the reorganization of the municipal services structure. I raised these matters in the meetings repeatedly.

Under the new structure, the Department of Food and Environmental Hygiene will undertake the main responsibilities related to food safety and environmental hygiene. Environmental hygiene inspection used to be carried out mainly by Health Inspectors under the two Municipal Councils. With the new arrangement, professional staff from the Department of Health and the Agriculture and Fisheries Department will be seconded to the Department of Food and Environmental Hygiene to assist in enforcement matters and dealing with problems of environmental hygiene. The newly-established Environment and Food Bureau will play a co-ordinating role in food-related incidents, co-ordinating different departments to make a swift response to such incidents when they arise.

Madam President, the question of whether the reorganization of municipal services will affect the jobs of the staff has always been a major concern of the FTU. At the Bills Committee meeting on 16 October this year, the Government gave a brief introduction of the establishment and organization of the new structure. It was pointed out that 1 291 jobs would be deleted under the new structure. Over 500 redundant staff would be retained by the new department, until they were absorbed by other departments. Mrs Lily YAM, Head of the Task Force on the Reorganization of Municipal Services, even undertook at the meeting that no staff member would be forced to leave because of the reorganization. The FTU will closely follow up Mrs YAM's undertaking, since we are of the view that the employment of staff should not be affected no matter whether the Councils are to be "scrapped" or not. For instance, those staff responsible for sweeping the streets in the New Territories should not be transferred to an even remoter area. The present Enhanced Productivity Programme (EPP) implemented by the various government departments very often clashes with the rights of basic rank and front-line staff. The FTU cannot agree to such measures.

A few months ago, the FTU helped the relevant civil service unions under the two Municipal Councils to set up a joint conference to overlook whether staff will be affected by the EPP or the reorganization of municipal services. Notwithstanding repeated assurances given to staff and trade unions by Mr LAM Woon-kwong and Mrs Lily YAM that staff will not be affected, the Government should clarify in this Council once again today whether some people will lose their jobs because of the changes to the two Municipal Councils. I call on the Government to give an assurance again today.

Nevertheless, some members of the Democratic Party try to mislead the public, saying that staff will lose their jobs if the Councils are "scrapped", and this is used as an excuse to attack the FTU. Madam President, it is illogical to say that basic rank staff will lose their jobs if the Councils are scrapped. I used to work as a chef in a restaurant. Let me give an example. If there is a change in the board of directors of a restaurant, will the junior staff lose their jobs? As long as the support of the major shareholder is secured, the kitchen staff, the staff who sell dim-sums and the captains will hold their jobs. Their jobs will not be affected irrespective of the board composition. I hope that the Democratic Party will remain objective in discussing an issue, instead of using perverted logic to twist the truth.

Madam President, we have views different from those of the Democratic Party regarding the question of "scrapping" the Councils. We expressed these views very clearly in the course of the deliberations on the Bill. However, some members of the Democratic Party went to the doors of the FTU office yesterday with banners and loudspeakers and caused a fuss. We do not think this is a good way of discussion. It does not matter if our views differ. However, one cannot confuse what is right with what is wrong and mislead the people. I realize I still have a little time. So I can speak on. *(Laughter)* Just now, I said that a few months ago, about eight months ago or earlier, the FTU helped the civil servants under the two Municipal Councils to form a joint conference to overlook whether staff would be affected by the EPP or the reorganization of municipal services. I have a list of the names of the trade unions on the joint conference and some documents on hand. Madam President, let me read out some of the names of these trade unions so that those Members who do not understand the matter may get to know these trade unions. I will just read out a few names, although there are more than 10 of them. But I do not wish to spend too much time on that. These unions include the Government Municipal Staff General Union, the Hong Kong Urban Services Department and

Regional Services Department Employees General Union, the Hong Kong Government Municipal Services General Grades Staff Union, the U.S.D. & R.S.D. Supervisory Staffs Union, the Association of Government Cultural Services Assistants and the Union of Government Amenities Assistants. These 15 unions invited us members of the three-tier councils to act as their advisors. We did not volunteer ourselves. If staff members are affected after the Councils are "scrapped", we will help them immediately. Madam President, some 10 000 to 20 000 people took to the streets to demonstrate because of the civil service reform. We members of the three-tier councils demonstrated with them and spoke and fought for them. I do not know if those people who came to the doors of our Federation yesterday .....

**PRESIDENT** (in Cantonese): Mr CHAN, your time is up. Does any other Member wish to speak?

**MR CHAN WING-CHAN** (in Cantonese): Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, I would like to discuss the issue in brief. During the period from 1985 to 1990 when the drafting work of the Basic Law was under way, we conducted a lot of meetings on the issue pertaining to district organizations. The view I put forward at the time was with the constant social progress and development, the public would definitely have increasingly high expectations in terms of living standard. In addition, as our society becomes increasingly complicated and our population expands, our expectations for living standard will surely rise constantly. Municipal issues will also play a very important role. At that time, I did raise such questions as: Is a three-tier structure essential? Is it necessary to undergo further streamlining? As the middle tier involves several areas only, this is not going to be the most satisfactory arrangement. In the past, the performance of this tier was really outstanding. However, as our society progressed, problems thus arisen also developed in various aspects. We could see that an election element was introduced to the then Legislative Council. Since 1984, district boards have been faring well as regional bodies. The middle tier was, on the contrary, responsible for certain scopes only. Very often, it failed to meet the numerous demands put forth by the public. It is for these reasons that we should be able to streamline the organization at any time. After all, it is nothing bad if we can

save some resources. I think we should discuss the retention of the two Municipal Councils at this stage with a view to making improvement to municipal work and making better utilization of resources so as to give the public greater satisfaction. Madam President, I support the Second Reading of the Provision of Municipal Services (Reorganization) Bill today. Thank you, Madam President.

**MR ERIC LI** (in Cantonese): Madam President, I have actually discussed the question of whether the Municipal Councils should continue to exist numerous times throughout my political life. I can recall that the first time when I touched upon this topic was during the time when the Basic law was being drafted and under consultation. As I was not a Legislative Council Member then, I would not discuss this issue from the point of view of a Legislative Council Member and I had no idea that I would discuss this from the point of view of one who scrutinized the Bill today. I participated in the work of district organizations very actively at that time and I was a district board member. From the point of view of a district board member, I found it very strange that there were three tiers of assembly in such a small place as Hong Kong. In particular, as the member of an assembly at the most fundamental level, I deeply felt that, regardless of how lofty our ambition was, there was extremely restricted space for district board members to give rein to their ambition. With power in its hands, the Government let little power slip through its fingers. Certainly, the Legislative Council had certain bargaining power, and I thought highly of the Legislative Council as a district board member then. There were organizations in charge of sanitation, culture and recreation in the middle, that is, the Municipal Councils at a higher level than the district board. As a district council, we could only handle some trivial projects such as tree planting and installing more chairs and pavilions. At that time, I felt that it was a waste of time for district board members to discuss these matters.

I was also a member of a few district cultural and recreational committees, and my duty was to encourage people to take part in cultural and recreational activities in the respective districts. We encountered realistic problems such as how to apply for venues, how to apply for the construction of municipal council tennis courts and so on. However, they were different from the big problems today. From the point of view of a micro organization, to apply for the allocation of such places by the Municipal Councils was extremely difficult. I believe the activities arranged by the Municipal Councils now take up the best

time slots. District boards often ask for the favour of Honourable Municipal Council Members, and request the colleagues of the Urban Services Department to try their best to vacate time slots for district activities so that the grass roots can really benefit and use the facilities. As a district board member at that time, I deeply felt that the Municipal Councils had fairly enormous power. Yet, is it essential for such a structure to exist?

During the consultation period of the Basic Law, the district boards were not subject to any political party effects. I remember that the district boards supported the abolition of the Municipal Councils lopsidedly, and hoped to expand the powers of the district boards. Some even suggested setting up three, four or five district boards or turning the entire Hong Kong Island into a large district board. Although there were many different proposals, their directions were consistent. They hoped that different councils could choose representatives to take part in or enlarge the councils, or that the chairmen, the relevant representatives and the relevant departments could set up a sub-council. This way, people who know the districts really well could become members of the Municipal Councils, grass-roots cultural and recreational bodies could blossom together and organize activities on their own without going through a structure in the middle. Hence, real district bodies could make proper use of the venues.

Purely from a political point of view, abolishing a political structure appears to represent a loss, but if we consider this from the cultural and recreational point of view, or that of districts or users of the facilities, it may not be necessary to have an additional structure. We can interpret this from different angles.

When we discussed this, former Municipal Council members and political analysts had indicated that they were rather worried that the Municipal Councils might have excessive financial powers or they might grasp more powers than the Legislative Council. At that time, the Municipal Councils were responsible for collecting rates and the rates revenue increased accordingly. I thought that when the Government designed this financial arrangement, it had no idea that property prices in Hong Kong would rise so quickly and to such a high level, bringing the Municipal Councils abundant fiscal revenue. Such revenue of billions of dollars took up a fairly large proportion of the total fiscal revenue of the Hong Kong Government. I remembered that when I visited Singapore with the district board delegation, Honourable Members there told us frankly that

people who voted for the ruling party would have the facilities, activities and funds, otherwise, even though such facilities were available, they could close the doors, lock them up, and even throw away the keys. We could see that Singapore was controlled by political parties at that time. If councils are under absolute control by parties, the ruling party can actually control fiscal resources of billions of dollars and many district facilities and act as they like. Party members can also make use of the public money and subsidies of the Municipal Councils to support their own constituencies or punish those that do not support them. Such political power is fairly potent. But I have to state clearly that this is definitely not the case with the Municipal Councils now. However, I believe that such worries may not be totally groundless. Should we hand over such a large political structure and fiscal resources to a council which may act like a ruling party? These issues warrant thorough review and examination.

Yet, from a financial point of view, if powers can be more dispersed so that more people can take part in the Municipal Councils, there will certainly be less risk and more people can take part and benefit.

I would also like to talk about the history of the Municipal Councils. I believe this political structure was not a product of design but there were historical factors behind it. We would certainly remember that Urban Council elections took place before Legislative Council and district board elections. The times have changed and I do not think rationalization in terms of politics or structure will create big problems. To a certain extent, rationalization can clarify political accountability. Just now, an Honourable colleague of the Public Accounts Committee (PAC), Mr NG Leung-sing, said that the PAC would sometimes scrutinize expenditure relating to the Urban Services Department. If we want to know how the Municipal Councils acted and even when we ask questions in this Council, we have to do so via different Secretaries. Although we cannot say that it is covert, we can at least say that it is "indirect", and we can only clarify what the Municipal Councils are doing by turning many bends. Is the Government accountable to us or the Municipal Council members? Work in this respect is not smooth indeed, in particular, as some work related to sanitation and the environment involves different government departments, there may be a "black box", and the Legislative Council cannot give play to its functions fully.

This is not only the situation at present, the three-tier assemblies may also be controlled by different political parties, groups or political forces, thus, they

may have different political positions. The Government may then have to face different voices of the three tiers with one single department. In other words, a person's work may be monitored by three persons. All of us will be able to imagine the problems that will arise in terms of efficiency. Is the number of people working or that of monitoring more important? If three persons give advice to a person working, the three voices may be different. One of the voices may be the district councils, the voice of the Democratic Alliance for the Betterment of Hong Kong (DAB) may be louder or the Democratic Party may have a louder voice in the Municipal Councils, and the functional constituencies may have louder voices in the Legislative Council. How is the Government going to handle these? Is such political accountability inexplicit and rough? In view of historical factors, we should and I believe there are reasons for us to clarify the process of political accountability. We must consider the entire historical progress for this is a series of actions, and we cannot say in isolation that the abolition of the Municipal Councils now is democratic retrogression. If we only consider a certain time period instead of the whole historical progress and draw a conclusion on this issue, it may not be fair.

Despite this, I have told Secretary Michael SUEN time and again that the Municipal Councils have definitely contributed a lot in their history. Mr Ambrose CHEUNG would be familiar with my views. The Municipal Councils have established a testing point for our democratic system. They allowed the public to play a part in ruling and made the Government more confident in developing other tiers including the district boards and the Legislative Council. Even though we pass the motion of the Government today with the effect that the Municipal Councils would not continue to exist, I think we should bid the Municipal Councils farewell in an honourable manner as if it is going into glorious retirement. Furthermore, we should not make unnecessary or bad comments at this time.

As to what will happen after the abolition of this tier, I actually have great expectations of the Government but they have not yet been met at the moment. I can even say that what the Government has accounted for at this stage fails to make me fully satisfied. Firstly, as I have said, after abolishing the Municipal Councils, the Government should transfer some powers to the district councils on a clear account. I have also asked whether district council chairmen or members elected by the district councils should set up sub-councils to take part in municipal work. What shall we do with former members of the Municipal Councils? They have very precious experience and are worth retaining.

During this transitional period, we should treasure their experience to help the Government establish a new structure. However, the Government has not pledged to do much in this regard. I also expect the Government to make more direct pledges to district bodies and cultural and recreational bodies. After centralization, the Government will actually have huge powers especially in respect of rates, and it may redeploy and utilize these financial resources to directly benefit users. Otherwise, it will go against the motive and feelings I had when I supported the abolition of the Municipal Councils at the very beginning.

To forcefully and really streamline the structure, we cannot just take off the nice political coat. If we only remove the Municipal Councils but the internal structure of the Government remains totally unchanged, the reform is only skin deep. We cannot just take off the nice coat and retain the cumbersome body. If we want to see the effects of streamlining and abolishing the Municipal Councils, the Government should expeditiously account clearly for the extent of streamlining after the abolition of the Municipal Councils and how the "small government" spirit will be upheld and how the end users will be directly benefitted. If improvements are not made seriously, a more evil municipal services structure will be exposed at the end. I have asked the Government to postpone handling the part of the PAC report on the operation of the Urban Services Department. After the whole structure has been formed in January, we will follow up the matter with the Government and make an arrangement anew. At least, we want to be clear about the Government's determination and ability.

Perhaps the Government is not yet prepared well for putting a good idea into practice but this does not mean that we should give up or be disappointed at or have no confidence in the Government. I can only say that we are not satisfied yet, but we have expectations. In our society that emphasizes efficiency and competition, "small government" is the path we must take. I expect that, after the reorganization, the Government will make policies more quickly and properly use financial resources on more suitable people, so that I will not be disappointed at or feel sorry about this decision.

With these remarks, Madam President, I support the Government's motion.

**MR AMBROSE CHEUNG** (in Cantonese): Madam President, I think a lot of what need to be said have been said. Having said that, I would like to take this opportunity to view the whole issue from the angle of making a political choice.

The Administration has all along used the administrative objective, the need to streamline the structure and the aspiration to upgrade efficiency to package its proposal to dissolve the two Municipal Councils. Its underlining political motive is crystal clear — the Administration prefers an executive-led administration but is worried that the executive-led government will gradually come under threat when the local authority amasses resources and becomes financially autonomous. Under the Basic Law and the constraint imposed by various barriers, the Legislative Council is subject to great limitations in voting, moving motions and amendments. So the Administration is basically in full control of what the Legislative Council can do. What happened today has illustrated this point. The District Councils are unable to influence government policies for they are an advisory structure only. From the views put forward by the Administration with respect to the "one Municipal Council, one department" proposal, we can see that it is precisely employing a tactic of a total clampdown. By making use of a small technicality, the Administration tried to obliterate the spirit of our conduct of parliamentary business. I think it is most regrettable that the Administration is so narrow-minded!

From the angle of making a political choice, I am not focussing on whether or not the two Municipal Councils should remain. Members hold different opinions with respect to this issue and I respect that. On the contrary, my focus is on the relationship between the executive and the legislature. The Legislative Council is of the opinion that the executive is not respecting us and the relationship between the executive and this Council is not good. Faced with this political issue today we can see that some parties in the Legislative Council have handed over the position held by this Council to the Administration on a plate. During the discussion held on 29 July 1998, 36 Members indicated that they supported the "One Municipal Council, one department" proposal. This became a position of this Council although it is not legally binding. But Members did actually pass the relevant motion. I have served this Council for only a short period of time. However, I feel that I have a basic responsibility to defend a position which has been passed by this Council. Even if we want to change this position, there is no big deal. But we must account for this as soon as possible. It is already sufficient for us to give explanation for we will always change our positions. It is certainly not the best option for one to conceal the

facts after changing his position and makes a different choice at the end. In doing so, it will not only ruin the Legislative Council's clear position, but also show that in the days to come, so long as the Administration states its decision or the executive makes its decision, some Members or parties in this Council will naturally change their position to toe the government line.

Do we have a choice of only "to scrap" or "not to scrap" the Municipal Councils? No. This Council has to give play to its checks and balances on the Administration, but what can it do within the functions conferred by the Basic Law? Certainly not just the options of "keeping" or "scrapping" the Municipal Councils. For example, we can vote down the Government Bill at Second Reading. To do so is in fact a responsible act. First of all, a vacuum will not arise insofar as municipal services are concerned, so we do not have to worry about that. Secondly, voting against the Second Reading is actually not tantamount to keeping the Municipal Councils. What I mean is after negating the Second Reading of the Bill, the Administration and the Legislative Council can continue to discuss which structure is the best. Many Members have pointed out that the present government structure is far from satisfactory. Why should we have to pass the Bill before asking the Administration what remedial measures it will take? Why can we not play the constitutional role of this Council and vote down the Second Reading of the Bill? Maintaining our established position, we can then invite the Government to sit down for discussion. Therefore, if we are to vote against the Second Reading, directly elected Members should have sufficient justifications because the Bill seeks to dissolve the Municipal Councils which can be said to be an assembly representing members of the public. Members supporting the "one Municipal Council, one department" proposal as well as those objecting to "the scrapping of the two Municipal Councils" can of course vote against the Bill at its Second Reading. In doing so, they can defend the Legislative Council's position as well. For those who support a two-tier structure and advocate to give solid powers to the second tier in addition to scrapping the two Municipal Councils, they can still vote against the Bill at its Second Reading. In doing so, they can force the Administration to enter into proper discussions on the relevant arrangements. For those who are in support of improving the relationship between the legislature and the executive, there is even a stronger ground for them to vote against the Bill at its Second Reading in order to uphold the position and dignity of this Council.

