

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 28 April 2004**

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

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.S., J.P.

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

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

DR THE HONOURABLE ERIC LI KA-CHEUNG, G.B.S., J.P.

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, S.B.S., J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., 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.

DR THE HONOURABLE LAW CHI-KWONG, J.P.

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

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

THE HONOURABLE ABRAHAM SHEK LAI-HIM, J.P.

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, J.P.

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK, J.P.

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE MA FUNG-KWOK, J.P.

**MEMBERS ABSENT:**

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE LAU CHIN-SHEK, J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE DONALD TSANG YAM-KUEN, G.B.M., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.  
THE FINANCIAL SECRETARY

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

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR HOUSING, PLANNING AND LANDS

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

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.  
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.  
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG, J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

THE HONOURABLE AMBROSE LEE SIU-KWONG, IDSM, J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.  
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

**CLERKS IN ATTENDANCE:**

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 .....	57/2004
Boundaries of Ferry Terminals (Repeal) Order .....	58/2004
Boundaries of Restricted Areas of Ferry Terminals (Repeal) Notice .....	59/2004
Immigration (Places of Detention) (Amendment) Order 2004 .....	60/2004
Immigration Service (Designated Places) (Amendment) Order 2004 .....	61/2004
Chemical Weapons (Convention) Ordinance (26 of 2003) (Commencement) Notice 2004 .....	62/2004

**Other Papers**

- No. 78 — Traffic Accident Victims Assistance Fund Annual Report for the year from 1 April 2002 to 31 March 2003
- No. 79 — Summary and Revenue Analysis by Head, General Revenue Account, Estimates for the year ending 31 March 2005
- No. 80 — Annual Report 2003  
Kowloon-Canton Railway Corporation

**WRITTEN ANSWERS TO QUESTIONS****Breakdown of Employment Statistics**

1. **MR LEE CHEUK-YAN** (in Chinese): *Madam President, regarding the employment statistics for 2003 compiled by the Census and Statistics Department, will the Government inform this Council of the number of employed persons (excluding unpaid family workers, foreign domestic helpers and employed persons who worked less than 35 hours during the seven days before enumeration due to vacation), broken down by the groupings in the form appended below?*

<i>Number of employed persons</i>						
<i>Monthly employment earnings</i>						
<i>Gender/Hours of work during the seven days before enumeration</i>	<i>Less than \$3,000</i>	<i>\$3,000 to \$4,999</i>	<i>\$5,000 to \$7,499</i>	<i>\$7,500 to \$9,999</i>	<i>\$10,000 or above</i>	<i>Total</i>
<i>Female</i>						
<i>Less than 35 hours</i>						
<i>35 to 49 hours</i>						
<i>50 to 59 hours</i>						
<i>60 hours or above</i>						
<i>Sub-total</i>						
<i>Male</i>						
<i>Less than 35 hours</i>						
<i>35 to 49 hours</i>						
<i>50 to 59 hours</i>						
<i>60 hours or above</i>						
<i>Sub-total</i>						
<i>Female and male</i>						
<i>Less than 35 hours</i>						
<i>35 to 49 hours</i>						
<i>50 to 59 hours</i>						
<i>60 hours or above</i>						
<i>Total</i>						

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): *Madam President, the requested employment statistics provided by the Census and Statistics Department are as follows:*

Sex	Hours of work during the seven days before enumeration (hours)	Monthly employment earnings (HK\$)					Total number of employed persons
		< \$3,000	\$3,000 to \$4,999	\$5,000 to \$7,499	\$7,500 to \$9,999	\$10,000 or over	
Female	Less than 35	53 500	31 800	13 800	4 500	10 900	114 500
	35 to 49	11 300	49 800	126 000	113 000	369 800	669 800
	50 to 59	1 800	15 200	47 100	31 500	90 400	186 100
	60 or over	4 100	20 500	67 500	29 800	43 300	165 200
	Sub-total	70 600	117 300	254 400	178 800	514 500	1 135 600
Male	Less than 35	28 100	28 900	29 200	15 300	16 100	117 700
	35 to 49	14 000	31 900	113 600	140 500	555 700	855 700
	50 to 59	3 000	8 500	39 300	54 300	195 200	300 300
	60 or over	5 900	14 100	95 000	80 600	206 400	402 000
	Sub-total	51 000	83 500	277 100	290 700	973 400	1 675 700
Both sexes	Less than 35	81 600	60 700	43 100	19 800	27 100	232 200
	35 to 49	25 300	81 700	239 600	253 500	925 500	1 525 600
	50 to 59	4 800	23 800	86 400	85 800	285 600	486 400
	60 or over	10 000	34 600	162 500	110 400	249 700	567 200
	Total	121 600	200 800	531 500	469 500	1 487 900	2 811 300

Note: Numbers may not add up to the totals owing to rounding.

Source: Figures are averages of the figures obtained from the General Household Survey for the first quarter to the fourth quarter of 2003.

## Measures to Further Enhance Safety in Road Works

2. **MS MIRIAM LAU** (in Chinese): *Madam President, the Administration advised in February last year that it was considering the introduction of new measures to further enhance the safety in road works, including the use of Variable Message Signs (VMSs) and the installation of Truck Mounted Attenuators (TMAs) at the back of road works vehicles. In this connection, will the Government inform this Council:*



- (a) *of the unit price of VMSs and the approximate number of VMSs required each day for road works;*
- (b) *of the number of road works vehicles involved and the unit cost of installing TMAs at the back of such vehicles; and*
- (c) *whether it plans to implement these measures; if so, of the details of the plan; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President, the cost of a VMS is about \$160,000. The number of VMSs required each day varies with the amount of road works that need to be carried out.

The cost of a TMA is about \$180,000. Currently, 16 road works vehicles are equipped with TMAs.

To enhance safety during the course of road works, the Highways Department (HyD) has recently promulgated a set of guidelines relating to the installation and use of TMAs and VMSs for government contractors to follow. The HyD will include the requirements in the Code of Practice for the lighting, signing and guarding of road works under the Road Traffic Ordinance.

**Drainage Repair**

3. **MR ABRAHAM SHEK:** *Madam President, will the Government inform this Council:*

- (a) *of the percentage of compliance with the statutory orders concerning defective drainage repair/investigation which were issued in the last three years to owners of private buildings which do not have owners' corporations (OCs);*
- (b) *of the measures taken by the Buildings Department (BD) to ensure compliance with statutory orders issued last year to owners of such private buildings;*

- (c) *whether it has considered creating a specialist contractor list for plumbing and drainage works; and*
- (d) *whether, for ease of control and administration, it has considered classifying these works into one works category, and delegating the responsibility of monitoring them to one government department?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS:** Madam President, my response to the four parts of the question is as follows:

- (a) The number of statutory orders concerning defective drainage repair/investigation issued in the last three years to owners of private buildings without OCs and the corresponding percentage of compliance are given below:

<i>Year</i>	<i>Number of statutory orders concerning defective drainage repair/investigation</i>	<i>Percentage of compliance (as at end March 2004)</i>
2001	40	40%
2002	140	50%
2003	1 300	30%

The significant increase in the number of statutory orders issued in 2003 was due to stepped up inspection of drainage pipes under Team Clean initiatives.

- (b) The BD has adopted various measures to ensure owners' compliance with the statutory orders. A list of the buildings served with such orders but without OCs has been given to the Home Affairs Department which would render assistance to the owners concerned, including assistance in co-ordinating the repair works where necessary. Upon request, BD staff would hold meetings with individual owners or groups of owners with a view to resolving their problems in carrying out the orders, including assisting them to apply for financial assistance under the Building Safety Loan Scheme.