So, it is not a choice of only "to scrap" or "not to scrap" the Municipal Councils. We can also choose to vote against the Second Reading of the Bill and ask the Administration to devolve concrete power to the District Councils in a short period of time, say three or six months. This is at least a responsible way of handling the issue. We should not step down just because the "one Municipal Council, one department" proposal is unable to be tabled to this Council for discussion. The "one Municipal Council, one department" proposal has been the brainchild of certain political parties. However, I have not seen them fighting vigorously to push through their amendments to the "one Municipal Council, one department" proposal. Nor did I see them attempt to present the "one Municipal Council, one department" proposal to Members as one of the choices. On the contrary, when the "one Municipal Council, one department" proposal was submitted by other Members, it was used as a step down the ladder. Three days ago, members of the public made a judgement on the integrity of some political parties. I believe they will do so again in the future. The crux of the question lies with integrity instead of whether "to scrap" or "not to scrap" the Municipal Councils.

Madam President, the final point I would like to raise is that the Administration's decision is actually tantamount to a vote of no confidence in the people of Hong Kong. The two Municipal Councils are the only bodies through which Hong Kong people can directly and indirectly participate in the formulation and implementation of municipal policies. The fact that the Administration does not trust the municipal authorities and the judgement of the people and fails to give them more opportunities to take part in the formulation and implementation of policies and shoulder responsibilities does reflect that the Administration has cast a vote of no confidence in the public! Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr CHEUNG, have you declared your interest of being a Member of the Provisional Urban Council?

**MR AMBROSE CHEUNG** (in Cantonese): Pardon me, I should have declared my interest under the Rules of Procedure. I am a Member of the Urban Council. I am representing the Provisional Urban Council.

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung, do you wish to speak?

**MR TAM YIU-CHUNG** (in Cantonese): Yes, Madam President, I have been a bit slow in raising my hand.

Madam President, we will make a decision on the retention or abolition of the Municipal Councils today and tomorrow, but this is certainly not an easy decision. As the Municipal Councils have existed for a fairly long time, this Council has to hold discussions on the motion for a fairly long time, and the Government has also conducted public consultation on the issue and collected the opinions of many people. Throughout the discussions in this Council, different views have been expressed, similarly, the community and the DAB have also expressed various views. Some think that the structure can be streamlined from three tiers into two tiers. Some think that the Municipal Councils should become "one Municipal Council, one department" and be merged into one. Some others think that the status quo can be maintained. I believe there are justifications behind these views and similar arguments will continue.

We can see from the development process of the Municipal Councils that the Municipal Councils are the first organizations that comprised elected representatives. These elected representatives took part in the management of municipal services, sanitation and environment, and they did discharge certain functions at that time. As Hong Kong was still ruled by the British Administration at that time, there was no elected representative in the Legislative Council and the Municipal Councils played a very significant role. In addition to taking part in some of the work of the Municipal Councils, Members of the Municipal Councils also received complaints from the public and acted as their mouthpiece. Yet, along with constitutional development, their functions were gradually shared by district boards and people no longer relied solely on the Municipal Councils. In particular, with the introduction of an election element into the Legislative Council, Members of this Council took over the functions of the Municipal Councils in this respect. Certainly, the functions performed by every structure at the very beginning would be adjusted along with subsequent changes in the situation to meet the needs of social development. From the point of view of serving the public, I think that we should reconsider how these structures can provide us with services more effectively, and such a reconsideration does merit our support. Yet, in the process of discussions, my views differ from those of some Members. For example, some think that the

dissolution of the Municipal Councils is a retrogression in democracy but I do not think such retrogression is the aim and effect of the dissolution of the Municipal Councils. Let us look at the entire political structure. Provisions have been made in the Basic Law that, in future, more Members of this Council will be directly elected. The District Councils Election has just come to an end and the number of directly elected seats has greatly increased compared to the past. I do not think a reorganization will deprive public opinion representatives of the chance to take part in municipal services or lead to a retrogression in democracy. Some also think that the proposal violates the relevant provisions of the Basic Law. As members of the Basic Law Drafting Committee, when we scrutinized Section 5: District Organizations (Chapter IV), we studied Articles 97 and 98 carefully. When we drafted these two provisions, we have actually handed over the power of these district organizations which are not organs of power to the Special Administrative Region so that it can set up district organizations on its own according to the needs and the situation, responsible for managing and providing services in respect of culture, recreation and environmental sanitation. There are legal provisions for these terms of reference and composition and they fully comply with the relevant provisions of the Basic Law. Therefore, I do not think that the abolition of the Municipal Councils will contravene Articles 97 and 98 of the Basic Law.

Madam President, although I have not taken part in the work of the Bills Committee, in these few months, especially after we learned that this Council will discuss the Provision of Municipal Services (Reorganization) Bill today, I can see that Honourable colleagues in the Committee have made a lot of studies. Therefore, if the Second Reading is approved, I believe we will have to discuss a lot about the relevant amendments. However, our starting point is that we hope that all the new arrangements will meet the needs of social development so that the services provided will meet the public's expectations. Madam President, I so submit.

**MR JASPER TSANG** (in Cantonese): Madam President, yesterday, someone tried to persuade me to support the proposal of "scrapping the two Municipal Councils". That man was not a government official, nor was he working in the Chief Executive's Office. He did not hold any public office. He was just an ordinary man whom I came across in the street. He said to me, "Jasper, you people of the DAB must support the proposal of "scrapping the Municipal Councils". Many Municipal Council members belonging to the Democratic

Party have now lost in the District Councils Election; if you vote for the retention of the two Municipal Councils, you will be giving them another chance." A bit displeased by what he said, I replied, "Will the Democrats always win in Municipal Council elections? Members of the DAB can win too!" Having said this to him, I returned to my office for work. Later, in the evening, I heard that some young people belonging to the Democratic Party had shattered a rice bowl in the FTU office, protesting that the FTU had broken their "rice bowls". This reminded me of what that man said to me in the morning, and I started to wonder, "Is there really some truth in what the man said after all? Is it really true that the Democrats are simply regarding the seats in the Municipal Councils as their "rice bowls"?" Is "scrapping" the Municipal Councils tantamount to breaking their "rice bowls"? I thought about this all night, and I started to understand why some people held this view: "If there is no democracy, there will be no prosperity, and the unemployment problem is caused by the lack of democracy". Well, I began to realize that there was indeed some truth in this argument.

Democracy and people's livelihood are indeed closely related, and the Government should realize this; it should try to understand why some people are upholding democracy so very vigorously. But then, this morning, I started to see the picture clearer and found that the realities are rather different. As mentioned by a colleague belonging to the FTU a moment ago, some people have protested to the FTU against its support for "scrapping the two Municipal Councils", saying that so doing is tantamount to breaking the "rice bowls" of staff of the municipal services departments. But since Mr CHAN Wing-chan has already explained our reasons, I will not repeat them here.

However, all these protests can illustrate that our community is divided on the issue of "scrapping the two Municipal Councils". And, different people, whether they support or oppose the idea, all have their own grounds. Actually, the retention or otherwise of the two Municipal Councils is not a new issue which started to emerge only last year. In the 1980s, when the district boards first came into being, that is, when the former government launched the scheme of district administration, some people already questioned whether there was a need for Hong Kong to have a three-tier representative government. Mr Eric LI also raised this point a moment ago. And, during the consultation exercise of the Basic Law (I also took part in the relevant discussions at that time), some people already started to put forward some proposals on the political development of Hong Kong after the reunification. I can remember that during the discussions,

some people already questioned whether there was any need to retain the three-tier structure after 1997. In the end, therefore, we now have a Basic Law which allows a considerable degree of latitude in this respect, and which specifies only the name of the legislature. The names of the two Municipal Councils and district boards are not mentioned, and they are just referred collectively to as district organizations which are not organs of political power. My understanding at that time was that this was meant to give the future SAR Government some space so that it could make its own decision about the structure of these district organizations later on. What is so interesting is that when we were discussing this issue years back, I never heard anyone argue that "the abolition of the two Municipal Councils is tantamount a big retrogression in democracy". I am really puzzled, because all these discussions actually went on for a very long time, but it is not until very recently, not until today, that I hear people argue that he who proposes to abolish the two Municipal Councils is making a grave error of causing a big retrogression in democracy.

Besides, a moment ago, some colleagues, including Miss Margaret NG and Mr Ambrose CHEUNG, referred to a motion debate of this Council on 29 July last year. They argued that since the motion moved by Mr Ambrose CHEUNG and as amended by Mr Fred LI was carried by this Council at that time, it should be taken as the position of this Council. They, therefore, went on to argue that anyone who supported the abolition of the two Municipal Councils or even the Second Reading of the relevant Bill would be acting against the position of this Council.

In response to their argument, let me remind Members of what the motion was all about. The original motion moved by Mr Ambrose CHEUNG reads: "That this Council puts to the Government its views on the Consultation Document on the Review of District Organisations published in June 1998, and urges the Government to fully consult the various sectors of the community before making a final decision on the future development of district organizations." And, in Mr Fred LI's amendment, "actively consider the proposal of 'one municipal council and one municipal services department' unanimously put forward by the Provisional Urban Council and the Provisional Regional Council, including charging this municipal council with the responsibility for regulating food safety and environmental hygiene, and to" was added before "fully consult the various sectors of the community before making a final decision on the future development of district organizations" in the original motion. The DAB did in fact support both the original motion and the

amendment, because, as we explained very clearly at that time, they both asked for full consultation. And, we also said that any consultation on this issue must cover the proposal put forward by the two Municipal Councils. How can any consultation be called full consultation if the Government does not even consider the proposal put forward by the two Municipal Councils? So, our position at that time was very clear. I am also sure many colleagues eventually voted for the motion because they agreed with us that there should be prudent and full consultation before a final decision was made. That being the case, how can people refer to our support for the motion on that day, and then say that if we vote for the Second Reading of this Bill today, we will be departing from our original stand?

Madam President, I have said so much, so much that the journalists outside may well begin to say that Jasper TSANG is about to have a volte-face. Over the past few days, the mass media have been trying to reach me almost once every two hours, asking me what the stance of the DAB is. Madam President, I am sorry that I went out in the middle of the meeting for almost an hour just now, but I can tell you honestly that I did not do anything else during my absence except going back to my office to handle some other matters. When I returned, however, I was waylaid by reporters, who questioned me whether I had gone to the Central Government Offices to see Mr TUNG. And, they then asked me whether our position had changed. Well, this is the culture of Hong Kong. The position of the DAB is very clear, as explained very clearly by Mr Gary CHENG just now. In principle, we do not object to the abolition of the two Municipal Councils, and we do not think that their abolition will mean any retrogression in democracy. This is the position we have always upheld. But at the same time, we also think that if we had had any opportunity to take part in designing the existing political structure of Hong Kong, a three-tier system would not have been set up, perhaps. During the last debate on the same topic, I also said the same thing. Well, if people could now design a new political structure for Britain, they certainly would not prefer something like the House of Lords at a time when the 20th century was drawing to an end. But the fact is that the existing political structure of Britain has existed for a very long time, and, the two Municipal Councils, too, have existed for a long time. So, even if we wish to introduce a restructuring, should we go about the whole thing step by step?

Since it is only two years into the reunification of Hong Kong with the Mainland, should we decide to abolish the two Municipal Councils so very

quickly? And, do not forget, it is no simple task to draw up such a long and complicated piece of legislation. We all see that the existence of two Municipal Councils and two municipal services departments have duplicated many services and led to a wastage of resources. So, as a first step, we think we should first merge the two Municipal Councils; this was the scheme we put forward at that time. As at today, we still think that this is the better scheme; that is, we think we should first implement the scheme of "one Municipal Council, one department". We still hold such a position now, thinking that at this stage, the scheme of "one Municipal Council, one department" is better than the immediate abolition of the two Municipal Councils.

However, Madam President, I also realize that if the DAB now casts a negative vote, the Second Reading of the Bill will probably be negatived. That way, we will not be able proceed any more, and the Bill will have to be brushed aside.

With the exception of Mr James TO, most my colleagues in this Council are about the same age as me, and I believe most of them have probably watched the movie entitled "The Bridge over River Kwai". There were several unforgettable scenes in this movie, one of which was about a British military officer. I do not know whether Members can still remember the mental struggles of this officer when he learnt that he had to blow up the bridge. He recalled that the bridge was built by him and all his fellow captives over a long period of time, with a lot of blood and tears and sacrifices. He knew that he had been ordered to blow up the bridge just because it came under the control of the Japanese after its completion. In the end, after a lot of mental struggles, he still failed to convince himself that he should blow up the bridge. However, very much ironically, when the officer was killed by a gunshot, he fell onto the detonator.

There is one thing I cannot understand. During the scrutiny of the Bill, two Members belonging to the Democratic Party, Mr LEE Wing-tat and Mr Fred LI, worked very hard. Mr LEE Wing-tat, in particular, made a lot of efforts and prepared many documents. I have not worked in the Legislative Council for too long a time, so I do not know whether as many documents as we now have for this Bill had ever been prepared for any bills in the past. I only know that every time when we attended a meeting on this Bill, we were very much like some school children who were burdened by their overweight school bags, having to bring along three voluminous amendments and countless other

documents. As mentioned by Mr Fred LI, later on at the Committee stage, we will learn of many ridiculous things, or in fact anecdotes, some examples being why corpses had to be hung up high above and how bathhouses used to be managed. They have made so much efforts, and if we now vote against the Second Reading of the Bill, all these documents will never be made known to the public. Is this fair to those Members who have spent so much efforts? Since this is such a major issue, one which we all regard as a constitutional reform, or at least a major reorganization of municipal services provision, should we not allow Members of this Council and the public to know more clearly what we have done about it? Should we not let them know what arguments we have had on the relevant ordinance and what improvements we expect to see? I hope that we can wait until all of us are present before we vote on the issue. Therefore, when my DAB colleagues and I foresee that ..... Well, if we negative the Second Reading of the Bill today, this debate will have to end immediately, and the public will never be able to know what we have done over a good part of the past year. As a result, we have decided to vote for the Second Reading of the Bill today. But we will maintain our original position at the Committee stage. Thank you, Madam President.

**MR LEE WING-TAT** (in Cantonese): Madam President, the situation today is somewhat opposite to what we used to have normally. There is not much noise on one side but there are lots of debates on the other side. I think that the words of Chairman TSANG are quite earnest and sincere. For we should debate on the principle with which we should make a final change of position on this question. In fact the public should have raised a lot of questions. Just now Mr TSANG talked about the reasons why they had changed their position. That is because the Committee has been deliberating on this Bill for half a year. I am grateful to Mr TSANG for his praises. Actually, I am not that hardworking. I was absent once or twice. As we all know, this issue is a very serious one for the Legislative Council. Its seriousness lies in that the meaning of the Second Reading debate is whether or not we will support the spirit and principles of the legislation.

Mr Andrew WONG, the Chairman of the Bills Committee — he is not in the Chamber at the moment — said many times that if the Government wished to do better with this issue, then it should have introduced a new way of deliberation on the bills. That is to say, when Second Reading is to be resumed on a bill during a Legislative Session, Honourable Members should be allowed to

air their views and indicate whether they agree with the principles underlying that bill. If Honourable Members all agree to that, then the Committee stage can commence. That has never been done here before. But that has been done in Britain. And it does work. For bills which are very controversial, I think we can try to adopt this method. This can save the time of colleagues in the government departments, Honourable Members and our Legal Adviser engaging in long and arduous deliberations. The reason for this is that if the result of the voting at Second Reading is 30 to 29 or 29 to 30 as is the case frequently, then we are like throwing away all our half year's hard work. However, since we have done half a year's work on that Bill and we have not adopted the above method, then we should know very clearly that we should scrutinize and discuss this Bill according to our rules. Our rules are that if we agree to that Bill in principle, then we should agree to the resumption of the Second Reading debate of this Bill. If we do not agree to that, then we should oppose it.

Therefore, the behaviour of Mr TSANG today has come across as a shock to me. I find that we may all give a lot of reasons, but it all boils down to a matter of votes. We know that there is a close margin between the for and against votes — so close that it is just a matter of one or two votes. No one can tell who will come out the winner. Rarely has the Government ever been unable to tell whether a bill can pass the Second Reading. As one or two Honourable colleagues have not indicated their stand, if these Honourable colleagues are opposed to the Government, then the Bill will not pass Second Reading. About an hour and a half ago, Mr Gary CHENG said that he would continue to lend his firm support to opposing the "scrapping" of the two Municipal Councils. And now Chairman TSANG said that he had found new excuses to support the "scrapping" and support the resumption of the Second Reading debate. Why has there been such a dramatic change? Maybe I am speculating on this from a malicious motive. I think that is because after counting the number of votes, the Government finds out that the number of votes is not sufficient, then tries to find some "royalists" to support the Second Reading of the Bill. The Government knows that some Honourable colleagues like Dr LUI Ming-wah and Dr LEONG Che-hung are out of town and they will return tomorrow, by that time there will be enough votes to see the Bill pass Third Reading. So even if the six votes from the DAB are not there then, there will still be enough votes to get the Bill passed Third Reading. If the Government is really counting votes in that way, then there is no harm admitting it honestly. Why should the vice-chairman of the DAB have to bear such embarrassment because the Government refuses to admit it? Just more than an

hour ago he rose to say that he was firmly opposing the "scrapping" of the Municipal Councils. Then half an hour later Mr TSANG thought of an excellent reason to support the Second Reading proposed by the Government. Then he would oppose this Bill at Third Reading. Though this is not related to the resumption of the Second Reading debate, I must air my views.

I personally feel that it is fine if the DAB should want to change its position. The papers today report on the remarks made by Mr Ambrose CHEUNG. He says that the Liberal Party has the right to change its position and that is not the first time. Mrs Selina CHOW used to say that all that was needed was to explain that change to the constituents. If Mr TSANG thinks that the Government is justified, then it does not matter very much if they change their position. Mr SUEN, the Secretary for Constitutional Affairs may even read out a 20-minute script of a speech. I think he may read an hour-long script of a speech this time. For his aim is to stall this Council putting it to vote tonight. Something unusual may happen this time: Mrs CHAN may rise and speak, for she has the right to do so. If she gets the approval from the President, she may speak even until ten o'clock. Then voting will be done tomorrow. In this way, we will certainly lose. However, we do not expect that we will win for sure. The DAB does not need to use a tactic like this. If it thinks that it should help the Government on this issue, then it should speak it out honestly. Besides, we all know why voting should not be done tonight. The reason is that after the Government has counted its votes, it finds out that it does not have enough votes. The Government knows that two Honourable colleagues are not here, and two others have not indicated their stand. So it does not know whether it will win or not. The easiest way to win is to have the DAB change their stand and so the situation of "six votes for, four votes against" will change to all 10 votes from the DAB supporting the Government. This is how the DAB sways from not changing its position to changing its position.

Actually, Members know that some of our numbers are not here now. I might as well let everyone know: Mr James TO is not here today. But we have done nothing to drag on the case. We have found another colleague to talk about our views on that issue and that is all. We have never thought of dragging the case on. On this occasion, the DAB has exchanged positions with us. I hope that this debate will not give the public a wrong impression, for the Legislative Council has in fact done a lot of work on this Bill. Although I have not attended all the meetings of the Bills Committee — I missed two or three of them — I have done the best I can to deliberate on that Bill. For I felt obliged to

history. The Urban Council is the first assembly returned by popular elections. Besides, those who really wanted to go into politics had to deliberate on this Bill with a sense of responsibility. As Mr Jasper TSANG has said, the DAB will not necessarily lose if it stands for the elections of the Municipal Councils. The Government, and Mr SUEN in particular, said many times last year why the Municipal Councils had to be abolished. However, in this process of deliberation, I could not find the situation as described by the Government. The Government said that it was not a retrogression of democracy. I think few people will agree to this view except the Government, the DAB and the HKPA. If there is one more assembly, there will be more occasions for popular elections and more opportunities for the people to take part in political matters and elections. Then how can we possibly say that the "scrapping" of the Municipal Councils will not narrow down the living room for democracy and cause a retrogression in democracy?

Madam President, I must declare interest, I am a Member of the Regional Council. However, the Clerk did not remind me of that, maybe he had forgotten that I am a Member of the Regional Council. Since I am a Member of the Regional Council, I am going to make the following remarks in that capacity. Mr TUNG and Chairman TSANG both said that this was not a retrogression in democracy. That sounds hardly convincing, very much like Mr TUNG when he said that the restoration of the appointment system in the district boards was not a retrogression in democracy. We are not in the days of the Second World War, at the time of HITLER. Even if HITLER or some other people repeated a lie for a hundred times, still few people would believe in it. Mr TSANG may say that with more appointed seats, we shall have the benefit of other views. But if we say that this is not a retrogression in democracy, no one will believe it even if this is said over and over again a hundred times. For me, I simply do not believe in what Mr TSANG says.

Mr TSANG could have said that the performance of members of the two Municipal Councils was not satisfactory, that they did not know how to control public expenditure effectively, or that they did not know how to do their job well. He could have said all of these. But it is hardly convincing that this is not a retrogression in democracy. What I am most unhappy is that the Government has made a lot of promises but has done nothing to honour them. Last year, the Government made a lot of promises to cultural, recreation and sports associations and said that it would give them more powers to facilitate their enhanced participation, so that they could have more control and decision-

making power in the formulation of cultural, recreational and sports policies. But apart from giving these groups more funding, nothing has changed. The Government has also said that it would devolve more powers to members of the District Councils after the "scrapping" of the Municipal Councils. It is true that the Government has added two provisions in the new District Councils Ordinance to stipulate that their views on cultural, recreational and municipal affairs will be sought, but these powers have been in existence for a long time already. I have been a member of the district boards since 1985 until the last term. I know that the members of the district boards have such powers. The Government has only added a provision in the Ordinance on the right to be consulted. There is nothing on powers of actual management and other powers which we have requested. We just hope to give the district board members a limited degree of these powers. In an amendment which I am going to move later, I will propose that District Council members will elect from among themselves representatives to be members of the Liquor Licensing Board so that they can have a little of substantive power. This power is in fact very small, but the Government does not agree to that. Is this not a deception of the district board members and the public?

I am very disappointed because in the consultation paper and at the early stages of drafting the Bill the Government has made out a lot of blank cheques and post-dated cheques. These are used to deceive the district board members and the recreational, cultural and sports groups. Apart from the small amounts of money they get, all these cheques are dishonoured. The Government has deceived these people and the public. A far greater change is that in the beginning the Government said that after the Municipal Councils were "scrapped", a lot of savings would be made. Members of the two Municipal Councils were unconvinced and questioned how much could that new administrative framework save. The Democratic Party has made some analysis to examine how much money can be saved. Then the Government proposed another change to the framework, therefore we held a short meeting on the establishment of the new framework, for there were 3 000 posts the future of which was uncertain. And we all know it, including our Honourable colleagues from the FTU. Some staff of the Urban Services Department and the Regional Services Department went to the Complaints Division of the Legislative Council to make their views known. They talked to the Honourable Members that they were very worried about their future. But neither the new authority taking charge of the responsibilities nor the Government has given them any assurances. Is this going to be a replica of the Cheung Sha Wan Abattoir event? When the

abattoir is demolished, who are going to lose their jobs? No one can give any assurances. So I think the FTU has acted rather unusually since despite the fact that some unionists have expressed concern for the issue, it still supports the Government. Why?

My position on this issue has remained unchanged. I oppose the Government's move to "scrap" the Councils. I am also of the view that the two Municipal Councils cannot be retained. In fact I agree with some of the views held by Mr TSANG, that is, even if there are changes, they should be gradual and progressive, for there is no catalyst so strong that an assembly elected by tens of thousands of people should be scrapped in such a short time, that is, only a year from the tabling of the proposal to date. The Government will not decide the matter with a referendum, so I am not very happy about it. I am more so unhappy for the good reason which the Chairman of the DAB has given to explain why he supported the Second Reading but opposed the Third. The public will know why. For paper cannot hold fire out. If someone has to say something which he or she does not believe, the person who says it should not be happy about it.

Thank you, Madam President.

**MISS EMILY LAU** (in Cantonese): Madam President, I speak to oppose the Second Reading of the Bill. As Miss Cyd HO has said, when we visited the United Nations in November, the Human Rights Committee of the United Nations was gravely concerned about this and urged the Administration to reconsider the issue. Yet, I do not think the Government has done so. Therefore, this is another proof that the Government always turns a deaf ear to the views of the United Nations. I am very sorry about the Government's "putting up a show". Perhaps, the Secretary for Home Affairs could later explain how the Government has carefully considered the suggestions of the Human Rights Committee of the United Nations.

Madam President, I actually do not want to say anything else because we all want to bring this to a quick end, and I do not wish to repeat many of the views expressed. Madam President, you know me very well. However, I cannot refrain from saying a few words after I have seen what Mr Jasper TSANG did. I have been a Legislative Council Member since 1991 but I seldom find Members behave so strangely. He opposed this but he supported the Second Reading for the reason of giving us a chance to discuss the issue. Is this reason a bit too far-fetched?

Madam President, sitting in this Chamber is miserable but the "true show" is taking place outside. When you step out of the Council, you will see a startling number of reporters at the door. Madam President, you would also know how acute the situation is whenever we discuss democracy and election. Those people gathering outside the Council building will try their best to gain Members' support by tears and laughters, especially at this dramatic moment. In fact, no one knows what the result will be. In a word, after this evening's toiling, the Secretary for Constitutional Affairs may be able to retain his office, otherwise, I believe something significant will happen.

I believe that all officials present including the Chief Secretary for Administration will be involved. In fact, Honourable colleagues have made things difficult for them. Madam President, why did I say so? Members keep changing their positions, otherwise, why are there 40 to 50 officials outside, even more than the number of security assistants of the Legislative Council? They have to keep an eye on every Member in case they will change their positions frequently. It is not good for Members to behave like that and people do not expect Members to do so. We should abide by principles when we act and keep our words. If so, the Secretary for Constitutional Affairs did not need to take so much trouble. Members often change but it is astonishing that they are also soft targets of lobbying. If Members have decided not to support the matter, we need not discuss it. Although the newspapers today have stated the inclination of a certain Member, he has changed. He said that he wanted to see what the Government would say; this is astonishing. He gave reasons to oppose the Third Reading but he supported the Second Reading so that Members' preparations would not be wasted. This is purely rubbish to me. Madam President, I hope you will not rule that I am insulting an Honourable colleague and drive me out of this Chamber. But I really think that some people are hurling insults at others' intelligence. Let him be an escort if he likes. But do account for it clearly. If the Government fails to get six votes from them, we can "finish work" now. However, he said illogically that he has done so in order to achieve certain aims. Sometimes, I hope that Honourable colleagues will not regard us as newborn babies when they speak. I originally did not intend to speak, hoping that we would deal with this part swiftly. But I will not be happy if I do not express my views. I hope that Honourable colleagues will respect the wisdom of Members and the public when they speak.

With these remarks, I oppose the Second Reading.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, the two persons speaking on behalf of the Democratic Party on the Second Reading of the Bill today are Mr Fred LI and Mr LEE Wing-tat because they are responsible for this Bill. I did not intend to speak. But while I was outside this Chamber, I heard a weird argument put forward by Mr Jasper TSANG, Chairman of the DAB. He said he would support the Second Reading of the Bill. It was the first of its kind I have heard during all these years since I have been a Member of this Council. I was shocked to have heard that, though I was almost asleep then.

Today, the DAB is having a hard time. They need to support the motion to "scrap" the two Municipal Councils. The DAB has been pulling out all the stops. First, they staged a "6-4 incident" of their own. By that I mean the 10 DAB Members in this Council have been split into two groups, with six of them opposing the motion, and the remaining four, who come from the FTU, supporting the motion. When they found that it did not work — since the Second Reading may not be able to go ahead then — they tried to prolong the debate to give a helping hand to the Government. When the Secretary, Mr Michael SUEN, was about to rise and speak, Mr TAM Yiu-chung hurried to interrupt by indicating he wanted to speak. So, the debate was prolonged. Yet it does not matter, since we do not mind prolonging the debate. But then they were eventually at their wit's end when they saw that it was only 8.00 pm, and that they could hardly drag on until 10.00 pm. Perhaps they should just say plainly that they have made a volte-face. But how could their Chairman explain the sudden change of position when just an hour ago Members of the DAB had clearly said that they were against the motion to "scrap" the two Municipal Councils? So, they came up with a story about the bridge on the River Kwai. When the story about the film was finished, they talked about Shanghai bathhouses. I was wondering whether they would go on to talk about how baths should be taken. Still, they found it not good enough. So, finally they said they would not want to waste Mr LEE Wing-tat's efforts (since when have they become so caring about Mr LEE?). They therefore said they would support the Second Reading of the Bill but would oppose its Third Reading. All these showed that the DAB had been using all manoeuvres it could gather to achieve its aim! That was a very imaginative reasoning process indeed!

I recall how Chairman TSANG did all he could in order to be the royalist. I should like to know if any of my Honourable colleagues still remember the case with the Cross Harbour Tunnel? At the time, Mr TSANG was surrounded by a

group of government officials in the Ante-Chamber, and was prevented from entering this Chamber to vote. At that time, he was afraid to enter this Chamber. Now he is in this Chamber, but then he has talked about the bridge on the River Kwai and bathhouses. What kind of party chairman he is?

Acting in this way, the DAB will lose its credibility. Two kinds of people, including perhaps political parties, are not likeable, the truly mean and the hypocrites. It is simple for one to be truly mean. If one wants to support the Government, one needs only to find ways to justify the "scrapping" of the two Municipal Councils. It is simple enough. One needs only to be frank. What scare us most are the hypocrites. They want to "scrap" the two Municipal Councils but dare not say so openly. They need an excuse but are afraid to speak what is in their mind, which is all about their support for the Government. So, what can they do? They give a preposterous excuse by saying that they care about the efforts made by Mr LEE Wing-tat. How ridiculous!

The only conclusion we can draw is that the DAB is clearly in favour of "scrapping" the two Municipal Councils. However, they pretend they are against it. This is sheer hypocrisy. They should not have done so. I would rather hear Members from the DAB talk about from now on the reasons why they support the "scrapping" of the two Municipal Councils than seeing a 6-4 split in their camp. The split can only make them lose their consistency and integrity.

I did not want to speak because two Members from the Democratic Party have been designated to speak, but I feel forced to because as a politician I should resort to reason, rather than saying something even my family, friends or myself do not believe. This is not good. This is definitely not good. To say what one does not believe in just to give support to the Government is not only a bad show but also an act that will hurt oneself, insult the intelligence of this Council and the efforts of others who have listened and responded to one's argument. Extremely ridiculous behaviour can often attract contemptuous rebuttal rather than sincere response.

Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, originally, only one Member from the Democratic Party was supposed to speak, so that this Council could proceed to voting on the resumed debate on Second Reading as soon as possible. I did not intend to speak at all. However, having heard Mr Jasper TSANG's speech, I felt that what he said was total rubbish and entirely illogical. I hold Mr TSANG in admiration. Of all the Members from the DAB, he speaks most eloquently and most logically. However, what he said today was totally without logic. Although he has served this Council not for a very long time, some Members of the DAB who have been in this Council longer could have told him that the resumed debate on the Second Reading is a debate about principle. If he opposes "scrapping" the Councils, he has no reason to support the Second Reading.

I read in the newspaper distinctly that a certain Member from the DAB, whose name I will withhold, had said that they would certainly oppose the resumption of the debate on Second Reading. Just now, the vice-chairman of the DAB, Mr Gary CHENG, also said very clearly that they remain firm in their opposition to the "scrapping" of the Councils. The Member whose name I did not mention was absolutely right. If one opposes the "scrapping" of the Councils in principle, one should not support the resumption of the debate on Second Reading in the first place. Who would have thought that the very logical and eloquent Mr TSANG would say that they will support the Second Reading debate because they do not wish to see Mr LEE Wing-tat's work wasted? In fact, Mr LEE's amendments are of a technical nature, such as whether the word "hygiene" or "health" should be used. They are very simple amendments. These amendments were not proposed only now. The Bills Committee was established a long time ago and the media have reported on it repeatedly. If Members have paid attention to the deliberations on the Bill, they would know that the amendments are very technical. What sort of big deal is that? Now, they seem to imply that Mr LEE Wing-tat's amendments are so great that they should not be wasted. Therefore, they will reluctantly support the Second Reading in support of him, although they really oppose "scrapping" the Councils. Failing that, their constituents will say that the DAB has changed its stance. He says that they will not change their stance. Instead, they will stick to their stand firmly. However, if they oppose the Second Reading, the Government might say to them that several Members are not in Hong Kong or have not arrived at the Chamber. If the motion on the Second Reading is negated, the discussions on the Bill will end there and then. So, Mr TSANG came up with a good excuse, saying that they want to let Mr LEE Wing-tat's work see the light and

give the amendments a chance, adding that they will oppose it at the Third Reading since they have no wish to change their stand. Was he not talking rubbish? Madam President, I seldom use such .....

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, please face the President when you speak.

**DR YEUNG SUM** (in Cantonese): Madam President, I did not address my remarks to him. I seldom use such words. In fact, it was the first time I had used the words "talking rubbish" since 1990 until just now. However, I believe it does not violate the Rules of Procedure, since I was referring to his remarks, not his person. I still respect him.

**MR GARY CHENG** (in Cantonese): Dr YEUNG Sum has repeatedly used the term "rubbish", I hope that he can withdraw it.

**DR YEUNG SUM** (in Cantonese): I will not withdraw it, because I think that his comments are rubbish.

**MR GARY CHENG** (in Cantonese): Will the Chair please make a ruling?

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, please sit down. Mr Gary CHENG has asked me to make a ruling on whether or not an expression used by Dr YEUNG Sum in his speech is in breach of the Rules of Procedure. As I must watch the video tape before I can make a ruling, I declare that the meeting is now suspended.

8.15 pm

Meeting suspended.

8.42 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Members, having watched the video tape carefully, I confirm that the expression used by Dr YEUNG Sum was "talking rubbish". I consider it does not constitute an offensive remark about Members. So, Dr YEUNG Sum, you may go on with your speech.