BD staff would also conduct checking to see whether the works required in the orders have been complied with. Where there has been no progress in rectifying drainage defects, the BD would issue reminders to the owners concerned. Should the building owners subsequently fail to comply with the orders, the BD would engage government contractor to carry out the repair works and recover the cost from the owners afterwards.

(c) and (d)

A water supply plumbing system comprises water pipes and fittings which serve to supply water for potable and fire service purposes in a building. A drainage system comprises above-ground piping, underground drains and channels for the disposal of all foul water and surface water from a building. The installation of the two types of system involves two different kinds of works subject to different functional requirements, design standards and construction specifications warranting different expertise and knowledge in design, construction, supervision and control. It would therefore not be appropriate to group the water supply plumbing works (plumbing works) and drainage works into one works category.

Plumbing works are controlled under the Waterworks Ordinance (WO), and licensed plumbers are licensed under the WO to carry out such works. To be eligible to become a licensed plumber, the applicant should possess the requisite knowledge in plumbing and pipefitting. On the other hand, drainage works are a kind of building works controlled under the Buildings Ordinance (BO). Registered General Building Contractors (RGBCs) are registered under the BO to carry out building works, including drainage works, according to the building plans prepared by Authorized Persons and approved by the Building Authority. To be eligible for registration as an RGBC, the applicant is required to have a thorough knowledge of building works, including drainage works, and the ability to supervise and manage the carrying out of the building works.

Given that plumbing and drainage works are two different kinds of works, and that licensed plumbers and RGBCs are registered under

two different registration systems, it would not be appropriate to create a specialist contractor category to carry out these works.

At present, the Water Supplies Department is responsible for monitoring plumbing works under the WO whilst the BD is responsible for monitoring drainage works as part of building works under the BO. The practice of having plumbing and drainage works controlled under two separate regimes has been working effectively. We consider there is no need to put the responsibility for monitoring plumbing and drainage works under one single government department.

### **Local Domestic Helpers**

4. **MR NG LEUNG-SING** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of local domestic helpers (LDHs) in each of the past three years and the number of those required to live in their employers' homes, as well as the percentages of those helpers who have completed the relevant domestic helper training courses offered by the Employees Retraining Board (ERB);*
- (b) *whether it has assessed the effectiveness of the above training courses in expanding the employment market for LDHs; if so, of the assessment results; and*
- (c) *whether it plans to provide incentives to encourage current helpers to take up jobs as live-in domestic helpers; if so, of the relevant details; if not, the reasons for that?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): Madam President,

- (a) and (b)

The Census and Statistics Department does not separately collect statistics on the number of LDHs in its General Household Survey. LDHs, like foreign domestic helpers and people engaged in

low-skilled occupations, are collectively classified as "workers in elementary occupations" in the survey. Except for the figures collected by the ERB as shown below, the Government does not have the total number of LDHs in Hong Kong and the number of LDHs required to live in their employers' homes.

The domestic helper retraining courses provided by the ERB is considered effective in developing the LDHs' market. The courses help to equip job seekers with professional housework techniques, knowledge of occupational safety and health and proper working attitude with a view to enhancing their working skills.

In 2001-02, the number of ERB-trained LDHs was 11 600 with 9 500 (82%) successfully placed. To further expand the LDHs' market, the ERB introduced the Integrated Scheme for LDHs in May 2002. The Integrated Scheme seeks to provide "employer-oriented" value-added services. Under the Scheme, a centralized web-based database on LDH vacancies and LDH retrainees has been set up in 13 Regional Services Centres to facilitate effective and efficient job matching for employers and LDH retrainees. Since the introduction of the Integrated Scheme, the number of ERB-trained LDHs rose to 16 000 in 2002-03 and 10 000 in the first seven months of 2003-04, whilst the number of successful placements was 13 500 (84.4%) and 8 700 (87%) respectively.

To further promote the service of LDH, the ERB has also stepped up publicity of the Integrated Scheme. Examples include partnering with property management companies of large housing estates to promote the Integrated Scheme to their residents, producing special feature programmes and "announcement of public interest", and publicizing successful stories of LDHs. Through these publicity efforts, public understanding of and confidence in the LDH services have increased. Prior to the launching of the Integrated Scheme, the number of LDH vacancies registered with the ERB was 17 200 in 2001-02. Since the introduction of the Integrated Scheme in May 2002, the figures increased significantly to 34 900 in 2002-03 and 35 500 in 2003-04.

- (c) To encourage more LDHs to take up jobs requiring them to work "across districts" or during "unsocial hours" (that is, from 5 pm to

9 am), the Administration has implemented the "Special Incentive Allowance Scheme" since June last year. Qualified LDHs who need to work "across districts" or during "unsocial hours" can apply for a daily allowance of \$50, with a monthly maximum of \$1,200 and an overall cap of \$7,200 per LDH. LDHs who need to stay overnight at their employers' residence are eligible for the special incentive allowance.

### **Waiver of Medical Fees**

5. **MS CYD HO** (in Chinese): *Madam President, regarding wavier of medical fees, will the Government inform this Council:*

- (a) of the operation of the medical fee wavier mechanism applicable to the accident and emergency service charges (A&E charges) of public hospitals, as well as the procedure for making fee wavier applications;*
- (b) of the number of applications for fee wavier submitted under the above mechanism and successful cases in each of the past months since the introduction of A&E charges and up to the end of February this year, broken down by applicant category (such as low-income patients, chronically ill patients, elderly patients with little income and assets, and so on), as well as the average validity period of the fee wavier granted;*
- (c) how the above numbers of applications and successful cases compare to those of similar cases under the enhanced medical fee wavier mechanism; and*
- (d) whether it has measures to promote the enhanced medical fee wavier mechanism; if so, of the amount of expenditure involved; if not, the reasons for that?*

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

- (a) It has been the Government's policy that no one will be denied adequate medical care due to lack of means. To ensure that this principle is upheld after the introduction of A&E charges for public hospitals in November 2002, recipients of Comprehensive Social Security Assistance (CSSA) have been exempted from payment of the charges. In addition, an enhanced medical fee waiver mechanism has been implemented to enable vulnerable groups other than CSSA recipients, including low-income patients, chronically ill patients and elderly patients in economic hardship, to be granted a fee waiver for A&E and other public medical services.

Under the enhanced waiver mechanism, non-CSSA recipients who cannot afford public medical charges (including A&E charges) may apply for a fee waiver from medical social workers stationed in public hospitals. Each application is assessed with regard to the financial, social and medical conditions of the applicant concerned on a household basis. In no circumstances will the assessment process affect the delivery of the medical care required by the patients concerned.

- (b) and (c)

The monthly statistics on successful applications that involved the use of A&E services under the enhanced medical fee waiver mechanism from April 2003 to February 2004 are tabulated below.

<i>Month</i>	<i>Total number of successful applications under the enhanced waiver mechanism that involved the use of A&amp;E services</i>
April 2003	384
May 2003	439
June 2003	621
July 2003	773
August 2003	831
September 2003	904
October 2003	886
November 2003	896
December 2003	960
January 2004	788
February 2004	886
Total	8 368

Of the 8 368 waivers that involved the use of A&E services, about 33% were related to patients aged 65 or above. Some 77% of the 8 000-odd waivers were valid for a certain period. The average validity period was about six months.

The other information requested including the statistical breakdowns on unsuccessful applications are not readily available as the data are not routinely captured by the Hospital Authority's information system.