**DR YEUNG SUM** (in Cantonese): Thank you, Madam President. I also find the movie "The Bridge on the River Kwai" unforgettable. As I recall, William HOLDEN and Sir Alec GUINNESS were also on the cast. Why do I find the movie unforgettable? This is because it tells the story of how a group of British in a Japanese concentration camp could still manage to proudly and successfully build a bridge despite the hot climate and the extreme lack of resources.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, let me remind you once again. In accordance with the Rules of Procedure, a Member shall address his remarks to the President. *(Laughter)*

**DR YEUNG SUM** (in Cantonese): Yes, Madam President. I find the movie unforgettable because I consider it a classic movie. It was about how the British POWs had, in a concentration camp-like place governed by the Japanese, succeeded in building a bridge against all odds with barely any materials and under extremely hot weather. They have manifested their dignity as soldiers in the concentration camp. We must not lose our sense of human dignity. Regrettably, however, I think Mr Jasper TSANG's speech just now has served to cast shame rather than dignity on the DAB. In order to back up the Government's move to "scrap" the two Municipal Councils, the DAB could not but support the Second Reading. They went so far as to use Mr LEE Wing-tat's "masterpiece" as their excuse. But since they do not want to admit that they are going to make a volte-face, so instead they said they would be opposing the Bill's Third Reading. Therefore, I think this manoeuvre has in effect cast shame on the DAB. I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, in the District Councils Election held on last Sunday, each member of the electioneering group of my opponent was very formidable. It was as if they had the word "courage" written on their chests. I think the political group to which my opponent belongs, that is, the DAB, is very courageous. This applies both to their candidates and electioneering groups. They have the courage to compete with me in the elections and they have put a lot of manpower and resources into this election. But unfortunately, I came out the winner.

**PRESIDENT** (in Cantonese): Mr LEUNG, please restrict your speech to this Bill. *(Laughter)*

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, why did I win? One of the possibilities may be my opponents had made me feel that what they were doing was not real, they were only deceptions. What they are good at "bragging".

**PRESIDENT** (in Cantonese): Mr LEUNG, please restrict your speech to this Bill. Although I am very interested in hearing about your election story, it would be more appropriate if you would restrict your speech to this Bill. *(Laughter)*

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, what I have said just now is just an introduction.

What I have gathered from this is that in whatever we do, we cannot just rely on bravery alone. We have to face the problem squarely.

Today we discuss the "scrapping" of the Municipal Councils. I think if we are to decide on the question of whether or not to support the Second Reading of the Bill, what we should consider is not whether Mr LEE Wing-tat is hardworking or not. Madam President, legislators should be hardworking as a matter of course. This is their responsibility. We cannot say that since he is hardworking, then we should support him and let the fruits of his work be discussed here. I believe if Honourable colleagues from the DAB can make

yet another change in position and oppose the Second Reading, I think Mr LEE Wing-tat would say at once, "It does not matter how much hard work I have put in, for I can have returns for that." I think he will not mind the efforts he has made being put to waste.

Just as I said, the character "courage" is hung on the chest of many people. I think they should be able to face the problem with courage. If someone has really changed his position, then he should stand forth, and with his head held high, say to everyone "I have changed my position." He should not put forward some reasons which are not reasons at all, passing illogical remarks off as logical.

Mr Jasper TSANG used to be a mathematics major, he should be very good at logic. Unfortunately, in the entire debate today, the logic which he speaks about is no logic at all. I agree with Dr YEUNG Sum when he said that those views were rubbish (*Laughter*). It is meaningless for anyone to offer sophistries here in this Chamber.

I know that in this motion on "scrapping the Councils", many Members do in fact support a two-tier instead of three-tier structure. But why are we opposed to this proposal to "scrap" the Councils? It is because we know that the Government wants more than "scrapping" the Councils. It wants to take back their powers. Madam President, talking about the terms of reference of the two Municipal Councils, the public used to be able to take part in the formulation of policies. If the Municipal Councils are "scrapped", there will be no more of these powers. We are not being sentimentally attached to these seats, nor are we trying to make parliamentary representation a career. We have none of these intentions.

Therefore, we should not twist the issue around. Such twisted arguments are simply despicable. I hope that in this debate today, each and every Honourable Member of this Council will speak out of their conscience and not against it. Do not just stick the character "courage" on the chest while saying things against the conscience. I so submit. Thank you, Madam President.

**DR PHILIP WONG** (in Cantonese): Madam President, I would like to say a few words for fairness' sake. The Democratic Party criticized the DAB of filibustering. Even though this is true, it is not at all uncommon. From the

experience I have gained throughout the years in this Council, many parties keep their eyes on the clock when they speak and this is not the first time someone does so. Yet, I am very grateful to Mr Jasper TSANG for giving me and the people of Hong Kong a chance to listen to his views as to why the Municipal Councils should be "scrapped", and why Mr LEE Wing-tat has to make so much effort. Hong Kong people can hardly have the benefit of such views and as I am not a member of the Bills Committee, I would also like to listen to his views. But if the Bill cannot pass through Second Reading today, I will not have a chance to listen to his views, and many Honourable Members present and Hong Kong people will not be able to listen to his views. So, why not give us a chance to listen to his views?

At this historical moment, the "scrapping" of the Municipal Councils is not a simple matter. Many Honourable Members have said that there are two or three councils in Hong Kong but I understand that there are more than three. When the British ruled Hong Kong, their moves were clever. Today, if the Municipal Councils have adopted an appointment system, they would not be "scrapped". It is not necessary to "scrap" the Municipal Councils because they would be made up of "fellows". However, we cannot turn the existing election system into an appointment system. When the British Government ruled Hong Kong, they used "medals" to turn whoever was vociferous into a "fellow". Then, he would stop making noises. The crux of the problem lies not in whether there are two or three councils, but 400-odd councils indeed. The Government will not be able to operate if it has to face so many councils and account to them one by one.

Therefore, my position is that I support a two-tier structure and I consider an additional tier inappropriate. The former functions of the Municipal Councils should be taken over partly by the District Councils and partly by the Administration. Thank you, Madam President.

**MR MICHAEL HO** (in Cantonese): Madam President, well, I did not intend to speak originally. I must first thank Mr Jasper TSANG for his concern about our colleagues. Yes, indeed, Mr LEE Wing-tat has worked very hard on this Bill.

**MR FRED LI** (in Cantonese): Me too.

**MR MICHAEL HO** (in Cantonese): Sorry, I have omitted Mr Fred LI.

**PRESIDENT** (in Cantonese): When a Member is speaking, other Members are not supposed to interrupt him or her. Mr Michael HO, please go on.

**MR MICHAEL HO** (in Cantonese): The Government is actually very concerned about the DAB too. If this debate had been held last week instead of today, I am sure that the people of Hong Kong would have been better able to see whether the argument of Mr Jasper TSANG is logical. Nothing can hide before the camera, and people will always be able to see for themselves what is right and what is wrong. Mr TSANG says today that they are going to support the Second Reading of the Bill, lest the hard work of Mr LEE Wing-tat may go unnoticed, and Dr Philip WONG also says that a heated debate in this Chamber can allow the people of Hong Kong to hear the reasons for "scrapping" the two Councils. But are these reasons good enough for us to support the Second Reading of the Bill?

Madam President, last week, I received a group of Primary Five students who visited the Legislative Council. During the visit, they told me that they once had a lesson on the First, Second and Third Readings of the legislative process. Madam President, during the resumption of Second Reading of a bill, we are supposed to debate the principles underlying the bill. If we find the principles worth supporting, we should support it; if the opposite is the case, we should oppose it. This is what a Second Reading debate should be all about. What we are now debating is whether we should "scrap" the two Councils. This should be debated when the Second Reading debate is resumed, and right at this time, the people of Hong Kong can already hear the reasons for and against the "scrapping" of the two Councils. That being the case, why have some Members still argued that these matters should be handled at the Committee stage, after the motion on Second Reading is carried? During the above-mentioned visit, I also explained to the children what is meant by "Second Reading", how the Committee stage should follow, and what is expected to be done at this stage in the legislative process. I told them that at the Committee stage, Members are supposed to examine one by one all those clauses in the bill which require amendments.

Madam President, suppose we repeat our arguments relating to the underlying principles of the bill at the Committee stage..... suppose we repeat our speeches which we already delivered during the Second Reading debate, I am sure that you will most certainly order us to stop doing so. At the Committee stage, when we are handling a particular clause, we must discuss only the amendments relating to it, instead of saying anything more on the underlying principles of the entire bill. We are no longer allowed to repeat what we said during the Second Reading debate. Therefore, how can it be argued that we should first support the Second Reading of a bill, and then allow people to hear the relevant arguments more clearly only at the Committee stage?

**DR PHILIP WONG** (in Cantonese): Madam President, Mr Michael HO has probably misinterpreted what I said just now.

**PRESIDENT** (in Cantonese): Dr Philip WONG, please sit down first. Mr Michael HO, are you prepared to stop for a while to allow Dr Philip WONG to make a clarification?

**DR PHILIP WONG** (in Cantonese): Madam President, the main reason is precisely that I have not heard too many views on why the two Councils should not be "scrapped". I am sure that people have many reasons for not "scrapping" the two Councils, and I suppose Mr LEE Wing-tat may wish to bring them up at the Committee stage. But so far, I have not heard too many views on this. Even they themselves admit that very few Members have spoken today. That is kind of strange.

**PRESIDENT** (in Cantonese): Dr Philip WONG, you can only clarify that part of your remarks which you think has been misinterpreted. You are not permitted to add any other comments.

**DR PHILIP WONG** (in Cantonese): They have misinterpreted my remarks. They think that I talked about not having heard any reasons for "scrapping the two Councils". Quite the contrary, I actually wish to hear more about the reasons for not "scrapping the two Councils". I did not hear any such reasons just now.

**PRESIDENT** (in Cantonese): Mr Michael HO, please continue.

**MR MICHAEL HO** (in Cantonese): Madam President, misinterpretation or not, under the Rules of Procedure of this Council, we are required to discuss the underlying principles of this Bill only during the Second Reading debate, and we are further required to vote either for or against it. Madam President, at the Committee stage, if we still talk about the reasons for "scrapping" or "not scrapping" the two Councils, I am sure that you will most certainly ask us to stop doing so. The First Reading, the Second Reading, the Committee stage and the Third Reading are all the distinct stages constituting our formal legislative process. So, if we wish to discuss whether or not we should "scrap" the two Councils, we should do this during the Second Reading debate. If Members do not do this at this stage, they are deemed to have given up their opportunity of voicing their views in this Chamber and of having their views recorded in our official records of proceedings. Besides, we can also say that they have failed to let people hear their views in the Second Reading debate.

Madam President, the scrutiny of the Bill has undergone a very long process. And, the two Municipal Councils have conducted several questionnaire surveys and opinion polls on the question of whether or not they should be "scrapped"; they have indeed made a lot of efforts. But even if some people still say that they have not heard enough of such voices, we think it is fine, for we always respect others' opinions. All people or Members are of course free to hold different views on whether anything is adequate. However, if they do not put forward their views during the Second Reading debate, they should be deemed to have missed the opportunity provided in our legislative process. If they seek to put forward their views at the Committee stage, they will be acting against our Rules of Procedure. They will entirely distort our legislative process, imparting to the people a very wrong message that arguments for or against the "scrapping" of the two Councils can be deferred until the Committee stage. This is a completely wrong message, one which distorts all the facts. Unfortunately, Mr Jasper TSANG has advanced precisely such an argument, saying that he wants to give people an opportunity to hear the relevant arguments more clearly, and that he wants to let all these amendments "see the light". Madam President, even though Dr David LI is not present, the motion on the Second Reading of the Bill will certainly be carried. Following this, people will

be able to see what all these voluminous amendments are all about. These amendments will not touch upon any questions of basic principles, but will deal with amendments fine tuning individual clauses.

Madam President, I hope that Members will not try to impart any erroneous message to the public because this will mislead our young people. Up there in the public gallery, a young student has been listening to our debate for a very long time. If he gets any wrong message in our debate, and if he then relays this wrong message to his peers, the consequences will really be very far-reaching.

**MR ALBERT HO** (in Cantonese): Madam President, I must declare at the outset that I am a Regional Council Member. I am also a lawyer having been instructed to challenge the legality of the Bill, if passed, and will probably bring the case to the Court.

In fact, as I worked hard in the last few days to prepare for a judicial review, my colleagues at the same time were looking into what the situation would be when the Bill is debated in the Legislative Council. Is it necessary to institute legal proceedings? Is it possible for Honourable colleagues to use their intelligence to see clearly if the Bill violates the Basic Law and the International Covenant on Human Rights (ICHR), and then vote it down in the Legislative Council without having to resort to the Court for a judicial review to block the Bill? But while some colleagues said it is possible to do so, I do not think we stand a good chance of making it. No matter how hard it is for me and even though I have just finished my electioneering work, I still worked hard, burning the midnight oil to make preparations. Why? It is because I clearly see that the date for the resumption of the Second Reading debate of the Bill is 2 December. The Government has been clever. So is Secretary Michael SUEN. They know that the date must not precede the District Councils Election. If the Second Reading debate resumed before the District Councils Election, what happened today would happen any time. In that eventuality, it will do serious harm to all political parties which must face the public and face elections, and the credibility of the Government will be bankrupt.

Today, while we were still debating how to deal with the issue, we were considering whether there would be a chance to vote down the Bill if a vote was taken this afternoon. But I firmly believe that we will not succeed because the "six-to-four split" of the DAB is designed to crack down on the Municipal Councils. It is only a form of packaging and may change any time. Hence, I know we will not succeed. This afternoon, when the debate was about to end and when the President was going to invite Secretary Michael SUEN to speak, I saw Mr TAM Yiu-chung raise his hand to request permission to speak. When he started to speak, I knew already what would happen. When Mr Jasper TSANG spoke, and just as I expected, he made it clear that the Government would lose if a vote was taken at that moment. Therefore, for reasons (or "rubbish", as Mr LEE Wing-tat put it) that I do not intend to list here, Chairman TSANG said he must support the Second Reading of the Bill. As expected by people like us who have straightened out what it is all about, all the things just happened as expected. In fact, we should not have any wishful thinking. But I think there should be many other ways. As there are so many DAB Members who have not spoken, they may rise to speak. Or they may ask other colleagues from the Hong Kong Progressive Alliance to speak in order to prolong the debate until tomorrow morning. They will then succeed. This is truly a delaying tactic. Perhaps Dr Philip WONG was chatting happily upstairs so he did not know what had been happening here downstairs. In fact, they are not filibustering, they are actually changing their stance in the vote.

We need only to bear in mind what Mr Gary CHENG said one hour ago. Let us not mention any more what they said a week or a month ago, that is, they would unconditionally vote down the Bill, including the Second and Third Readings of the Bill. The message is very clear and there are no other arrangements. But why do they have to do this? As educated people we know what is right or wrong, and what shame is. Unfortunately, when they praised Mr LEE Wing-tat on the surface, saying that they wanted to make public his great amendments, they were actually making him the sinner to be condemned for the "scrapping" of the two Municipal Councils. If Mr LEE Wing-tat had not come up with so many amendments, he would not have been used by those people as an excuse to support the Second Reading of the Bill today. Madam President, I just want to make one point. I recall a vote that we cast in the past. On that occasion, Mr Fred LI said he saw a government official, Mr Nicholas NG, lobbying some people. Mr LI could be wrong and I think he should

apologize to Mr NG, who, in fact, appeared to be showing affection for those people, rather than lobbying them. What happened today shows this very clearly.

The amendments of Mr Fred LI and Mr LEE Wing-tat should not be taken as that important. The resumption of the Second Reading debate of the Bill is a matter of principle which tolerates no ambiguity in the right and wrong of the case. If such a matter can be distorted, there is no point debating. Rather we should do it in a more straightforward way. This is a very clear principle, irrespective of whether the Liberal Party agrees with the principle or not.

Madam President, what happened today has astonished me. In addition to astonishment, I must say that while the many mistakes made by the SAR Government since the reunification have made me angry, no mistake or politically erroneous policy is comparable to the "scrapping" of the two Municipal Councils. This is so wrong that I think it is shameful and deplorable.

For every mistake made in the past, it seemed that there were outside factors which left the Government with no choice. Things just happened and there is no right or wrong in them. For example, to drive away market manipulators, the Government had to interfere in the stock market; to keep the 1.67 million people away, we must ask for an interpretation of the Basic Law. So, it seems that the Government was forced to do these because there were no alternatives. The Government had to cope with an emergency and save the public from danger and so it had to take those actions. How about the "scrapping" of the two Municipal Councils? There is absolutely no need to do that. Nor does the Basic Law provide for that. When it comes to democratization, the Chief Executive said it was not feasible as democracy should be subject to limitation. But still, there is no need to "scrap" the two Municipal Councils. After some rounds of discussions, many colleagues admitted that improvements are needed in many aspects and they are willing to negotiate with the Government. A majority of colleagues in the Legislative Council clearly indicated their support for "one Municipal Council, one department" but the Government remained obstinate, ignoring the observations clearly presented by the United Nations Human Rights Committee and trampling on the provisions in the ICHR. It has even forgotten the fact that after the reunification, the ICHR has, by virtue of Article 39 of the Basic Law, become part of the Basic Law with entrenched and overriding effect. Hence,

"scrapping" the two Municipal Councils is an act which deprives people of their right to participate in politics, an act tantamount to denying a quickened pace of democratization, in total defiance of the institution and foundation of rule of law in Hong Kong. I very much abhor this and I feel angry. I do not want to say too much but I think Mr TUNG's administration is not only hegemonic. It even wants to deprive the public of their last bit of right to democracy. In order to achieve its aim, not even the DAB, a faithful supporter of the Government, is given any respect or concession. The Government is too ruthless to force the DAB to make a volte-face today.

As political parties hold different beliefs, it comes as no surprise to see competition among them. I admire the victory of the DAB in the election for they did a very good job. But if things go on this way, we will find a pair of invisible hands exploiting the present situation to gain control over some political parties, and this would be very sad. It will be very difficult for Hong Kong to develop pluralistic politics which enable two or three political parties to compete in a truly healthy manner.

Madam President, this matter is already settled. I believe that if I prolong my speech any longer, Secretary Michael SUEN could probably save his today. Tomorrow morning, Dr LEONG Che-hung and Dr LUI Ming-wah will be present. By then, colleagues from the DAB may say that they will vote against the Second Reading of the Bill because after considering it through the night, they do not think it worthwhile to debate Mr LEE Wing-tat's rubbish amendments. Yet, the Government's Bill will definitely pass. Still, I think this is very sad. Be that as it may, I believe that the public has a discerning mind. With an extremely heavy heart, I want to express my strongest protest against such hegemonic act of the Government. Thank you, Madam President.

**PROF NG CHING-FAI** (in Cantonese): Madam President, I speak in support of the resumption of Second Reading debate on the Provision of Municipal Services (Reorganization) Bill. Before the signing of the Sino-British Joint Declaration in 1984, when the reunification of Hong Kong with China was not yet put on the agenda of the British Government, the British Hong Kong Administration introduced some elected elements at the level of the Urban Council, just as a window-dressing attempt to show that it cared about public opinions. However, for the slightly more powerful Legislative Council, a completely appointed system was still maintained, even though it was only a consultative body. The

Urban Councillors at that time were very dedicated, and they devoted a lot of time to speaking for the public. I can still remember the "legalization of the Chinese Language campaign", in which Urban Councillors like Dr HUANG Mong-hua and Dr L K DING put up a courageous struggle for the cause. Well, I must take this opportunity to pay tribute to these two gentlemen. Also, I wish to point out that despite the constraints imposed by the "bird-cage" political system in the days of the former government, the Urban Council still managed to achieve some success in its work. We should not forget all this.

The emergence of the 1997 reunification issue brought a new opportunity of political participation and discussions to Hong Kong people. The British started to introduce some elected elements into the Legislative Council, and its functions were also enhanced. In 1997, after Hong Kong was officially reunified with China, the principles of "one country, two systems" and "Hong Kong people ruling Hong Kong" were put into practice. The SAR Government then started a review of district organizations in 1998 and it subsequently put forward four options. I think that these four options are not entirely inappropriate. In fact, as far as the provision of municipal services is concerned, the problems arising from the overlapping structure of "two Municipal Councils, two departments" have been strongly criticized by the public over the years. If my memory has not failed me, many years before the reunification, there was a political group called the Meeting Point which supported a two-tier structure in its discussions on district organizations. If I can remember correctly again, some Members who have spoken so eloquently and emphatically against the motion today were members of the Meeting Point. I hope that they can tell us what the Meeting Point said back then. Well, anyway, what I am trying to say is that our debate today should focus on the question of broad principles, instead of being particular about what individual Members have said, because this may give people an impression that the District Councils Election is not yet over. We should not side-track our discussions; rather, we should concentrate on why we support or do not support the Second Reading of the Bill. In view of the current circumstances in Hong Kong, and considering the discussions in the community over the past year or so on the problems with our municipal services arising from the overlapping structure of "two Municipal Councils, two departments", I believe that it is really necessary to reorganize the existing framework.

We have just mentioned that the Urban Council has a history of over a hundred years, which can be dated back to 1843 when the Public Health and

Cleanliness Committee was set up. In 1935, the Public Health and Cleanliness Committee was renamed the Urban Council. And, in 1986, when the Regional Council was set up, the framework of "two Municipal Councils, two departments" was formally laid down. The two Municipal Councils, with the two municipal services departments as their executive arms, have actual powers and are responsible for formulating policies on public health, municipal services and cultural and recreational services.

In our discussion on the district organizations in Hong Kong, I think our prime concern should be whether or not Hong Kong really needs a three-tier representative structure. Hong Kong is a small and densely-populated place where information is easily accessible, and where there is no clear distinction between district and territory-wide politics. So, if we try to defend the three-tier structure, are we in fact defending a framework marked by institutions with overlapping functions?

I think one of the directions for development of Hong Kong's political system should be to improve the existing framework by removing the lack of co-ordination within it. As time passes, the delivery framework of our municipal services should also be adjusted accordingly. With their administrative autonomy, the two Municipal Councils have virtually become independent realms subject to no supervision at all. The resultant problems have been criticized by many, including some Members here today. In order to solve these problems, we should rationalize the existing framework by removing the layers and layers of posts with overlapping responsibilities, and we should contract out more work, so as to save resources; at the same time, the functions and responsibilities of different departments should also be clearly delineated, so as to enhance their efficiency and, most importantly, their public accountability.

In regard to the district organizations in Hong Kong, Article 97 of the Basic Law stipulates that "District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation." Under this Article, we can decide whether to set up any district organizations in accordance with our own needs. Therefore, the abolition of the two Municipal Councils does not constitute a violation of the Basic Law.

Madam President, as I have just mentioned, there was no elected element in the legislature before the 1980s and at that time, the Urban Council was the only organization which had any elected representatives. In fact, before the age of decolonization, municipal services authorities with responsibility for municipal, recreational and health matters were also set up in many British colonies such as Singapore, Ceylon (now known as Sri Lanka) and Malaysia as an embellishment of colonial rule. However, some time after their independence these places all set up their own elected assemblies, and such municipal services authorities were dissolved, having played their historical role. And this is recorded in the history of these countries. Though the circumstances in Hong Kong are not entirely the same, there are still some similarities. Under the principle of "Hong Kong people ruling Hong Kong", all Members of the Legislative Council are now returned by elections, and the Basic Law also provides that all Members of the Legislative Council will eventually be returned by popular elections. At the same time, most of the members of District Councils are now returned by geographical direct elections. Therefore, it can be said that the public have already had adequate opportunities to participate in public affairs. Therefore, it is not at all convincing to argue that the "scrapping" of the two Councils is a retrogressive step in democratization. However, it is only natural that there are always some who still question why so many people oppose the "scrapping" of the Municipal Councils. And, some also talk about the financial motives. I suspect their suspicion may be justified, for many people really depend on their tier of the representative government for their income.

Having said all this, I must add that, as district organizations, District Councils do not have any administrative powers, and all they can do is just to discuss matters of public concern. They really cannot contribute too much to community building. Therefore, I think that if we are to reorganize our district organizations, the Government should make use of the opportunity to enhance the functions of District Councils and allocate more resources to enhance their monitoring and advisory role in district affairs. Besides, some of the powers and functions of the two Municipal Councils should also be transferred to District Councils, so as to give them more administrative responsibilities. In fact, the administrative burden of the Government could also be lessened if certain functions which are directly-related to the life of the people, such as improvements to environmental hygiene, and the management of cultural and recreational venues could be transferred to District Councils. Moreover, I also think that District Councils can provide a good training ground for people who

want to participate in the political affairs of Hong Kong. Therefore, the enhancement of the functions of District Councils can help train up future political leaders, increase public participation in district affairs, increase the public accountability of the Government at the district level, and contribute towards the further democratization of Hong Kong.

Madam President, a few days ago, we held the first District Councils Election in Hong Kong after the reunification, and I am very happy to see that there was a marked increase in voters' turnout. This shows that the public do recognize the significance of District Councils and they do expect District Councils to do more after the district organizations are reorganized. I do not intend to comment on the success or failure of different political parties, but anyone who are not biased can see that the DAB has achieved remarkable success. Therefore, I think that a lot of voters would not agree to the severe criticisms levelled by some Members at the DAB today. Madam President, I think that this debate should really be focused on the issue at hand, and that is: Why do we have to reorganize the Municipal Councils, and what are the pros and cons? I think that any deviation from this focus would render our discussions meaningless.

Madam President, I so submit.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, it happens that I do wish to respond to the speech made by Prof the Honourable NG Ching-fai just now and speak a few words on the reason why we need to reorganize the provision of municipal services. This is a good question, since the Bill before us today does not seem to have any relation with the reorganization of the structure, but with "scrapping the two Municipal Councils" instead. So the only thing left would be one single "department", or the need to set up a new policy bureau.

In this connection, the first point I would like to make is that I personally have also taken part in municipal affairs for a total of six and a half years, from mid-1988 to end of 1994. Therefore, I do have some understanding of the work of the Regional Council. As far as structure is concerned, I actually believe that there is a need for reorganization. While the two municipal services departments are responsible for matters relating to food hygiene, the Department of Health also has a responsibility for matters on this front; nevertheless, there is

not any corresponding organization in Hong Kong to liaise with international food safety bodies. When I was still serving on the Regional Council, I could also appreciate the contradictions between the respective hawkers control forces under the two Municipal Councils. The differences lie in not only the hawker policies of the two Municipal Councils but also the legislation on which their respective policies based. These are but some of the factors calling for a reorganization of the existing structure.

Speaking of the Municipal Councils, let me recap the reason why two Municipal Councils instead of one were considered necessary in 1985. As I can recall, following the establishment of the Provisional Regional Council in 1985, the first Regional Council election was held in 1986. However, in slightly more than a dozen years' time, the Government has proposed to "scrap" the two Municipal Councils altogether. Today, a number of Honourable colleagues have suggested reverting to having only one Municipal Council, we should therefore look into the rationale for such a retrogressive idea. What is so retrogressive with the idea? If in 1985 we had had allowed the ambit of the then Urban Council to extend to cover the New Territories as well, the problem should have been resolved, since the provision of all municipal services would be the responsibility of one single Urban Council.

Certainly, that was still the era of Sir Arker JONES, who had been the Secretary for the New Territories and later on the Chief Secretary. The argument put forward by the Government at that time was that since it was going to develop the New Territories, it would need a structure similar to the Urban Council to look after the municipal services there, so that the work concerned could be done in a more centralized manner and specific to the characteristics of the New Territories. However, could such a structure fulfil its roles in reality? Throughout the development of the New Territories, the Regional Council performed different roles at different times. The facilities provided by the Urban Council were more of a centralized nature, since it had a responsibility to provide such centralized premises as large-scale stadia and cultural centres, all of which are "front-line" facilities representing Hong Kong. However, facilities highlighting the special features of the new towns were lacking. Looking back on the development of the New Territories, many new facilities have been completed over the past 10 years, with the Kwai Tsing Theatre being the latest facility completed. In this connection, I understand that many Policy Secretaries have attended music performances held in the Theatre. A good many quality performances have been held in the Theatre since its opening,

including performances staged by world-class artists. The Tsuen Wan Town Hall, Tuen Mun Town Hall and Sha Tin Town Hall were already in place when I joined the Regional Council in 1988. Certainly, each of these three Town Halls does shine in their own special ways; nevertheless, there is still a need for some cultural facilities to provide services for the Kwai Tsing District residents. It was for this reason that I suggested the Government constructing this new facility. In 1999, the Kwai Tsing Theatre was eventually completed, yet it has been 10 full years since I first made the proposal in 1989. During those 10 years, my status has changed from an incumbent Regional Council Member to a former Member of the Regional Council.

The point I wish to make is that history has already proven to us the practical value as well as historical value of the Regional Council. In addition to the provision of a wide spectrum of facilities, the Regional Council has also played other different roles. For example, many of the new sports facilities are provided in a comparatively more target-oriented manner. In the past, we only had public swimming pools of different levels, since the Architectural Services Department cared only about the sizes of the pools. However, after we Regional Council Members had been given a say in the work concerned, we suggested the Government to provide many different facilities at the swimming pools. Perhaps it is because of our suggestions that many giant water slides and other alike have been provided at public swimming pools. Since the new facilities are so interesting, there have even been views that they should perhaps be held responsible for the closure of the Water World at Ocean Park. So, these are the roles that the Regional Council should and is able to perform — roles however that cannot be played fully by government officials alone. Thanks to the elected representation mechanism, we elected members of the Regional Council are able to reach out to the various sectors of the community to gain a better understanding of and to reflect for them their needs. The practical needs of the people could never be catered for if this responsibility should be shouldered solely by the various government departments. Why should Municipal Council Members be returned through elections? It is because elections could enable us to reach out to the public — let us forget about the "checks and balances" effect — and we have to believe in the importance of listening to the needs of the public before making any final decisions.

Today, however, the Government is trying to go back on the words it said in 1985 and deny its past self. The rationale for and the various merits of a Provisional Regional Council raised in the past — or 15 years ago — are now

considered redundant by the Government. It is true that the existence of Regional Council Members would inevitably lead to some expenses. In this connection, just now Prof NG Ching-fai mentioned that some Members are objecting the "scrapping" of the two Provisional Municipal Councils out of their own financial interests. I am not sure if such a remark should be considered an insult or not. But if we care to take a closer look, we could see that many Regional Council Members, with their academic qualifications and working experience, can easily secure a job that offers a remuneration package comparable to that offered by the Regional Council.

**PRESIDENT** (In Cantonese): Prof NG Ching-fai, do you have a point of order or do you wish to make a point of clarification?

**PROF NG CHING-FAI** (In Cantonese): I should like to make a point of clarification.

**PRESIDENT** (In Cantonese): If you wish to make a point of clarification, I will first ask Mr SIN Chung-kai whether he would give way to you. (*Mr SIN Chung-kai nodded*)

Prof NG Ching-fai, you may now make your point of clarification.

**PROF NG CHING-FAI** (In Cantonese): What I said just now was: There has been hearsay that the "scrapping" of the two Municipal Councils might affect the financial interests of certain political parties.

**PRESIDENT** (In Cantonese): Mr SIN Chung-kai, you may now continue.

**MR SIN CHUNG-KAI** (in Cantonese): Thank you, Madam President. Regardless of whether it was just hearsay or the Honourable Member's own belief, I just wish to remind Honourable colleagues that the public has indeed elected a large number of quality Regional Council Members who are not necessarily affiliated to the Democratic Party — I must stress that they are not

necessarily affiliated to the Democratic Party. As far as I know, many of them are in fact professionals like lawyers and so on. Perhaps we should also take a look at their services. Actually, the allowance of \$50,000 to \$60,000 is meant to cover the operating cost of a Regional Council Member's office and many other related expenses. As such, the "take home pay" for each Member after deducting all those expenses would just be minimal. So, speaking of financial reasons, it is true that Regional Council Members are provided with allowances, but the actual "take home pay" is too small to cover the daily expenses. What I wish to tell Members is that financial interest is not the real consideration, and the Government should not "scrap" the Regional Council and the Urban Council on this pretext. Whether they are affiliated to the Democratic Alliance for the Betterment of Hong Kong (DAB) or the Democratic Party, Members of the Regional Council and the Urban Council are equally enthusiastic in serving the community even though the ways in which they conduct their work might differ. So, this is my first point.

The second point I wish to raise is my earlier allusion to the need to train up political talents. Many Members sitting in this Chamber have played a part in each of the three different tiers of the representative government structure. I personally have been a district board member for 15 years, and this is the fifth time I run in a district board election. Apart from that, I have also been a Regional Council member for six and a half years. Having gained a wide spectrum of experiences, naturally my outlook as a politician has somewhat changed: perhaps I am now more conservative than I was 10 years ago. People are bound to change, but how. Political participation is also a kind of professional training, since experience can be accumulated through participation in politics and political activities. However, there is a gap in the proposal presented by the Government before this Council, since it advocates jumping directly into universities after graduating from primary schools. Certainly, if popular elections should be conducted in Hong Kong and all 60 seats of this Council be returned through direct elections, the Government would have a stronger argument for streamlining the three-tier structure into a two-tier one. Ultimately, there would perhaps be a need for the structure to be reorganized, since the three-tier structure might not be the most satisfactory arrangement. But the question remains whether the unsatisfactory three-tier structure must be "scrapped" right at this juncture in 1999? This is the question I wish to ask.

It is the Government's practice to take broad-brush actions. Hence, in order to preserve the district organizations after 1997, it has resorted to appointing members to the two Provisional Municipal Councils. It is fine for the Government to introduce this measure, however, would it not be better if the election system should be extended for two more terms until 2007 when the transition of the political system as a whole has fully completed? By then the Chief Executive and all Members of the Legislative Council will be returned by popular elections, people may think very differently and most probably dissident voices would have died down. Yet the measures taken by the Government so far have not been debated in detail by this Council at all. I surely understand that some government officials want to fold or reorganize the two Provisional Municipal Councils because they have found the two Councils not performing satisfactorily, and perhaps this is also the Government's rationale for "scrapping" the two Councils. Regrettably, however, they have overlooked the development of the political system. As a matter of fact, regards must be paid to both the administrative considerations and the development of the political system. One thing we must admit is that streamlining the structure to only one municipal services department certainly has its merits from the administrative point of view, and this is why we in the Democratic Party advocate the "one Municipal Council, one department" proposal. In other words, we might say that certain form of reorganization is inevitable. However, the proposal before us now is to "scrap" the existing three-tier structure and replace it with a two-tier one. Given the political development over the past 10 years, is the present arrangement the best option? Why can we not consider the whole matter from this perspective? Even if the "scrapping" of the two Councils is inevitable, is it necessary to "scrap" them before 2000? Would it not be better if we should wait until 2004 to do so? Would it not be even better if we should wait until further 2008? Certainly, it has all along been the Democratic Party's hope that a review of the political system could be conducted as soon as practicable, say in 2005 or 2006; or perhaps the Government may consider advancing that to 2003 or 2004. Actually, even if the reorganization exercise were not introduced now, it would be inevitable by 2005. As regards the development after 2007, it has already been provided for clearly in the Basic Law. Why should we not wait until then to discuss altogether the matters concerned? For our part, the Democratic Party may not necessarily raise any objection by that time, so the Government cannot assume that we will definitely say no. If the Government should say that all 60 seats of the Legislative Council could be returned by popular elections on the condition that the two Municipal Councils be reorganized, we would be willing to consider the situation as a whole, with

regard for both the administrative needs and the political development. Madam President, I really cannot understand why we must do so many things in 1999 alone. Why should we not wait until 2004 or 2008 to do those things? Throughout the entire process of political development, what on earth has been in the Government's mind?