- (d) To promote public awareness of the enhanced medical fee waiver mechanism, the Social Welfare Department (SWD) and the Hospital Authority have been displaying/distributing bilingual posters and leaflets at their front-line operational units, including public hospitals and clinics as well as the SWD's medical social services units, family services centres and social security field units. The promotional expenditure involved is covered by the financial provisions for the two agencies and cannot be separately identified.

### **Government's Outsourced Services**

6. **MR LEUNG FU-WAH** (in Chinese): *Madam President, in connection with those Government's outsourced services for which a large number of non-skilled workers are employed, such as cleaning and security services, will the Government inform this Council:*

- (a) *of the following over the past three financial years:*
  - (i) *the top 20 departments that granted the largest number of such outsourced contracts each year, the numbers of contracts involved, as well as the daily numbers of hours of work to be performed by such non-skilled workers and the wages payable to them, as proposed by contractors of outsourced services;*
  - (ii) *the number of complaints received each year from such workers about their remuneration and the follow-up actions taken by the Administration; and*



- (iii) *the respective numbers of contractors prosecuted and convicted each year for suspected violations of the Employment Ordinance (Cap. 57) and the penalty imposed on them;*
- (b) *whether it has assessed the effectiveness of its monitoring efforts regarding whether the contractors have given their workers reasonable wages; if it has, of the assessment results and the follow-up actions taken; if not, the reasons for that;*
- (c) *of the specific measures to implement the Chief Executive's pledge in his policy address this year that the Administration "will pay attention to whether those working on government contracts are receiving a reasonable wage"; and*
- (d) *whether the Administration will consider adopting a marking scheme for tenders of outsourced services according to the market wages of such non-skilled workers; if it will, the details of its consideration; if not, the reasons for that?*

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

- (a)(i) According to the current procedures, procuring departments are normally required to go through the tender procedures in awarding service contracts that rely on the employment of a large number of non-skilled workers. Over the past three financial years, a total of 11 government departments have awarded 356 contracts of this type. In addition, the Housing Department has through the department's own tender procedures awarded a total of 184 contracts of this type over the past three years. The wages and daily working hours offered by the contractors of these contracts to the non-skilled workers employed by them are detailed in the Annex. As each contract has its own requirements and characteristics, the nature and type of work undertaken by the non-skilled workers and their working environment are not all similar. Hence their wage levels are different.

- (ii) The number of complaints about wages received by the Labour Department and other government departments (including the Housing Department) over the past three financial years is as follows:

<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
4	11	29

All these complaints have been investigated by the procuring departments. The procuring departments concerned have issued warning letters or default notices to the contractors where the complaints were substantiated and depending on the circumstances of the case, referred the cases to the Labour Department. The Labour Department has taken follow-up action on the complaints received by it directly or referred to it by other departments. The follow-up action included interviewing the employees and the contractors separately, looking into the matter of complaint and conducting surprise inspections. It has also brought prosecutions against the contractors where there was enough evidence to establish that the contractors concerned were in breach of the Employment Ordinance.

- (iii) Over the past three financial years, the number of successful prosecution cases conducted by the Labour Department for contractors' breaches of the Employment Ordinance and the fines imposed on the contractors are as follows:

	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
no. of summonses issued in successful prosecution cases	261	33	3
finer	\$500 to \$5,000	\$800 to \$4,000	\$3,000 to \$6,000
average fines	\$1,215	\$1,639	\$4,667

Since 2001, the Labour Department has stepped up the inspection of government service contractors to see if there was any breach of the labour law. The situation in this regard has improved in recent years. Inspections by the Labour Department indicate that most of

the employees of contractors enjoy rest days at present. Moreover, the majority of the employees hold a copy of their written employment contract.

During 2003-04, the Labour Department when carrying out inspections, found that individual contractors were involved in cases of underpayment of wages, or failure to provide statutory holidays or copies of the written employment contracts to their employees. After warning by the labour inspectors, the contractors concerned have made up for the shortfall of wages and provided the statutory holidays and copies of the written employment contracts to their employees. As not all the employees are willing to serve as the prosecution witnesses, the Labour Department will inform the procuring departments of the cases and urge them to step up monitoring in respect of the contractors concerned.

- (b) Under the existing tendering arrangements, Controlling Officers are required to adopt a marking scheme for the evaluation of tenders of service contracts. They are required to include in their assessment criteria the evaluation of the wage levels and working hours of non-skilled workers to be employed by the contractors included in the tenders received, to determine whether the wage offers are in line with the conditions in the market for similar trade/industry and commensurate with the standards of services the Government intends to procure. Controlling Officers are also required to introduce a passing mark for the employment terms-related evaluation criteria for deciding whether the tender offer should be considered. Based on the tender results, including the wages paid by the successful contractors to their non-skilled workers, Controlling Officers are required to carry out their own review of the effectiveness of their marking schemes (including the assessment criteria for wages and working hours). Individual departments which have carried out a review of their marking schemes are considering adjusting the weighting of the assessment criteria for wages and working hours in their marking schemes.
- (c) The above tendering arrangements aim to ensure that workers employed for services outsourced by the Government receive a reasonable wage. In addition, in March this year the Government

promulgated some mandatory requirements, under which a tender offer will not be considered if, during the 12-month period prior to the tender closing date, the tenderer has had a total of three or more convictions under the Employment Ordinance, the Employees' Compensation Ordinance and the Immigration Ordinance<sup>Note</sup>. Furthermore, the Government promulgated a demerit point system, under which for each breach of the obligations in respect of wages, working hours and signed written contracts with employees, a default notice will be issued to the contractor concerned. Each default notice will attract a demerit point. A tender offer will not be considered if during the four most recent quarters before the tender closing date, the tenderer has received from one or more departments a total of six demerit points. The above measures would encourage contractors to commit to a reasonable wage for the non-skilled workers employed by them, and reinforce the sanctions against breaches of such commitment.

- (d) As mentioned in (b) above, under the existing tendering arrangements, Controlling Officers, when procuring by tender services that rely on the employment of a large number of non-skilled workers, are required to adopt a marking scheme for the evaluation of tenders. They are required to include in their assessment criteria the evaluation of the wage levels and working hours of workers to be employed by the contractors included in the tender received, to determine whether the wage offers are in line with the conditions in the market for similar trade/industry and commensurate with the standards of services the Government intends to procure. They may refer to the Quarterly Reports of Wage and Payroll Statistics issued by the Census and Statistics Department for information on the prevailing market wage rates and working hours in the trades/industries. In addition, they are required to consider grouping various manpower or employment terms-related evaluation criteria (including wage levels and working hours) under one section in the marking scheme and introducing a passing mark for that section.

Note

All convictions which individually carry maximum fines corresponding to Level 5 or higher within the meaning of Schedule 8 to the Criminal Procedure Ordinance will count as convictions under the Employment Ordinance and the Employees' Compensation Ordinance. Convictions under sections 17I or 38A(4) of the Immigration Ordinance, regarding being employer of a person who is not lawfully employable, will count as convictions under the Immigration Ordinance.