Today, the Government seems to be asking us to jump right into universities after graduating from primary schools, because it is proposing to reorganize the entire structure in such a manner that participants in politics may jump into the Legislation Council upon completion of their terms of office as members of the various District Councils. I am not sure if the Secretary entered university right after his primary school graduation, though I have been given to understand that the Secretary graduated from university with a First Class Honours Degree. Speaking from my experience as a politician, I may say that not everyone can enter university right after graduating from primary school as far as participation in politics is concerned. To many of us in this Chamber, the experiences we gained in the other two tiers of the representative structure have indeed enabled us to function and to play our roles in a mature manner. As politicians, we should be able to see the reason why the political structure as a whole needs to have elected members. In addition to playing a checks and balances role, elected members also have a responsibility to represent public opinion. From a positive point of view, the role of elected members is to monitor the work of government officials. I think we should also adopt a positive attitude and have regard for the fact that elected members could really contribute to social progress. The reason is simple enough. Let me explain this with an example I have referred to earlier. Since the Government loves to use a so-called "casting" method when building schools, naturally the design of the five schools it has recently proposed to construct in Po Kong Village would be built also in the same mould. Most probably because of some pressure from this Council, the Government expeditiously amended the plan within 22 days. In addition to the five proposed schools, the revised plan has even saved enough space for the construction of a primary school. This is a job well done. We are so pleased with the results that several of us from this Council have even proposed at the meeting of the Finance Committee that the commendations on the Government be put on record. Actually we can find further examples, some of which are related to the provision of other facilities such as football pitches, to demonstrate that this Council, the Regional Council, as well as district boards are all capable of making contribution to community.

Lastly, the Government has always been saying that the various District Councils will become increasingly important upon the "scrapping" of the two Provisional Municipal Councils. However, I cannot but ask the Government not to fool people any more. Mr Secretary, I have been a district board member for 15 years. Starting from the time when Sir David FORD was in office, the Government has been talking about attaching more importance to the various district boards. Since then, how many senior government officials have taken up one after another the post of Secretary for Constitutional Affairs and that of Chief Secretary, which is now known as the Chief Secretary for Administration? Does it follow that the Government could attach no importance to the district boards simply because it has already had in place two Municipal Councils? Definitely not! Is the Government really attaching great importance to the various district boards if it only charges them with some additional tasks relating to hawker control and waste disposal, and requires them to give a brief account of the work done? No, no importance has been attached to them ever. The district boards have but one ordinance as their legal basis, yet the provisions contained therein do not give them any power at all. They are only to offer advice on any matters arising within their respective districts, regardless of whether the local community would be affected by the matters concerned. As to consultation exercises, they are provided for under the respective ordinance. But then again, consultation exercises could still be conducted even if there were not such a provision. Where necessary, district boards could always invite government officials to attend their meetings to give explanations, couldn't they? As regards the proposed addition of a vice-chairman of the District Council concerned to the composition of the district advisory body, which is the District Management Committee (DMC), nothing significant could really be achieved. A reporter has inquired me of the DMC. The DMC is but a departmental co-ordination body, for final decisions will still be handed down from above and made by the government departments concerned. The DMC has never voted on any of the matters discussed. I have been a DMC member for almost five years, and so far we have not put any matters to a vote. How should we cast our votes? Should we advise the Regional Services Department to oppose the proposal put forward by the police? Or should we advise the police to turn down the suggestion made by the Housing Department? All we can do is to co-ordinate our efforts. If the subject officer of the Police Force should need to refer the issue concerned to his superior for instructions, other government departments are not allowed to make any suggestions in the place of his superior. As District Board Chairman, I will make my best effort to attend all DMC meetings. But what have I achieved after attending these meetings? All I can do is to reflect the community opinions and to play the role of a bridge between the DMC and the district to which I belong. Even if arrangements should be made to

enable this role to be played by two persons, all we could get would just be a thicker and wider bridge. As representatives from district boards, we would certainly reflect the community opinions to the RC. But is there anything we can do after the opinions have been reflected? Actually, no decisions will be made in relation to the opinions reflected. If the Government really undertakes to introduce any changes, it should demonstrate to us its sincerity and readiness to do so. To keep pace with the democratic development in Hong Kong, the Government should also follow up the resolutions on various local affairs that the District Councils concerned have made. Otherwise, the Government will only be conducting consultation exercises but paying lip service to the community opinions received.

The speech I give today is in fact rather mild. Members should visit the various districts and listen to the remarks made by my district board colleagues — those who are affiliated to the DAB — and find out how much harsher the criticisms made at the local level are. As for the Government, it should consider the whole matter in an objective manner. Members affiliated to the Democratic Party are not the only persons dissatisfied with the matters at the local level, other Members are boiling with far greater dissatisfactions than we are. Nevertheless, this is the system. Despite the considerable effort and resources spent in electing us, the Government has only consulted us on some minor matters. Actually, if the Government should see the need for consultation, it could conduct one at any time; in this connection, an opinion poll should be able to serve the purpose. The machinery of democracy is to elect representatives of public opinion, who, in addition to being given a mandate, should also be vested with appropriate authority and power.

Madam President, I so submit.

**MR MARTIN LEE** (in Cantonese): Madam President, first of all, I would like to clarify the hearsay which Prof NG Ching-fai has mentioned. The term "hearsay" does not have any difference with what you are saying. If you believe in such hearsay, then you can talk about them. If you do not believe in it, then you should not talk about it. As for slander in the legal sense, the crucial point is not whether anything has been spoken, because one cannot say that since other people have said something in this way and so you can also say the same thing. If you do so, others may file a suit against you. That is the point I wish to clarify first.

Madam President, the idea of "scrapping the Municipal Councils" was, I think, first brought up by the Chief Executive in his policy address in 1998. At that time, the Democratic Party at once made their opposition to it known. The DAB also did the same. And so did the Liberal Party. At that time I said to my colleagues in the party that it would be all right since the three major parties had 33 votes already. We could ignore the votes from others. We thought the matter was cork-sure. There would not be any mishaps, so we thought. But there is an exception to everything. There is a report from Mr Danny GITTINGS in the *South China Morning Post* today which says that the top officials in the Government were opposed to the idea of "scrapping" the Councils when the Chief Executive brought it up in the policy address. Afterwards, the Chief Executive did not listen to the advice of these top officials and he was determined to "scrap" the Councils. In this way, there was at first a government decision before any consultation was made. The writer of this article thinks that the proposal to "scrap" the Councils may not be approved so easily. I heard that the initial response of the Liberal Party to it was nine people for and one against. Then according to some newspaper reports, the Liberal Party was unwilling to take the blame in this case for the Government, or being the only one to be put up as targets for public censure. The Liberal Party therefore asked the Government to persuade the DAB so that they could both be put up as targets for public censure. At last, as the report in the newspaper rightly says so, everybody is now put up as targets for public censure. Then Mr TSANG, the Chairman of the DAB now wished to put Mr LEE Wing-tat up also as a target for public censure. But the strange thing is, if he is so much concerned about Mr LEE Wing-tat's amendments and thinks that it is so vital, then why does he not ask Mr LEE at first, "Would you mind the six Members from the DAB object to your amendment, thus making the Bill fail to pass Second Reading? Then no one will be able to admire your masterpiece." Mr LEE Wing-tat said clearly just now that he did not mind because both he and I knew very well that these amendments were rubbish. Madam President, these are nothing but rubbish. Now the DAB has done something of such great difficulty, something which can be said to be the greatest U-turn of the century, or even the greatest U-turn of the millennium. For I simply cannot trust that there can be a greater U-turn than this one in next week or the week after next. I have said many times that the DAB is a party which makes the greatest progress. That has been proved in the District Councils Election this time. But sad to say, they have made this great U-turn. Mr TSANG also mentioned the bridge over River Kwai. But he also reminded us that the bridge was blown up in the end.

Madam President, Mr TAM Yiu-chung mentioned the Basic Law. Fortunately, I was a member of the Basic Law Drafting Committee (BLDC) for some time. I remember at that time we discussed the Urban Council and the district boards. The heading for Chapter IV section 5 in the Basic Law is District Organizations. As the BLDC members felt after some discussions that these organizations ought to be retained, so Article 97 runs like this: "District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation." We can note the part of the sentence before the word "or", that is: "to be consulted by the government of the Region on district administration and other affairs", this is clearly referring to the nature of the work of the district boards. What comes after the word "or", that is: "to be responsible for providing services in such fields as culture, recreation and environment sanitation" refers clearly to the work of the Municipal Councils. Such kinds of work are actual services, not consultation. There is a clear distinction in meaning. "Consultation" is the work of the district boards and "providing services" is the work of the Municipal Councils. All these district organizations do not have any political powers. If we pass the Bill today, then these kinds of work will not be carried out by district organizations which do not have any political powers, because some government departments will take over such work. Some people may of course retort that these organizations can be set up and they can be taken away too. But these organizations have been in existence for a long time, and after the establishment of the Special Administrative Region, they have been turned into Provisional District Boards and Provisional Municipal Councils. Now we are merely abolishing these organizations. If the Municipal Councils can be abolished (or "scrapped"), the same thing can be done to the District Boards four years later. By the same logic, if this is possible, the three-tier representative system will become a two-tier one, and finally one-tier. That sounds quite interesting. If that goes on, I think it will not take very long before legislators like us will be "scrapped" too.

Madam President, if this is not a retrogression of democracy, would you call that a great leap forward in democracy? Actually, we can say that because there are more appointed members and when there are more people, the scope in which consultation can be made will be expanded. Is this then not a great leap forward? After the Municipal Councils have been "scrapped", Members of the Legislative Council will have to do more work. Is this not something to our

advantage? Is this not a great leap forward in democracy? Madam President, people these days just do not think before they speak. I recall after the democratic movement in China in 1989, I felt very disgusted and outraged after listening to the remarks made by Mr YUAN Mu. Now I am hearing the same thing from so many people. They just do not care about the things they say. They will never think about the responsibility they have to find out the truth of the matter. They will never think about whether they have insulted the intelligence of the public. When I recall the remarks made by Mr YUAN Mu, I do not think they were so bad after all. Those remarks were really not that bad if we compare them to the remarks made by some people nowadays.

Madam President, I admire the speech made by Mr CHEUNG Man-kwong. I was having my meal in the dining hall when he was speaking. I was about to take more food when I heard him speak. I put down my plate and listened attentively. At that time, there were some Honourable Members who suggested turning the radio broadcast of his speech to a greater volume, and these Members do not belong to the Democratic Party. When he was talking about the June 4 Incident, I thought it would be more correct for him to say the June 4 Massacre, for we are now talking about the killing of the Councils. Thank you, Madam President.

**MR LAU KONG-WAH** (in Cantonese): Madam President, originally I did not intend to speak on this Bill, but since many friends from the Democratic Party have levelled criticisms at Mr Jasper TSANG, the Chairman of our party, I feel obliged to respond.

Certainly some Honourable colleagues have spoken earlier in our defence. They feel that some of the scathing criticisms made by the Democratic Party on us are unreasonable. However, we can face this with composure. It is because after the election activities on Sunday, they in the Democratic Party may feel somewhat tired and upset. That is understandable. This is also an experience showing that in a political climate as this, the public will not like to see quarrels between political parties or between members of the public. After the battle on Sunday, we can see clearly that the public has grown tired of this kind of quarrels and so we would not use this kind of approach.

I would like to raise a few points in response. The first is on tactics. The second is on principles. The third is on stance and the fourth on democracy. And let us see what Members think. On the question of tactics, I do not know if Mr TSANG is doing this because of tactics, but at least he has given a reason. When some people cannot accept this reason, they say that his arguments are rubbish. Is this a democratic attitude? Such people are totally unable to accept reasons put forward by other people.

I remember clearly and I think you, Madam President, also remember this, that there was an occasion on which we had debated into the small hours of the night. Why did we have to make ourselves so exhausted? I think many Honourable Members of this Council will recall that it was because some people were deliberately filibustering. This is a tactic. At that time, those people who wanted to delay the progress were trying to do this because they hoped to see one or two people leave out of exhaustion. Then they would succeed. What difference does it make in terms of tactics when someone now wants to make it a swift conclusion? On the other hand, if someone wishes to delay in order to wait for two persons to return, then what difference will it make? That is entirely a question of tactics. It is totally acceptable in a parliamentary assembly. Madam President, although I am a newcomer and there are lots of people with more experience than me, I believe tactics like these had been used in the past 10 years or so. So what is the fuss about it? I cannot help but wonder.

The second is on principles. Friends from the Democratic Party said that when we were at the stage of resumption of the Second Reading debate, that would restrict our discussions to principles and there would be no room for compromise. It is a question of black and white, yes or no; not any other way. If this is so, then may I ask: Why did they join the Bills Committee in the first place if they were against the Bill proposed by the Government? Why did they have to join? If they are so adamant, then they should not have joined the Bills Committee, for that will make them look all the more righteous and the Government's proposal appear to be nothing but rubbish, which they are so contemptuous of that they refuse to join the Bills Committee. But why did they join the Bills Committee? Of course, they may have many reasons on offer, such as they want to "iron out" this Bill before it is passed. These are possible reasons.

I have been reading some of the articles written by the columnist Mr WONG Yuk-man lately. I like his criticism of the Democratic Party in particular. He often says that it seems that the Democratic Party is taking on a

party line which does not resemble anything at all. Actually, the way they treat this issue, that is, on the so-called principle behind the resumption of the Second Reading debate, tallies with such criticism.

As a matter of fact, the stand of the DAB is very clear. I fail to understand why it has been distorted. Mr Gary CHENG has passed a note to me, asking me to make a clarification because he does not have any chance to speak again. He said that his speech was only aimed at reiterating that the DAB was always in favour of the "one Municipal Council, one department" proposal and not the grounds used by the Democratic Party to oppose the "scrapping" of the Councils. At the same time, he did not mention anything about our voting inclination on the resumption of the Second Reading debate. Our official views on whether or not to support the Second Reading have been put forward by Mr Jasper TSANG. Therefore, there is no contradiction about it. The Democratic Party cannot put the blame on others arbitrarily. That is totally unreasonable.

Just now I heard many friends from the Democratic Party say that we have changed our position, having made a U-turn. The fact remains we have not changed our position even if it is said 10 times that we have done so. Those friends in the Democratic Party have cited a very good example, that is, about the bill on the increase of Cross-Harbour Tunnel tolls. Actually, that is a very good example. Did we support the Government in the end? No, we did not change our stand. Madam President, you may not be aware of that. The Democratic Party thinks that it is as if it has struck gold. They sent many newspaper cuttings on that to different district organizations to prove that the DAB had changed its stand. But this is not true. And the same thing applies to this Bill before us. We have said very clearly and so has Mr TSANG, our Chairman, that our stand has not changed. We have made no U-turn. Mr Martin LEE, we have made no U-turn. Our position is very, very clear.

One thing I find very interesting is that an Honourable Member said earlier that if we made so many changes of positions, then the credibility of political parties would be bankrupt. It may be very credible if such remarks are made by someone from a political party which is credible. But if that political party does not have any credibility itself, then it will hardly be convincing to the public. As a matter of fact, I have heard many such remarks and allegations, for example, that there are no human rights in Hong Kong, nor is there any rule of law. Despite the frequent utterance of these remarks, the local situation is not like that. Reality is just not the same as their allegations.

Madam President, I think after the District Councils Election this time, the public has really seen the essence of democracy. Their eyes are open. The fact is, democracy does not mean following the footsteps of that political party, it does not mean doing and saying the same thing as them. Democracy cannot be exclusive to anyone or monopolised by anyone. It is not the monopoly of anyone. Our stands are in fact identical. So I feel it is a pity. We are on the same front, that is, we are opposed to this "Council scrapping" Bill from the Government. We are on the same front. I share the same feeling with Mr SIN Chung-kai in what he said, for we have both worked our way up in the same three-tier structure. So we hope to lend our support to the "one Municipal Council, one department" proposal. We share a similar stand. The only difference is our approaches. And that is the cause of our getting rebuked. Madam President, is this democratic?

Other people may wear clothes for mourning, burn the national flag, or carry a coffin, but that does not mean that we should do the same. So there are different approaches to things, and it is only natural. There are people inside the Democratic Party who hold different stands and views. Such differences can be seen clearly in the minimum wage incident. At that time, did you think that it was a debate about democracy? I doubt very much that it was.

Madam President, I would like to say that the Democratic Party is the Democratic Party and the DAB is the DAB. Our approaches may be different. But we will not stop doing things just because they do not like them. Nor do we think that nothing can be right if we do not follow their footsteps. There is only one person in this world who can claim that He is the way, the truth and the life. But He is not the Democratic Party.

Thank you, Madam President.

**MR ANDREW CHENG** (in Cantonese): Madam President, having attended so many forums which were also attended by Mr LAU Kong-wah, I must admit that I have always admired his composure. I have always hoped that I can speak in the same gentlemanly manner as his, but every time I tried, I failed, and in the end, I always ended up in emotive outbursts. *(Laughter)* But this evening, I will try once more, lest Mr LAU may again refer to the District Councils Election on Sunday, and say that the slanging matches and emotive arguments of the Democratic Party will only annoy the public instead of bringing it any

success. So, I will try to remain calm as much as possible. Having said that, Madam President, I must add that our vociferous arguments and emotive outbursts are not necessarily any signs of impoliteness and insincerity on our part; similarly, even when one speaks in a gentlemanly manner, giving one's points slowly one by one, one may not necessarily be sincere in one's intention. One's deeds are the best proof of one's sincerity, or the lack of it. I appreciate that battered by the economic difficulties and unemployment problem emerging after the reunification, people may have really grown tired of bitter political debates, but I think they may abhor political hypocrisy even more.