## Annex

Service Contracts Involving Engagement of Large Number  
of Non-skilled Workers Awards in 2001-02

<i>Department</i>	<i>No. of service contracts</i>	<i>Contractor's proposed monthly wage<sup>@</sup></i>	<i>Contractor's proposed allowable daily maximum working hours</i>
Agriculture, Fisheries and Conservation Department	4 <sup>#</sup>	-	-
	1	\$4,500	10
Food and Environmental Hygiene Department	21*	-	-
	2	\$4,160 to \$4,500	10
	6	\$4,501 to \$5,000	8 to 10
	10	\$5,001 to \$5,500	8 to 10
	19	\$5,501 to \$6,000	8 to 10
	1	\$7,300	8
Government Property Agency	1	\$6,350	8
		\$5,500	8
Housing Department	13 <sup>Δ</sup>	-	-
	1	\$2,400 to \$5,100	8 to 9
	2	\$3,000 to \$5,100	8 to 9
	1	\$3,300 to \$4,300	8
	3	\$3,300 to \$5,100	8 to 9
	3	\$4,258.8 to \$4,500	8
	8	\$5,001 to \$5,500	8
	24	\$6,501 to \$7,000	12
	1	\$7,580	12
Leisure and Cultural Services Department	36 <sup>#</sup>	-	-
	6	\$4,000 to \$4,500	8 to 11
	9	\$4,501 to \$5,000	8 to 11
	5	\$5,001 to \$5,500	8 to 11
	2	\$5,501 to \$6,000	8
	1	\$6,800	8
Marine Department	1 <sup>#</sup>	-	-
	1	\$4,200	7.5
Social Welfare Department	1	\$8,165	8.5
Water Supplies Department	1	\$4,467	12

- # Contract(s) were invited before 26 May 2001 (the date of promulgation of the new arrangement requiring the use of marking scheme for evaluating contracts that rely heavily on employment of non-skilled workers.) As there was no requirement for information in respect of wages and working hours in the tender documents concerned such information is not available.
- @ The monthly wage is calculated on the basis of eight working hours per day and 26 working days per month (if the daily working hours exceed eight hours, the wage will be increased on a pro-rata basis).
- Δ Contractors are not required to propose the monthly wage and the daily working hours in these contracts.

Service Contracts Involving Engagement of Large Number  
of Non-skilled Workers Awarded in 2002-03

<i>Department</i>	<i>No. of service contracts</i>	<i>Contractor's proposed monthly wage<sup>@</sup></i>	<i>Contractor's proposed allowable daily maximum working hours</i>
Agriculture, Fisheries and Conservation Department	1	\$7,020	8
Buildings Department	1	\$5,500	8.5
Fire Services Department	1	\$5,138	8
	1	\$5,620	8
Food and Environmental Hygiene Department	1	\$4,472	8
	12	\$4,501 to \$5,000	8 to 10
	54	\$5,001 to \$5,500	8 to 10
	3	\$5,501 to \$6,000	8 to 9
	1	\$6,500	10
	1	\$7,000	8
	1	\$8,028	8

<i>Department</i>	<i>No. of service contracts</i>	<i>Contractor's proposed monthly wage<sup>@</sup></i>	<i>Contractor's proposed allowable daily maximum working hours</i>
Housing Department	1	\$3,300 to \$4,500	7 to 9
	1	\$3,400 to \$3,900	8
	1	\$3,500 to \$4,000	7 to 8
	1	\$4,000	7 to 9
	1	\$4,012 to \$4,200	7 to 9
	2*	\$3,500 to \$4,000	-
	4*	\$4,001 to \$4,500	-
	3*	\$4,501 to \$5,000	-
	2*	\$5,001 to \$5,500	-
	1*	\$5,600	-
	68	\$5,150 to \$5,500	8
	4	\$5,501 to \$5,577	8
	Lands Department	3	\$4,908.8
1		\$5,200	8
Leisure and Cultural Services Department	4	\$3,494 to \$4,000	8 to 12
	2	\$4,001 to \$4,500	11 to 12
	8	\$4,501 to \$5,000	8 to 10
	7	\$5,001 to \$5,325	8 to 11
Social Welfare Department	2	\$5,500 to \$5,700	7 to 8
	2	\$6,300 to \$6,406	9 to 10

@ The monthly wage is calculated on the basis of eight working hours per day and 26 working days per month (if the daily working hours exceed eight hours, the wage will be increased on a pro-rata basis).

\* Contractors are not required to propose the daily working hours in these contracts.

Service Contracts Involving Engagement of Large Number  
of Non-skilled Workers Awarded in 2003-04

<i>Department</i>	<i>No. of service contracts</i>	<i>Contractor's proposed monthly wage<sup>@</sup></i>	<i>Contractor's proposed allowable daily maximum working hours</i>
Agriculture, Fisheries and Conservation Department	1	\$4,500	8
	1	\$5,190	8
	1	\$5,800	11
Buildings Department	1	\$4,500	8.5
Fire Services Department	1	\$4,700	8
	1	\$5,000	8
Food and Environmental Hygiene Department	10	\$4,900 to \$5,000	8 to 10
	47	\$5,001 to \$5,500	8 to 10
	9	\$5,501 to \$6,000	8 to 10
	5	\$6,001 to \$6,500	8 to 10
	1	\$7,500	8
Government Property Agency	1	\$5,878	8
		\$5,000	8
	1	\$5,000	7
		\$4,986	8
	1	\$5,596	8
	\$4,289	8	
Home Affairs Department	2	\$4,160 to \$4,268	10 to 12
	2	\$4,833 to \$4,900	12
Housing Department	1	\$2,500 to \$8,000	7 to 10
	1	\$2,586 to \$3,566	8 to 9
	1	\$2,796 to \$3,900	8
	1	\$3,000 to \$3,013	7 to 9
	1	\$3,000 to \$3,200	8
	1	\$3,000 to \$4,000	8
	1	\$3,000 to \$4,650	8



<i>Department</i>	<i>No. of service contracts</i>	<i>Contractor's proposed monthly wage<sup>@</sup></i>	<i>Contractor's proposed allowable daily maximum working hours</i>
	2	\$3,200	8
	1	\$3,200 to \$5,000	7 to 11
	1	\$3,300	8
	1	\$3,350 to \$5,600	8 to 9
	1	\$3,400 to \$4,600	8 to 9
	1	\$3,500	8
	1	\$3,500 to \$5,800	8 to 9
	1	\$3,600 to \$5,300	7 to 9
	1	\$3,810 to \$5,300	7
	1	\$4,000	8
	1	\$4,000 to \$4,200	7 to 9
	1	\$4,000 to \$5,800	8 to 10
	1	\$4,100	7 to 9
	3	\$5,382 to \$5,500	8
	5	\$5,501 to \$6,000	8
	9*	\$4,000 to \$4,500	-
	1*	\$6,010	-
Leisure and Cultural Services Department	5	\$3,733 to \$4,000	8 to 10
	10	\$4,001 to \$4,500	8 to 11
	12	\$4,501 to \$5,000	8 to 11
	3	\$5,001 to \$5,190	8
Marine Department	1	\$5,100	8
	1	\$4,300	10
	1	\$3,458	9
Social Welfare Department	1	\$5,300	8
	1	\$5,830	9
	1	\$4,500	8
Water Supplies Department	1	\$5,590	8

- @ The monthly wage is calculated on the basis of eight working hours per day and 26 working days per month (if the daily working hours exceed eight hours, the wage will be increased on a pro-rata basis).
- \* Contractors are not required to propose the daily working hours in these contracts.

### **Assistance Offered by Urban Renewal Authority**

7. **DR LAW CHI-KWONG** (in Chinese): *Madam President, will the Government inform this Council whether it knows if the Urban Renewal Authority (URA) has plans to:*

- (a) *revise the basis (that is, the market value of an approximately seven-year-old flat of a similar size in the same locality of the acquired flat) for calculating the Home Purchase Allowance (HPA), or reduce the level of other allowances; if so, of the details of the plans; if not, the specific means the Administration has to help the URA resolve its financial difficulties; and*
- (b) *provide additional assistance to the elderly property owners affected by redevelopment programmes, in particular assistance in rehousing and financial provision; if it has, of the details of the assistance; if not, the reasons for that?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese):

Madam President, my replies to the two parts of the question are as follows:

- (a) The URA is an independent statutory body established to implement the urban renewal programme. Its policies, including acquisition and compensation policies, are determined by the URA Board from time to time.

The Government's HPA policy was approved by the Finance Committee of the Legislative Council in March 2001 and applies to

all government resumption exercises, including those relating to URA projects. The URA's compensation policy is based on the statutory compensation under the Lands Resumption Ordinance and the Government's HPA policy, plus some applicable *ex gratia* allowances to act as an incentive to encourage affected owners to accept the URA's acquisition offers voluntarily.

The URA keeps in view the operation of its policies, including its compensation policy. It will from time to time take stock of the operation of its compensation policy in the light of experience gained from launched projects and changing economic and market conditions to ensure the best use of its available resources, and an effective and sustainable urban renewal programme. As part of the ongoing liaison between the URA and the Government, the URA shares with us its experience in different areas of its work. The URA has not made any specific proposals to revise the basis for calculating the HPA.

Other *ex gratia* allowances are set by the URA Board from time to time. The Government is not aware of any current proposals of the URA Board to change such allowances.

The Government has put considerable resources into urban renewal, including reserving \$10 billion for equity injection into the URA and granting redevelopment sites to the URA at nominal premium. On the basis of the Government's financial support and subject to various assumptions (such as movements in the property market and interest rate changes), the URA estimates that it would achieve a breakeven position with a marginal surplus at the end of the development period for all the projects in its third Corporate Plan.

- (b) The URA has engaged social service teams to assist residents who are in need of special assistance, including elderly owners. Assistance offered to such owners includes facilitating them in finding suitable replacement flats, helping them in the physical relocation and in the process of their adapting and settling down in

the new home. Temporary rehousing arrangement and financial assistance are provided to elderly owners who are in genuine need. Upon request, initial deposits above the standard payment of 10% of the offer may be paid to assist owners who need such an arrangement to secure a replacement flat.

### **Participation of Senior Staff of Major Public Organizations in International Organizations**

8. **MR HENRY WU** (in Chinese): *Madam President, will the Government inform this Council of the offices in international organizations taken up by directorate civil servants and persons in charge of the Hong Kong Monetary Authority (HKMA), the Securities and Futures Commission (SFC) and the Mandatory Provident Fund Schemes Authority (MPFA), and the time they spent on such duties, as well as the amount of the resultant expenses on travelling, accommodation, logistical support, and so on, paid by their employers in each of the past five years, broken down by their respective bureaux and public bodies?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President, we set out in the Annex for Members' information the offices in international organizations taken up by directorate civil servants and persons in charge of the HKMA and the SFC between 1999-2000 and 2003-04. The MPFA has given a nil return.

One of the duties for directorate civil servants and officers in charge of the public bodies is to participate in conferences and activities of the relevant international organizations where necessary, and to take up the offices in these organizations where appropriate so as to safeguard and promote the interests of Hong Kong. These duties do not affect the day-to-day work of our senior officers. Hence, we have not separately accounted for the time spent on such duties. Expenses of duty visits arising from the work of the offices in international organizations taken up by the officers concerned are also shown in the Annex.

## (I) Offices in International Organizations held by Directorate Civil Servants

Post title of the directorate officer	International organization participated	Position held in the international organization (and duration)	Government expenditure arising from duty visits <sup>(Note)</sup> (\$)				
			1999-2000	2000-01	2001-02	2002-03	2003-04
<i>Commence, Industry and Technology Bureau</i>							
Executive Administrator (Laboratory Accreditation) (HA), Innovation and Technology Commission (ITC)	Asia Pacific Laboratory Accreditation Cooperation	Chairlady of Training Committee (February 1996 to November 2002) Vice-chairlady of Board of Management (November 1996 to October 2000) Member of Board of Management (since October 2000) Member of Multilateral Recognition Arrangement Council (since February 1996)	19,000	81,000	17,000	38,000	-
HA, ITC	International Laboratory Accreditation Cooperation (ILAC)	Convenor of the ILAC – Accreditation Policy Committee (APC) Task Force (November 2000 to September 2002) Member of ILAC – APC (since November 2000)	-	-	59,000	49,000	-
Assistant Director (Support), Office of the Telecommunications Authority	International Telecommunication Union – Telecommunication Development Bureau	Vice-chairman of Study Groups (2002 to 2005)	-	-	-	24,000	34,000

Post title of the directorate officer	International organization participated	Position held in the international organization (and duration)	Government expenditure arising from duty visits <sup>(Note)</sup> (\$)				
			1999-2000	2000-01	2001-02	2002-03	2003-04
Deputy Director of Broadcasting	Asia-Pacific Broadcasting Union (ABU)	Member of ABU Administrative Council (since 1996)	8,000	-	-	-	-
Director of Broadcasting	ABU	Member of ABU Administrative Council (since 1996)	-	23,000	55,000	16,000	48,000
Director of Information Technology Services (DITS)	The Internet Corporation for Assigned Names and Numbers (ICANN)	Member of the Governmental Advisory Committee (GAC) of ICANN (since May 1999)	115,000	107,000	98,000	276,000	169,000
<i>Economic Development and Labour Bureau</i>							
Assistant Director of Marine	Port State Control Committee (PSCC), Tokyo Memorandum of Understanding	Chairman of the 10th and 11th Meetings of the PSCC (three meetings)	-	-	30,000	8,000	-
Chief Controller of Posts (External Affairs)	Universal Postal Union Express Mail Service (EMS) Cooperative	Board member (September 1999 to September 2002)	-	51,000	78,000	30,000	-
Director, External Affairs, Hongkong Post	Universal Postal Union EMS Cooperative	Board member (October 2002 to September 2004)	-	-	-	6,000	27,000
Postmaster General	Kahala Posts Group	Member of CEO Board (since June 2003)	-	-	-	-	28,000

<i>Post title of the director/office officer</i>	<i>International organization participated</i>	<i>Position held in the international organization (and duration)</i>	<i>Government expenditure arising from duty visits<sup>(Note)</sup> (\$)</i>				
			<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
<i>Environment, Transport and Works Bureau</i>							
Director of Agriculture, Fisheries and Conservation	World Commission on Protected Areas of East-Asia of the World Conservation Union (WCPA/EA of IUCN)	Member of Steering Committee of WCPA/EA (2002 to 2005)	-	-	-	-	-
Assistant Director of Agriculture, Fisheries and Conservation (Country and Marine Parks)	WCPA/EA of IUCN	Member of Steering Committee of WCPA/EA (1999 to 2005)	18,000	-	-	22,000	-
Assistant Director of Environmental Protection (Environmental Assessment)	International Association for Impact Assessment	President (January 2000 to February 2001)	-	-	34,000	17,000	-
<i>Financial Services and the Treasury Bureau</i>							
Principal Economist (3)	Asia Pacific Economic Cooperation (APEC)	Vice-chair of APEC's Economic Committee (since January 2001)	-	10,000	74,000	51,000	9,000
Commissioner for Census and Statistics (C for C&S)	International Statistical Institute (ISI)	Council Member of the ISI (2001 to 2005)	-	-	27,000	-	40,000