As pointed out by many Members a moment ago, the results of the recent District Councils Election do show that at the district level, we in the Democratic Party really have a lot to learn from the DAB. They have done far better than us in canvassing and consolidating district-level support, for example; we should really learn from them. And, in connection with district-level support, I have been told that some residents even think that we should follow the example of the DAB and conduct more blood tests, blood pressure measurements and hepatitis virus tests for the elderly. They even say that we should organize more outings and vegetarian meals for the elderly. Well, so many benefits are offered, and to the elderly, the DAB is indeed an angel. All this is indeed what I have learnt from the old people.

I do not of course think that the DAB should be described as an "angel". Just now, Mr LAU Kong-wah even went so far as to quote the *Bible*. Well, if the DAB is really an "angel", then I must say that such an "angel", when it chooses to act as the spokesman for "Satan", is bound to be even more sinister than "Satan" itself. And, who exactly is "Satan"? The SAR Government — that very murderer who is about to "kill" the two Municipal Councils, that very "council-killer" who is acting against our democratic institutions. I really wonder why Mr Gary CHENG still had the courage to assert so solemnly that they would most definitely oppose the move of the Government to "kill" the two Municipal Councils. Has Mr TSANG met with the top leader of the SAR Government again — I must say the top leader is the murderer, the one who is going to "kill" the two Municipal Councils? Has he thus discovered that they have no other alternative, because there are not enough votes to support the Government and they cannot possibly vote against the "killing of the two Councils" at this very moment? So, they have come up with the argument that if they cast a negative vote now, the whole legislative process will have to stop, right? The DAB, in particular Mr LAU Kong-wah, must tell us the reasons.

At the forum held in the Chinese University on 23 September 1999, Mr LAU sat beside me. As usual, he appeared solemn and composed. But I was again emotive, and I told the students of the Chinese University that the DAB would most definitely steer a "U-turn". I even said that I was willing to bet on that with my life. Oh, let me just try to restrain myself a little bit, lest I may turn emotive again. At that time, Mr LAU assured the students, in his usual gentlemanly manner, that the DAB would definitely not steer a "U-turn", because its position on the issue was very firm.

Well, if their position is really very firm, they should then oppose the Second Reading of the Bill. And, what reasons do they have for refusing to do so? Believe it or not, they simply say that they want to have Mr LEE Wing-tat's amendments made known to the public. If they do not know the procedure well enough, they should consult the Rules of Procedure. There, it is stated that in case of urgency, the Government can move the First, Second and Third Readings of a bill on one single day. Why do we have to move the resumption of Second Reading debate on this Bill? Before the resumption of Second Reading debate, we had a Bills Committee which scrutinized this Bill. Oh, Dr Philip WONG has left this Chamber. I really cannot understand what he thinks. He says this issue is very important, and he even describes this as a historical moment because the "scrapping of the two Councils" is being dealt with. So, he says that he wants very much to hear the reasons for the amendments of Mr LEE Wing-tat. If he really thinks so, then as a responsible Member, he should attend the meetings of the Bills Committee, right? Even if he could not join the Bills Committee as a member, he should at least attend its meeting as an observer, so as to understand why Mr LEE Wing-tat had put forward as many as several hundred amendments? He should not have waited until today, right?

The discussions on the Bill's passage or otherwise through Second Reading involve precisely the principles underlying the Bill. If they are against the whole thing, they should say it openly instead of making up so many excuses. Obviously, they only want to help the Government because it now needs two more votes before it can push the Bill through Second Reading. They should be honest! If they want to be a "royalist" party, just say so! What is the problem with being a "royalist" party, anyway? Well, they are afraid that being a "royalist" party, they may lose their votes in elections. But then, it now seems that after their electoral success on Sunday, they no longer bother any more about getting votes.

Oh, my voice is getting loud again. I must try to restrain my emotions, lest this may again give Mr LAU Kong-wah an excuse to say that the people have grown tired of noisy arguments.

I must change the name of the DAB. The name "Democratic Alliance for the Betterment of Hong Kong" should be changed to "Democratic Alliance for the U-turn of Hong Kong". They have really had many "U-turns", making Hong Kong very confused. The time now is ten o'clock at night. Mr Albert HO is right in saying that when morning comes, they may have two more votes. Originally, they might have been angered by our criticisms; they might have found the political consequences of our criticisms much too serious, and perhaps they might also have felt that the amendments of Mr LEE Wing-tat were nothing but rubbish. Consequently, they decided not to make his amendments known to the public, and so, they initially decided to vote against the "scrapping of the two Councils". Sometimes, we really feel that their arguments are simply nonsense.

Madam President, it is now already ten o'clock, and I do not want to waste the time of Members anymore. When Mr Jasper TSANG spoke a moment ago, I was out there eating. As I listened to his argument, however, I almost dropped my plate of rice. It beats my wildest imagination that the DAB could ever put forward such an argument. Madam President, I actually did not intend to speak at first. I admit that we are now employing a tactic; we find that two Members are absent, and we therefore wish to vote on the Bill right now, as quickly as possible. If the Second Reading of the Bill is negatived, we will need to say no more on this issue, and we will not have to persuade Members not to support the "scrapping of the two Councils".

I also wanted to criticize the Hong Kong Federation of Trade Unions (FTU). Yesterday we petitioned the FTU, and we criticized it for breaking people's rice bowls. What Mr CHEUNG Man-kwong referred to was just a "6-4" strategy, but, believe it or not, the DAB quickly picks it up and associates it with the June 4 incident. This is already a surprising tactic. But what is even more surprising is that following the "6-4" strategy, the DAB has even come up with such an argument. Miss CHAN Yuen-han kept on criticizing me outside this Chamber just now, and she questioned why we should ever petition the FTU yesterday. Well, does she realize that we were in fact risking our own lives, because the FTU was a place where we had never petitioned before?

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, do you wish to raise a point of order?

**MISS CHAN YUEN-HAN** (in Cantonese): A point of order, Madam President. I wish the President could pass a ruling. Mr Andrew CHENG has made repeated references to the FTU. But I wish to clarify to him that the FTU and the DAB have never collaborated in any so-called "6-4" strategy. I hope he can explain that. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you may now continue.

**MR ANDREW CHENG** (in Cantonese): Madam President, I am sorry, but to me, the DAB is always the DAB. So, Miss CHAN Yuen-han can ask me such a question only if she now tells us that she is from now on no longer a member of the DAB. Is Miss CHAN Yuen-han a member of the DAB? She is. And, she is also a member of the FTU. What we are now referring to are the 10 votes of the DAB. Sorry, Madam President, I must look at you while I am speaking or else you will say that I look at her instead of you while I am speaking. For the 10 votes of the DAB, Mr CHEUNG Man-kwong uses the term "6-4" strategy. But I would just say "6-4".

Why do I criticize the DAB for supporting the "scrapping of the two Councils"? The reason is very simple. From the government statistics we have, we know that as many as 1 300 posts will be deleted after the two Council are "scrapped". And, so far, the Government has failed to make any commitment with respect to some 500 redundant staff members after the "scrapping of the two Councils". Some employees of the two Councils have even approached the Complaints Division of the Legislative Council, asking us not to "scrap the two Councils"; they feared that their livelihood would be affected as a result. How is the FTU going to respond to all these problems? As members of the FTU and the DAB, how are they going to respond to these problems? They claim repeatedly that they are the leaders of the trade union movement, and that they have struggled for the movement for many years. But how are they going to answer all these questions?

Actually, I did not want to touch upon all these problems today. But I have been compelled to talk about them again, because the DAB has advanced such an argument, which is even more ridiculous than the "6-4" strategy. I think Mr Jasper TSANG has really given the people of Hong Kong a big millennium gift. This is simply a parliamentary joke, a melodrama.

Finally, I wish to say a few words to Mr LAU Kong-wah. He talks repeatedly about tactics. But while doing so, he never considers what is right and what is wrong. This explains why he had to withdraw from the Democratic Party and join the DAB. The Democratic Party has no place for such a person like him, who disregards all principles and what is right and what is wrong.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Honourable Members, the time now is five minutes past ten o'clock in the night. As Mr Andrew CHENG has mentioned the Federation of Trade Unions earlier in his speech, and as I know that Miss CHAN Yuen-han wishes to respond to that, may I now ask Miss CHAN to speak. When Miss CHAN has finished her speech, the meeting today ..... (*Mr James TO rose*)

**PRESIDENT** (in Cantonese): Mr James TO, do you have a point of order?

**MR JAMES TO** (in Cantonese): Madam President, can Members speak to make responses?

**PRESIDENT** (in Cantonese): I was about to invite Miss CHAN to speak. I know that she wishes to make a response, so I invite her to speak.

**MR JAMES TO** (in Cantonese): All right, she is actually going to speak. Thank you.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, originally I did not intend to speak but since someone repeatedly mentioned the FTU just now, I wish to speak in the hope that those people who resorted to sophistry will not pull the wool over the eyes of wage earners in Hong Kong.

The abolition of the Municipal Councils is one matter. The Government's Enhanced Productivity Programme (EPP) and its civil service reform which render the civil servants an affected party is another matter. Mr Andrew CHENG said categorically that workers' interest must be protected. On this, I fully accept his view and agree with him. Yet, I would like to ask why Mr CHEUNG Man-kwong of the Democratic Party amended the motion moved by Mr CHAN Kwok-keung in June this year, deleting the phrase "the Government has to gain the acceptance and support of civil servants before introducing the civil service reform"? This is the first point. Secondly, regarding the amendments to the Ordinance concerning watchmen, the Democratic Party was opposed to our views and only Mr Andrew CHENG had sought exemption to support the FTU. Madam President, I have no intention to settle old scores with them here. I just want to tell members of the community that in all fairness, the FTU is far more concerned about the "scrapping" of the Municipal Councils *vis-a-vis* the Democratic Party's concerns for civil servants. If they do care about civil servants, there is no reason for them to propose the deletion of such an important phrase, that is "the Government has to gain the acceptance and support of civil servants", in the motion debate concerning civil servants in June this year. Let me make it clear that I found those people whose words and deeds do not tally or those who distorted others' remarks in political debates most unacceptable. The FTU can accept any comment but I absolutely cannot accept criticisms to the effect that the FTU has betrayed the interest of workers. Madam President, I reacted strongly because I could not accept Mr Andrew CHENG's remarks which were insulting to the FTU. As a matter of fact, the FTU is a labour organization with a history of more than 50 years. It started out with a very small number of members, but its membership has grown to over 300 000 now. If we have betrayed the interest of workers, I believe that we cannot possibly stand in this Council. Nor can we obtain the support from various sectors of the community.

Madam President, the "scrapping" of the Municipal Councils and the workers' interest being affected are two entirely different matters. Some workers did petition the Legislative Council for they failed to see the relationship between these two matters. I believe that it is natural for them to react strongly

if they do not grasp the full picture. But having listened to our explanation, they understand that they were just misled by the specious remarks of other people. As Mr CHAN Wing-chan said earlier, a coalition comprising over 10 labour unions of the staff of the Municipal Councils has been formed and it held a joint conference under the auspices of the FTU. The conference was not convened to discuss the "scrapping" of the Municipal Councils, but to respond to the Government's civil service reform and the EPP. Under these policies of the Government, members of all civil service organizations as well as front-line civil servants will face the impact of contracting out government services. I would like to ask those members of the Democratic Party who sit on the Municipal Councils this: During the past discussions on contracting out municipal services, who was the one urging the Municipal Councils to contract out their services only to local people? It was Mr WONG Kwok-hing of the FTU. I have not heard of the Democratic Party ever making this request. It can be said that the FTU is working in the interest of workers all the time. When civil servants are given unfair treatment by the Government, the FTU will surely stand firmly by the staff and assist in mediation. We will not betray the interest of the staff. If you, Madam President, found any inconsistency in this regard from the speech of Mr CHAN Wing-chan today, we are willing to revise it over and over again. I think Hong Kong is a democratic society in which everyone can express their views. We have no objection to that. But we absolutely cannot accept an act which confused right with wrong and disseminated unfounded allegations.

Madam President, through our efforts, a coalition made up of over 10 civil service organizations in the Municipal Councils has been formed. We explained to them anything that they did not understand. We also explained to them that the reorganization exercise is very much like a change of the board of directors; it is not going to affect them. After the reorganization of municipal services, we still need people to clean the streets, to do the gardening work and to take up jobs for the provision of all kinds of municipal services. It is actually the EPP which has a bearing on them, that is, the problem is caused by the Government contracting out engineering works, services and so on, not by the "scrapping" of the Municipal Councils. At the time when labour disputes occurred in the abattoirs, I said to Mr LAM Woon-kwong that as early as in the 1980s the FTU had stated its objection against the existing structure which features duplication of duties, and that if labour disputes similar to the abattoirs case arised in the Municipal Councils in future, or if the "scrapping" of the Municipal Councils would render their staff an affected party, as claimed by the Democratic Party, the three votes of the FTU would definitely go to the other

side. These have been put on record. Madam President, when we went with the abattoirs workers to negotiate with Mr LAM Woon-kwong, I did ask Mr LAM whether there would be such a case. A core member of the coalition, Ms CHAN Fung-kiu, was also present at the time. So, I want to say to colleagues of the Democratic Party that they cannot wrong others as they like. They should try to conduct researches and studies to grasp the picture before commenting on whether the FTU has done harm to workers. On that day when we received their complaints, one of their numbers, Mr Albert HO, told the deputation of the staff unions that the problems faced by the staff were not linked with the "scrapping" or otherwise of the Municipal Councils. The Secretariat can provide the relevant records of the meeting. Mr Albert HO was one of us who received their complaints and he had also spoken from his conscience, saying that it is not the "scrapping" of the Municipal Councils that affected the workers. Only this can be considered fair. Insofar as this point is concerned, I respect Mr Albert HO very much. I hope Mr Albert HO can tell Mr Andrew CHENG what he said on that day and asked him why he was talking nonsense. Why is he, being a lawyer by profession, so confused with logic? Why does he confuse right and wrong? What are the reasons?

Madam President, I must say these today. In fact, I hold this Council in high esteem. I have great respect for the different stances and opinions of Honourable Members. But I believe that one cannot distort the facts as such even though we have diverse views, particularly those people who uphold democracy, logic, and who studied law. How can they do this? How can they face their constituents? If they insist on doing this, let me tell them, I, CHAN Yuen-han, will elect not to be a Member. Madam President, I am indeed infuriated because I can tolerate comments on me about anything, but I cannot accept criticisms of me for not working in the interest of workers. To arbitrarily fuse the "scrapping" of the Municipal Councils with the rice bowls of workers is downright sophistry. This is simply not true. They may seek the views of those ten-odd civil servant unions and see if they share their views.

Madam President, I am sorry. I am really furious. I really mean it because you can criticize me for anything but I absolutely cannot accept criticisms of us for betraying workers' interest.

Madam President, I also wish to talk about the district boards. I had been a district board member before. I was an elected member of the Hong Kong Eastern District Board between 1988 and 1991. At that time, many subcommittees were set up under a district board. As I participated in all areas of work, I could see that the FTU's observations in many aspects proved to be right. It is because the duties of the Urban Council overlapped with those of the district boards in many areas of work. For example, the anti-rat measures. My constituency was North Point North which covered Chun Yeung Street where many restaurants were located and rats were rampant. However, the question was whether anti-rat measures should be taken by us or by the Urban Council? I found that there was a duplication of duties between them. At that time, our colleagues serving in the district had no idea who should be responsible for this. In Wharf Road, for example, there used to be lots of dog droppings along it. Then, who should assume the responsibility for this problem? You can see that there were two authorities but heaven knows which one of them should assume the responsibility for those problems. The situation is the same even for environmental issues, say, the trees, or whether to tear down trees. We also had heated arguments over this. You can see that with two different departments handling the same set of issues together, it corroborated our long-standing observation that the duties of the district boards and those of the Municipal Councils overlapped in many aspects. So, I cannot but ask: Do we really need these two tiers as such in view of a duplication of duties between them? During that period, representative government was also a subject of discussion. I remember that in a seminar — where Mr LAN, who was not the Secretary then, also attended in the capacity of the Director of Home Affairs, whereas I attended on behalf of the FTU — I clearly expressed the view that we supported an amalgamation of the two tiers of assembly. I thought one tier was enough because Hong Kong is such a small place.

Madam President, a few years later I became a Member of the Legislative Council where I could meet Members from a diversity of sectors, including Mrs Selina CHOW who represented the small vendors. But who should be responsible for managing the small vendors? They also come under the ambit of the Municipal Councils. I remember that in the course of a discussion, somebody stood up and said the subject being discussed could be a municipal issue. That person is a Member of this Council, and if I am not wrong, he is a member of the Democratic Party. He said that it was a municipal issue so it should not be discussed here. I clearly remember that Mrs Selina CHOW then said, "No. It concerns my constituents so it can be discussed in this Council." This also shows a duplication of duties and such duplication of duties corroborated what had been discussed by us in the 1980s. The position of the

FTU is that the two tiers of assembly at the district level can be replaced by one tier. The stance of the FTU is very clear.