<i>Post title of the directorate officer</i>	<i>International organization participated</i>	<i>Position held in the international organization (and duration)</i>	<i>Government expenditure arising from duty visits<sup>(Note)</sup> (\$)</i>				
			<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
C for C&S	United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)	One of the vice-chairmen of the Committee on Statistics of ESCAP (2000 to 2002)	-	11,000	-	9,000	-
C for C&S	Asian Development Bank	Member of the Regional Advisory Board of International Comparison Program for Asia and the Pacific (since 2003)	-	-	-	-	-
Assistant Commissioner for Census and Statistics	International Monetary Fund (IMF)	Member of the Balance of Payments Committee of the IMF (2001 to 2006)	-	-	1,000	3,000	5,000
<i>Health, Welfare and Food Bureau</i>							
Secretary for Health and Welfare (now the Secretary for Health, Welfare and Food)	International Hospital Federation	President (2001 to 2003)	-	-	-	-	-
Government Chemist	United Nations Office on Drugs and Crime	Panel member of the Standing Panel on the International Quality Assurance Programme (since 1999)	-	-	-	-	-



<i>Post title of the directorate officer</i>	<i>International organization participated</i>	<i>Position held in the international organization (and duration)</i>	<i>Government expenditure arising from duty visits<sup>(Note)</sup> (\$)</i>				
			<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
Assistant Government Chemist, Forensic Science Division	International Association of Forensic Sciences (IAFS)	President (2002 to 2005)	-	-	-	-	-
Chief Chemist, Drugs, Toxicology and Document Group	IAFS	Secretary (2002 to 2005)	-	-	-	-	-
Deputy Director (Services) (DD(S)), Social Welfare Department (SWD)	International Society for Prevention of Child Abuse and Neglect	Member (1999 to 2001)	-	-	-	-	-
DD(S), SWD	International Federation on Ageing	Member (1999 to 2003)	-	-	-	-	-
<i>Security Bureau</i>							
Commissioner for Narcotics	Financial Action Task Force on Money Laundering	President (July 2001 to June 2002)	-	-	1,012,000	546,000	-
Director of Fire Services (DFS)	International Aviation Fire Protection Association (IAFPA)	IAFPA Asia Regional Director (January 2001 to January 2003)	-	-	116,000	-	-
DFS	International Fire Chiefs' Association of Asia (IFCAA)	Vice President of IFCAA (January 2001 to January 2003)	-	-	-	87,000	-

<i>Post title of the directorate officer</i>	<i>International organization participated</i>	<i>Position held in the international organization (and duration)</i>	<i>Government expenditure arising from duty visits<sup>(Note)</sup> (\$)</i>				
			<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
Deputy Director of Fire Services	IFCAA	IFCAA Director (since February 2003)	-	-	-	-	12,000
Commissioner of Correctional Services	Asian and Pacific Conference of Correctional Administrator (APCCA)	Chairman of the Working Group on APCCA Support Services (November 2000 to October 2001)	-	-	25,000	-	-
<i>Offices of the Chief Secretary for Administration and the Financial Secretary</i>							
Government Records Service Director	Institute of Certified Records Managers	President, Board of Regents (2000 to 2002)	-	-	-	-	-

Note: Expenditure excludes sponsorship received and those incurred in connection with dual or multi-purpose visits.

(II) Offices in International Organizations held by Senior<sup>(Note 1)</sup> of the Hong Kong Monetary Authority (HKMA)

<i>Post title of the senior officer</i>	<i>International organization participated</i>	<i>Position held in the international organization<sup>(Note 2)</sup> (and duration)</i>	<i>Expenditure arising from duty visits (\$)</i>				
			<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
Chief Executive of the HKMA	Steering Committee on Central Bank Governance of the Bank for International Settlements (BIS)	Chairman (Since 1999)	No additional cost <sup>(Note 3)</sup>	No additional cost <sup>(Note 3)</sup>	No additional cost <sup>(Note 3)</sup>	No additional cost <sup>(Note 3)</sup>	No additional cost <sup>(Note 3)</sup>

## Notes

1. Defined as Executive Directors and above.
2. Specific appointment made to the officer in his individual capacity.
3. No additional costs incurred because the meeting took place side by side with a regular meeting of the BIS.

## (III) Offices in International Organizations held by Senior Executives of Securities and Futures Commission (CFS)

<i>Post title of the senior officer</i>	<i>International organization participated</i>	<i>Position held in the international organization<sup>(Note 2)</sup> (and duration)</i>	<i>Expenditure arising from duty visits (\$)</i>				
			<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
Executive Director (Intermediaries and Investment Products)	International Organization of Securities Commissions (IOSCO) <sup>(Note 1)</sup>	Chairman, IOSCO Implementation Committee on Objectives and Principles of Securities Regulation (March 2000 to June 2001)	42,000	150,000	47,000	-	-

<i>Post title of the senior executive</i>	<i>International organization participated</i>	<i>Position held in the international organization<sup>(Note 2)</sup> (and duration)</i>	<i>Expenditure arising from duty visits (\$)</i>				
			<i>1999-2000</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>
Chairman	Financial Stability Forum	Chairman, Task Force on Implementation of Standards (September 1999 to March 2000)	27,000	-	-	-	-
Chairman	G30 <sup>Note 1</sup>	Co-chairman, Working Party 2 of the G30 Clearing and Settlement Project Steering Committee (March 2001 to January 2003)	-	59,000	56,000	47,000	-
Chairman	IOSCO	Co-chairman, IOSCO Technical Committee Chair's Committee on International On-going Corporate Disclosure Standard (March 2002 to October 2002)	-	-	-	27,000	-
Chairman	IOSCO/FSF	Interim chairman, IOSCO Technical Committee (October 2003 to May 2004)	-	-	-	-	97,000

## Note 1:

The SFC is a member of the 15-member Technical Committee of the International Organization of Securities Commissions (IOSCO), the international standard setting body for the securities industry. Hong Kong is the only East Asian market other than Japan, being a member of the Technical Committee. Hong Kong has been the Chairman of the Technical Committee twice in 1996-98 and 2003-04. The Financial Stability Forum (FSF) is the forum comprising central banks, ministries of finance and regulators set up in Asian Financial crisis to oversee the global financial architecture. G-30 study is the prestigious work chaired by Mr Gerry CORRIGAN to review global clearing and settlement infrastructure. The SFC's participation in these international organizations ensures Hong Kong's continuous status as a premier international financial centre.

**Cross-boundary Coach Services**

9. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding cross-boundary coach services, will the Government inform this Council:*

- (a) of the details of unauthorized cross-boundary coach services, including their routes, frequencies as well as the pick-up/drop-off points, and what actions have been taken to crack down on such services; and*
- (b) whether it will consider strengthening authorized cross-boundary coach services?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President,

- (a) Cross-boundary coach services are operated under a quota system jointly administered by the Hong Kong and mainland authorities. Each quota allows a coach to cross the boundary via a designated control point within a specified time. The routes and pick-up/drop-off points of these coaches within Hong Kong are also subject to the approval of the Transport Department (TD). We note that some coach operators have not fully observed the prescribed requirements. The irregularities include over-runs, non-compliance with allocated timeslots, and picking up and dropping off passengers at unauthorized locations. The coaches concerned are mostly those providing services between Huanggang in Shenzhen and the urban areas in Hong Kong. Their frequencies vary with the number of passengers. Most of the pick-up/drop-off points are located in Mong Kok, Kwun Tong and Wan Chai.