Moreover, I also wish to say that I agree with Mr Eric LI on some of the things he said in his speech. He evoked some memories of mine. He said that the existing structure which comprises various tiers of assembly provides a gap for the Government to bypass control. I remember that in around June this year, the Government sought the funding approval of the Finance Committee because the Cheung Sha Wan Abattoir would be closed down. We consulted the affected staff and learned that the proposal was acceptable to them. We also asked our colleagues in the Urban Council, including Mr WONG Kwok-hing who is a Member of the Urban Council. They said that the situation was more or less the same as such, only that some problems had yet to be resolved but according to the Urban Services Department, these problems could be resolved so we thought at the time that there would not be any problem. On the day when the funding proposal was being scrutinized, I repeatedly put questions to the trade unions concerned and they said everything was settled. Nevertheless, it was only after the funding was approved that we found that there was still objection from a small number of staff in the Abattoir. That is to say, the case had not been resolved as claimed by the Government in its papers. Finally, the staff could only stage protests and demonstrations, and Mr LAM Woon-kwong had to reinstate the 97 workers concerned in the end. Madam President, I have strong feelings about these incidents.

Last year saw serious unemployment and underemployment in Hong Kong. We questioned the Government why there were so many jobless people hawking on streets? Why did the Government not set up hawker permitted areas similar to those in the 1970s? Many a time I had been arguing with the then Director of Urban Services, Ms Elaine CHUNG Lai-kwok, openly. I had been asking all the time why did the Government not provide assistance for the jobless to become temporary hawkers instead of arresting them? We found that the Municipal Councils were in a state of confusion internally. Madam President, I had an intense feeling at that time. I felt that it was like "a dog biting a tortoise", not knowing where to start with. Therefore, in this discussion on the reorganization of municipal services, we think we must know clearly in the first place which authority will take over the various kinds of work. According to the Government, Policy Bureaux are the counterparts of our Panels. For example, the Housing Bureau is the counterpart of the Panel on Housing. I think this is a good arrangement. I had the feeling of "a dog biting a tortoise" before insofar as municipal affairs are concerned, and I do not see how the Municipal Councils can resolve problems faced by the unemployed with a clear-

cut position. I have discussed it with Mr WONG Kwok-hing and many other colleagues sitting on the Municipal Councils, hoping to find the solution to the problem. However, we found that many complications are involved. Madam President, I have no intention to comment on the performance of those working in the Municipal Councils. But I have come across a host of problems. These problems have fortified my arguments in the 1980s and vindicated my observations at the time.

As regards the "scrapping" of the Municipal Councils, Secretary Michael SUEN approached us before the tabling of the Bill. I told the Secretary at the outset that he need not lobby for my support because it was no longer a question of whether we support this proposal or not. I told him that our perception was the same with his. Therefore, I had an easy time during this period. No one came to lobby for my support and no one asked for a discussion with me. It is because I made my position crystal clear right at the beginning and there is no question of a struggle over a six-to-four or four-to-six split. If you people still want to say what someone said just now, it is indeed an insult to the FTU, an insult to a group of people who resolutely uphold their principles. It does not matter if we take different views, but please do not poise to find faults with others. We have long engaged in trade union activities in the labour sector. We base on yardsticks and principles in our work. It is true that I am a member of the DAB, but I may not hold the same view as the DAB in some cases. Nevertheless, we will try to understand each other's position and hold more discussions. I do not wish to see the Democratic Party distorting the facts and principles, and passing judgement on us based on a conspiracy theory. They can say anything but they absolutely cannot wrong us. They can take a look at the Government's consultation document and see what the position of the FTU is. They can see what we said in the past few months on the Government's proposal to reorganize the Municipal Councils, and see if we have said at any time that we hold the same view as theirs. Colleagues of the DAB are also well aware of my position. We know that our views are different from theirs so we already made it clear to them at an early stage that we would not change our stance. It is acceptable to us if they wish to further study the issue with us. We can debate the issue with them. We do not see any problem with this. But when it comes to the specific details, frankly speaking, we will expressly state that our position is not going to change.

Madam President, Honourable colleagues, I am very sorry for I have taken up some of your time but I must get it off my chest. If you, Madam President, did not allow me to speak tonight, I definitely could not sleep tonight. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Miss CHAN, your time is up. Please sit down. I now call upon the last Member to speak tonight.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, I think it is the first time I saw Miss CHAN Yuen-han being so furious and she almost burst into tears. In fact, she needed not react so strongly because we have often been wronged in the course of discussion in this Council. No matter how hard the Democratic Party tries to badmouth Hong Kong, Hong Kong has not gone downhill; and although they want to badmouth the DAB, the DAB has been making headway. Therefore, we need not take it serious because the DAB, which is always pragmatic in its work, has gained more and more recognition from the public and is widely supported by members of the community. For this reason, Madam President, you may notice that my voice is hoarse today and this is precisely resulted from the public support for me. It is because I was in high spirits on the night before last, and I shouted and shouted joyously, hence this hoarse voice.

Tonight, we are here to discuss matters of principle. It appears that Members of the Democratic Party have taken great pains to preach their beliefs, describing how the DAB had made an about-turn and how the DAB had sided with the Government. To be honest, what is wrong with throwing weight behind the Government if the Government is right? If we are able to decide on how a matter should be handled only at the eleventh hour, or if we subsequently found that a particular way of dealing with the issue is well justified, then we can go ahead. There is nothing to do with the so-called about-turn. Is it not that the Democratic Party has also made an about-turn on many occasions? Do not think that the DAB appeared to have lost ground when the media joined forces with the Democratic Party, making great play of an about-turn by the DAB and saying that the DAB had abandoned all principles over the toll increase of the Cross Harbour Tunnel. Quite on the contrary, as we can see, the DAB has indeed taken a quantum leap since then in terms of its public support. We will not beat a retreat because of the Democratic Party's assertion of an about-turn on our part. As a matter of fact, our stance has not been changed in respect of the scrapping of the Municipal Councils. Earlier on our Vice Chairman, Mr Gary CHENG, as well as our Chairman have made it clear that our position is different from that of the Government only in terms of timing. In fact, both sides hold rather similar views on a revamp of the two-tier structure, only that we consider it a bit premature to "scrap" the Municipal Councils now but the

Government regards it as a timely step to take. Similarly, insofar as the pace of democratization is concerned, the Democratic Party considers it opportune to have all 60 seats returned by direct elections but we do not think we are ready for that now. In this connection, we share the view of Mr SIN Chung-kai for he spoke of the need for a gradual and orderly approach and asked why the plan to "scrap" the Municipal Councils could not be deferred to 2004 or even 2007. It has never come to me that the Democratic Party can have such rational observations. This is the first time. So, I found it so strange that I wonder if there is any changes in his very nature.

On the other hand, the Democratic Party has invariably employed alarmists tactics by, for instance, saying that the "scrapping" of the Municipal Councils will break the rice bowls of workers. What is the logic of it? Indeed, the interest of some sectors is bound to be jeopardized when whatever adjustment or whatever reform is implemented. However, is it that the service of the cleaners will not be required elsewhere after the Municipal Councils are "scrapped"? Is it that no gardening work will be available for the gardeners? Will all of them lose their jobs eventually? No. Therefore, it is useless to frighten members of the public. It is useless to imbue the public with the alarmist view that the doomsday will arrive after the Municipal Councils are "scrapped". There were views before 1997 that Hong Kong would retrogress after the reunification, that it would be the end of the world, and that democracy and everything else would vanish by then. As a result, hundreds of thousands of people emigrated during the 10 years before the reunification in 1997. Those who had left now blame themselves for not thinking independently at that time but listening to the malicious words and succumbing to all those threats. Now, it is already too late to learn of the truth. I have a close friend who used to be the headmaster of a school in Kwun Tong. He is a very nice man and had been a school headmaster for 20 years. After the "June 4 incident", he believed in the words of some people that things would go really bad after the handover. His wife had also constantly persuaded him to leave Hong Kong, saying that it would be a downright catastrophe after 1997. Finally, he decided to leave for Canada. What did he do in Canada? He ran a fast food shop there, frying turnip cakes and cooking beef noodles. A few years later, Hong Kong reunified with the Motherland and he returned to Hong Kong but with a lot of grievances. He is one of the victims who were frightened by the alarmist talk. Tens of thousands of people returned to Hong Kong each year on average in the past couple of years. These returnees are precisely the victims.

Having spun a yarn about the post-handover Hong Kong, these people then kept saying that the Central Government meddled with the affairs of Hong Kong. They went further to say that the Chief Executive of the Hong Kong Special Administrative Region is but a puppet, a puppet that the Central Government purportedly placed in Hong Kong. These people are oblivious to the fact that the Chief Executive was elected by the people of Hong Kong in accordance with the Basic Law. While these people have burned the Basic Law, but it does not mean that the people of Hong Kong have forgotten what the Basic Law is all about. Moreover, in our discussion on the Disney theme park, they described the deal on more than one occasion as "the people of Hong Kong contributing the chicken whereas the Disney contributing the soya bean sauce", sounding as if the people of Hong Kong will suffer great losses so we apparently should not go ahead with the project. This is an instance of alarmist tactics. When it comes to the Asian Games, they, again, said that we must not bid for it because we will stand to lose money and it is not going to do us any good. This is also an instance of alarmist tactics. When we urged for more to be done on the economic front, they said that it entails government intervention in the economy and government participation in investment activities, and that the Government has been doing this and that and so on.

As a matter of fact, Hong Kong has undergone a great many changes after the reunification, but some people still cling to the mentality of colonialism, maintaining the sort of political melancholy under the colonial rule without being able to break away from those limitations. Now, the question is whether we want to lead Hong Kong to develop into a prosperous society with a high degree of autonomy, or continue to dwell on political issues without actually getting us anywhere. The Democratic Party should indeed do some soul-searching. In fact, the people of Hong Kong are already disgusted with and weary of their political stance. My observation in this last election is that if a candidate is not being pragmatic and not genuinely dedicated to serving the people of Hong Kong, he still cannot make it no matter how skillfully he has presented himself and how categorically he has shouted for democracy. Do not think that democracy and rice bowls are pegged. This is completely useless. Certainly, I have no intention whatsoever to play down the importance of democracy and I do not mean that democracy should not have a role to play in society. But I think democracy should be developed in Hong Kong gradually in light of the wish of the people and social circumstances. We do not necessarily have to follow the practice of others. Do not think that democracy can be achieved simply by borrowing others' theory in its entirety. Do not think that the people of Hong

Kong are naive. Do not think that only the Democratic Party is in a position to speak of democracy. My good partner, Mr LAU Kong-wah, asked just now why we must tread their path for us to be considered democratic. We need not ask this question because the Democratic Party is not a democratic party in its real sense. It should be called the Democratic Hegemonic Party which smacks of hegemony. Mr Andrew CHENG suggested that the DAB should be renamed as the "Democratic Alliance for the U-turn of Hong Kong". His suggestion is pretty good for we hope that Hong Kong will turn for the better. We also hope that the people of Hong Kong can turn away the melancholy in the past and then further their understanding of the nowadays society of Hong Kong. Now, it really counts on our solidarity, co-operation and concerted efforts in order to achieve economic prosperity and social stability. We must be pragmatic in our observations on each and every issue. We must not keep on indulging in the former euphoria of victory in the nurturing colonialist hand, thinking that nothing can possibly go wrong. Such mentality does not work any more. It belongs to the past. Therefore, I very much hope that through this debate we can see that the "scrapping" of the Municipal Councils is just a matter of time. The "one Municipal Council, one department" option proposed by the DAB is only slightly different from the Government's proposal. Would it be that the "one Municipal Council, one department" option does not require the "scrapping" of the Municipal Councils? That is also a form of "scrapping" the Municipal Councils, and their abolition is just a means to an end. I very much hope that in our discussion, we can examine and explore the matter in a more pragmatic manner without entangling in too many political wrangles.

Earlier on Mr Andrew CHENG confessed on his own initiative that as two of the Honourable Members have not returned yet, he would choose not to deliver his prepared speech so that this Council can proceed to vote early, in the hope that the Bill will be voted down and the subject will then be closed. Why did he have to do this? Why did he have to employ such filibuster tactics? In dealing with the District Councils Bill, our debate did not finish until the small hours. I believe that none of the Members present had criticized this despicable ploy of the Democratic Party and none of us had uttered a word that what they did was wrong. Sometimes, many Members and even those of the Democratic Party were watching soccer matches on television or taking a nap outside this Chamber, with just a couple of their Members staying in the Chamber. No one has hurled criticisms at them. But why were we censured today when we put forward the matter for discussion? Therefore, I think Miss CHAN Yuen-han does not need to be infuriated. She ought to understand that this is how things

go in this Council. I believe that what she said in her speech is absolutely right. But please do not get angry because without these noises, I believe that it will not be so much fun when we debate in this Council. Thank you, Madam President.

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting. Members please come back at 9.00 am sharp tomorrow morning.

*Suspended accordingly at twenty-seven minutes to Eleven o'clock.*

**WRITTEN ANSWER****Translation of written answer by the Secretary for Economic Services to Mr NG Leung-sing's supplementary question to Question 1**

Out of the 17 accidents involving sunken river trade vessels from the Mainland, four were caused by shipmasters' poor control and the vessels sank after running on rocks. In another accident, the vessel sank because it lost balance after some improperly secured cargoes moved when the waves surged. After investigation, the Marine Department concluded that these cases were accidents and no legislation was breached, therefore, it had not initiated prosecution in respect of these five accidents.

The Marine Department has reflected the causes of the accidents to the relevant shipmasters, owners of the vessels, the marine authorities of the Mainland and vessel operators, reminding them that they should be equipped with the latest versions of nautical charts and pay attention to the marine notices issued by the Marine Department from time to time to know clearly about the situation of Hong Kong waters. They should also ensure that goods on board are properly secured to avoid similar accidents.

**Annex II****WRITTEN ANSWER****Translation of written answer by the Secretary for Economic Services to Mrs Miriam LAU's supplementary question to Question 1**

During the past three years, two of the accidents involving sunken mainland vessels in Hong Kong waters were caused by a collision of mainland vessels with local vessels. The relevant information is as follows:

| <i>Year</i> | <i>Vessels Involved</i>                           | <i>Casualties</i>                                       |
|-------------|---|---|
| 1997        | One river sand carrier and one local fishing boat | Slight injuries to one person on the local fishing boat |
| 1998        | One mainland cargo vessel and one local tugboat   | Slight injuries to one person on the local tugboat      |

**Annex III****WRITTEN ANSWER****Translation of written answer by the Secretary for Home Affairs to Mr LAU Kong-wah's supplementary question to Question 2**

Depending on the circumstances of each individual case, we can protect credit card-holders by prosecuting offenders who use other people's credit card in an unlawful manner under the following ordinances:

- anyone who uses other people's credit card information for purchases commits a crime under "Theft" as stipulated in section 9 or "Obtaining property by deception" as stipulated in section 17 of the Theft Ordinance (Cap. 210);
- if that person uses such information for purchases on the Internet, then he commits a crime under "Access to computer with criminal or dishonest intent" as stipulated in section 161 of the Crimes Ordinance (Cap. 200);
- under all the above circumstances, he may have also committed a crime under "Fraud" as stipulated in section 16A of the Theft Ordinance (Cap. 210).

As purchases on the Internet are becoming more and more popular, and there is also a tendency for crimes on using other people's credit card information for purchases on the Internet to increase, the Administration is now actively reviewing whether the existing legislation is adequate and considering whether it is necessary to introduce legislative amendments to further combat related crimes.

Moreover, with the rapid development of electronic commerce, the Government has already drafted an Electronics Transaction Bill. If the Bill is passed into law, then the establishment of certification authorities would be encouraged, in order to provide services on certifying the status of participants in electronic commerce, so as to ensure that the electronic transactions are conducted in a safe and secure environment, and thus reduce acts of fraud on the unlawful use of other people's credit card information.

**WRITTEN ANSWER** — *Continued*

On the other hand, private companies are taking certain risks when they offer their goods for sale or provide services simply on the basis of credit card information. If the loss of that credit card has already been reported, then the company may not be able to recover the costs of the goods and hence suffer losses. However, as this is entirely a business decision, the Government could not and should not interfere with the operation of individual companies.

**Annex IV****WRITTEN ANSWER****Written answer by the Secretary for Security to Miss Emily LAU's supplementary question to Question 3**

At present, among those Hong Kong residents who have been detained in the Mainland for over six months, the longest detention period is recorded in a case involving two persons. They have been detained for three years and nine months since late March 1996. Their trial commenced in August last year.

**Annex V****PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and ManpowerClauseAmendment Proposed

- 2            In the proposed section 16(2B) -
- (a)    in paragraph (a)(ii), by deleting "in writing";
  - (b)    by deleting paragraph (d)(i) and (ii) and substituting -
    - "(i)    "the undertaking" in paragraph (a)(B) shall be construed to mean the undertaking which is the most favourable to the applicant among those given to him during that period;
    - (ii)    "the wage reduction" in paragraph (c)(i), (ii) and (iii) shall be construed to mean the wage reduction in respect of the applicant's highest wage level in that period."
- 3            By deleting subclause (1).

## PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Honourable Andrew CHENG Kar-fooClauseAmendment Proposed

2 (a) By deleting the proposed section 16(2B)(a) and (b) and substituting -

“(a) Where it appears to the Commissioner that an applicant's wages have been reduced during the period of 24 months immediately before he is dismissed or laid off, then for the purposes of subsection (2)(f)(i), the applicant's entitlement to severance payment may, if it is more favourable to the applicant, be calculated, subject to paragraph (c), in accordance with section 31G of the Employment Ordinance (Cap. 57).” .

(b) In the proposed section 16(2B)(c), by deleting "(A)".

(c) In the proposed section 16(2B)(d) -

"(i) by deleting "If a wage reduction in respect of which an undertaking as described in paragraph (a)(ii) has been given has occurred in relation to an applicant more than once during the period of 12 months immediately before he is dismissed or laid off" and substituting "For the purposes of paragraph (a), if the applicant's wages have been reduced more than once during the period of 24 months immediately before he is dismissed or laid off";

(ii) by deleting subparagraph (i).