Depending on the circumstances, we will take the following actions against the above malpractices:

- (1) The police will take prosecution actions if cross-boundary coaches contravene the Road Traffic Ordinance or cause obstruction to the traffic at pick-up/drop-off points.
  - (2) The TD will conduct surprise checks on the operation of cross-boundary coaches at their pick-up/drop-off points. If non-compliance is found, the TD will issue warning letters to the operators concerned, reminding them to follow the approved routes, frequencies and pick-up/drop-off points in operating their services.
  - (3) The TD will issue warning letters to operators who are found to have overrun their quotas. Such records of non-compliance will be taken into account when their applications for quotas are considered in the future, and this may result in a reduction of the number of quotas to be granted or their applications not being processed. As regards serious and repeated offenders, the TD will conduct inquiries against them under the Road Traffic Ordinance. Based on the inquiry reports, the Commissioner for Transport will consider cancelling, altering or temporarily suspending the operator's Passenger Service Licence or cancelling its quotas. Together with the police, the TD will also take prosecution actions against these coaches to achieve deterrent effect.
- (b) The purpose of the quota system for cross-boundary coaches is to ensure smooth traffic flow and safe operation at our control points. The Governments of Hong Kong and Guangdong have been continuously reviewing and improving the facilities at the control points, as well as streamlining clearance procedures, with a view to enhancing vehicle and passenger handling capacities. The two Governments also regularly review the number of quotas and operation of cross-boundary coaches in order to maintain order and smooth traffic flow at our control points, and at the same time meeting the cross-boundary traffic demand generated by the

economic integration and exchanges on various fronts between Hong Kong and Guangdong.

### **Demolition and Redevelopment of Hung Hom Peninsula**

10. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that the developers which participated in the Hung Hom Peninsula Private Sector Participation Scheme (PSPS) project intend to demolish and rebuild the completed but not yet occupied PSPS blocks. In this connection, will the Government inform this Council:*

- (a) of the estimated weight and volume of the construction and demolition (C&D) waste involved, as well as the estimated costs borne by public funds if such waste materials are disposed of in landfills;*
- (b) of the methods to prevent the developers from demolishing the unoccupied blocks and thereby producing the C&D waste as well as wasting public money; whether the authorities will convey, through public education, the message that such a demolition approach will waste the resources of the earth and run counter to the principle of sustainable development; and*
- (c) whether it has assessed if the transport facilities in Hung Hom can support a redevelopment project on the site at a plot ratio higher than the existing one, and the conditions under which the authorities will not approve such a redevelopment project; if it has, of the assessment results?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese): Madam President, before replying to the question raised by the Honourable CHOY So-yuk, I must first of all emphasize that the Government has not

received any application for demolition or redevelopment from the developer of Hunghom Peninsula. In the absence of any specific proposal, I can only provide hypothetical information based on rough estimates and set out the principles the Government will follow when processing an application for redevelopment. My reply to the three parts of the question is as follows:

- (a) As no specific proposal on demolition has been submitted by the developer, we are not in a position to estimate the quantity of C&D waste that may be generated. Based on the gross floor area of Hunghom Peninsula (including the shopping arcade, residential buildings and carpark), it is roughly estimated that approximately 200 000 tonnes of construction materials are involved. If these materials are disposed of in landfills, the handling costs will be about \$25 million. I must however point out that these figures are entirely hypothetical. The actual situation depends largely on whether the developer has any plan for demolition, and if so the scope and details of such plan.
  
- (b) The Government has been encouraging and providing advice and assistance to the private sector on the prevention and minimization of C&D materials. Through publicity and education, the Government proactively reaches out to various professional institutions and the construction industry to promote waste reduction and minimization of C&D materials. Moreover, the Buildings Department has issued a Practice Note providing guidelines on waste minimization in the planning, design and construction for private developments to ensure that measures are taken at different stages of construction works to reduce C&D materials.

For building demolition works in particular, where unavoidable, the Government has been urging private developers and their contractors to plan the whole process in a thorough manner, for example, adopting selective demolition to maximize recovery of reusable and recyclable materials.



Furthermore, the Government has introduced the Waste Disposal (Amendment) (No. 2) Bill 2003 into the Legislative Council for the introduction of a construction waste disposal charging scheme to provide economic incentive for private developers and construction contractors to step up efforts in preventing and recovering C&D materials through proper planning and implementation of appropriate measures. The Legislative Council has formed a Bills Committee to scrutinize the Bill. Subject to its enactment, the Government aims to implement the charging scheme in 2005.

- (c) The approved Hung Hom Outline Zoning Plan has clearly stipulated the maximum domestic gross floor area, the maximum non-domestic gross floor area and the maximum building height for the Hunghom Peninsula site. In drawing up these development parameters, the traffic conditions of Hung Hom had been taken into account. The Outline Zoning Plan is a statutory instrument. Any development or redevelopment on the site is subject to the parameters and restrictions stipulated in the Plan. If a development proposal goes beyond any of these parameters, the Outline Zoning Plan has to be amended before implementation. In addition, any development and redevelopment of a site is subject to the terms and conditions set out in the land lease. For any redevelopment proposal which may result in material modifications to these terms and conditions, the developer must apply for permission from the Lands Department. The Lands Department will take into account all relevant factors in considering such application. If the proposed modifications are to be approved, depending on the scope of the modifications and their impact on the value of the site, the Government may ask for payment of a premium for the modifications.

In considering any amendment to the Outline Zoning Plan, the Town Planning Board will thoroughly and comprehensively examine all the planning factors, including possible implications of the proposal on the transport facilities and road capacity in the

district. The above restrictions and procedures are applicable to any development on the Hunghom Peninsula site.

### **Tackling Computer-related Crimes**

11. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, the Inter-departmental Working Group on Computer Related Crime released its report in December 2000, in which recommendations for improving the existing measures to tackle computer-related crimes were made. In July 2001, the Security Bureau announced that some of the recommendations proposed by the Working Group had been adopted and would be implemented in phases. It also advised that a Committee on Computer Crime would be established to monitor the development trend of computer crimes and co-ordinate the efforts among relevant parties. In this connection, will the Government inform this Council of:*

- (a) the details of the progress of those recommendations that have been adopted, broken down by short, medium and longer term and, among them, those of which the implementation work has been completed, is in progress and is yet to commence; and*
- (b) the details of the progress in establishing the Committee on Computer Crime?*

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

- (a) and (b)

The Inter-departmental Working Group on Computer Related Crime put forward a total of 57 recommendations. After consultation with the Legislative Council and the public, the Government has essentially adopted all the recommendations, and modified two. Progress of the implementation of the recommendations involving short-, medium- and long-term measures is tabulated in the Annex.

Progress of implementation of recommendations of  
Inter-departmental Working Group on Computer Related Crime

<i>Working Group's Recommendations</i>		<i>Lead Action Party</i>	<i>Action</i>	<i>Progress</i>
<i>(A) Short term</i>				
28.	Promoting the denial of multiple log-in.	Office of the Telecommunications Authority (OFTA)	Write to Internet service providers (ISPs) for co-operation.  Promote consumer awareness in this regard.	<p>The OFTA has discussed the implementation of this recommendation with the Hong Kong Internet Service Providers Association (HKISPA) and the Consumer Council, both of which consider that "multiple log-in" is a neutral function. Instead of deleting this function, it would be more appropriate to make consumers aware of the implications of multiple log-in on computer security. The Consumer Council considers that security awareness of consumers when using ISPs' services should be more widely promoted.</p> <p>The Consumer Council published articles on cyber security in the April 2002 issue of its monthly magazine <i>Choice</i>. The OFTA has also invited the HKISPA to enlist its members' help in promoting cyber security awareness among users.</p>

\* The numbering corresponds to that used in the Summary of Recommendations in the Working Group's report.

<i>Working Group's Recommendations</i>		<i>Lead Action Party</i>	<i>Action</i>	<i>Progress</i>
30.	Increasing communication between law enforcement and ISPs.	Police	Establish forum for exchange between law enforcement and communication service providers.	To strengthen their communication with the ISPs, the law enforcement agencies (LEAs) have established a 24-hour liaison system with the major ISPs and other institutions (such as financial institutions). The ISPs have designated staff members to maintain close contact with the LEAs to deal with contingencies. In November 2003, the LEAs held an exchange forum with the ISPs to discuss in-depth issues involved in investigating computer offences, the purpose of which was to enhance communication and establish closer co-operation.
39.	Stepping up information sharing between law enforcement and private sector.	Police	Include requirement in law enforcement agencies' standard procedures.  Invite ideas from private sector on possible additional measures to foster information sharing.	As mentioned above, the LEAs have established a 24-hour liaison system with the major ISPs and other institutions (such as financial institutions) to deal with contingencies. In October 2003, the police conducted a computer security course for financial institutions to enhance the industry's knowledge in computer and cyber security and to promote information exchange.
48 to 49.	Continuing and deepening inter-agency co-operation locally and internationally.	Police	Draw up standard procedures to facilitate co-operation and information sharing.	The LEAs have been holding regular joint meetings to exchange experience and information. They have also established specific liaison channels with the Hong Kong Computer Emergency Response Team Coordination Centre (HKCERT) and other relevant departments to strengthen the co-ordination and response to information security incidents.  As regards co-operation with overseas agencies, local LEAs have compiled a list of overseas LEAs with which they have maintained regular contacts, and will co-operate and liaise with overseas LEAs based on operational needs. The effectiveness of the existing liaison channels with overseas agencies will be reviewed at the joint meetings. Visits will be made to overseas LEAs, and overseas delegations will be received with a view to stepping up communication and co-operation.

<i>Working Group's Recommendations</i>		<i>Lead Action Party</i>	<i>Action</i>	<i>Progress</i>
<i>(B) Short to medium term</i>				
1.	Defining "computer" in law.	Security Bureau	Prepare draft legislation.	Proposed legislative amendments are being prepared.
3.	Including specified offences under Criminal Jurisdiction Ordinance.	Security Bureau	Prepare draft legislation.	The draft Criminal Jurisdiction Ordinance (Amendment of Section 2(2)) Order 2002 was submitted to the Legislative Council in November 2002. The Legislative Council has set up a Subcommittee to scrutinize the draft Order.
9 to 14, 16.	Improving existing legislative provisions to remove ambiguity, better protect against unauthorized access and prevent trafficking in passwords, and so on.	Security Bureau	Prepare draft legislation.	Proposed legislative amendments are being prepared.
18 to 20.	Rationalizing penalties for specified computer offences.	Security Bureau	Prepare draft legislation.	Proposed legislative amendments are being prepared.
22 to 25.	Drawing up administrative guidelines on record keeping.	Police	Set up forum for drawing up administrative guidelines.  Publicize guidelines when available.	The LEAs will continue to maintain close liaison with the ISPs to secure the ISPs' co-operation in investigating computer and cyber crimes.
31.	Undertaking thorough risk assessment of critical infrastructures.	Commerce, Industry and Technology Bureau	Identify critical infrastructures to be covered, draw up steps for conducting the risk assessment.	The Commerce, Industry and Technology Bureau and the Information Technology Services Department (ITSD) have examined information on how overseas governments determine critical infrastructures and conduct risk assessment. They are now drawing up the criteria for determining critical infrastructures in Hong Kong and preparing preliminary draft guidelines on risk assessment procedures.

<i>Working Group's Recommendations</i>		<i>Lead Action Party</i>	<i>Action</i>	<i>Progress</i>
37.	Introducing mechanism for information sharing, facilitating cross-agency participation, mapping out overall public sector education strategy on computer crime.	ITSD	Draw up functions, structure and mode of operation of mechanism.	<p>The ITSD has set up an inter-departmental co-ordination group to facilitate sharing and exchange of information on computer and cyber security as well as prevention of computer crimes; and to strengthen inter-departmental co-operation and liaison on public education.</p> <p>The ITSD has also set up a portal website on information security &lt;www.infosec.gov.hk&gt; to provide, on a one-stop basis, information on such issues as computer and cyber security and prevention of computer crimes, so as to supply enterprises and the public with different types of information relating to information security. In addition, the ITSD has produced publicity materials (such as posters and leaflets) for distribution to government departments, District Offices, community facilities, community cyber centres, public libraries and schools, for public reference. Stalls are set up at relevant exhibitions from time to time to step up publicity.</p> <p>In 2003 to 2004, the ITSD has produced a series of radio and television episodes to more widely promote public awareness of computer and cyber security.</p>

	<i>Working Group's Recommendations</i>	<i>Lead Action Party</i>	<i>Action</i>	<i>Progress</i>
40 to 43.	Encouraging private sector to share information and undertake education efforts; increasing public-private sector collaboration.	ITSD	<p>Include message in government publicity programs, probably in conjunction with item 37.</p> <p>Invite major professional organizations and business associations to contribute.</p>	<p>As mentioned above, the ITSD has set up a portal website on information security to provide, on a one-stop basis, information on such issues as computer and cyber security and prevention of computer crimes. The ITSD has also liaised with relevant public and private organizations such as the police, the Education and Manpower Bureau, Television and Entertainment Licensing Authority (TELA), Hong Kong Monetary Authority, Hong Kong Computer Society, Hong Kong Productivity Council and HKCERT, to assist in enhancing and enriching the content of the website.</p> <p>Government departments have collaborated with different public and private organizations from time to time to promote public education on computer and cyber security as well as prevention of computer crimes. Examples are talks on information security organized for private organizations and seminars jointly held with private organizations. The ITSD, the police and the HKCERT have jointly produced information security handbooks for small and medium enterprises as well as the general public. The Education and Manpower Bureau in co-ordination with a number of government departments and relevant organizations has established a thematic website called "Cyber Ethics for Students and Youth" &lt;cesy.qed.hkedcity.net&gt; to provide suggestions and guidelines on the correct use of computers and the Internet for school, parents and students, and to supply teachers with teaching resources on designing and drawing up relevant syllabuses. In addition, the TELA has organized such publicity and public education activities as "Ten Healthy Websites Contest" and "Creating a Healthy Cyber World" to educate children and youngsters on the correct use of the Internet.</p>

<i>Working Group's Recommendations</i>		<i>Lead Action Party</i>	<i>Action</i>	<i>Progress</i>
54 to 55.	Setting up a committee on computer crime with representatives from law enforcement and private sector.	Security Bureau	Examine the functions, structure and mode of operation of the committee.	The Security Bureau is drawing up the terms of reference of the committee. Members will include representatives from the relevant bureaux, LEAs and private sector.
<i>(C) Medium term</i>				
27.	Exploring feasibility of take-down procedures.	Individual bureaux	Examine and, if possible, adopt in individual policy context.	The procedures will be adopted by individual bureaux in the light of their overall policy considerations.
31.	Undertaking thorough risk assessment of critical infrastructures.	Relevant authorities of individual infrastructures	Conduct assessment.	Assessment will be conducted after the criteria for determining critical infrastructures and guidelines for risk assessment procedures have been formulated.
32 to 33.	Establishing mechanism to co-ordinate preparation and synchronization of protection and recovery plans; including cyber attacks on critical infrastructures in Emergency Response System (ERS).	Commerce, Industry and Technology Bureau in initial stage	Having regard to results from item 31, draw up functions, structure and mode of operation of mechanism, and determine relationship between mechanism and ERS.	The Commerce, Industry and Technology Bureau and ITSD are examining the mechanisms and practices adopted by other countries.
44.	Exploring feasibility of audit mechanism to certify information security standards.	Security Bureau	Invite major professional organizations and business associations to take the lead in setting industry-specific standards. To facilitate and support as necessary.	The Security Bureau has written to professional organizations and business associations to invite their consideration of formulating information security standards specifically tailored for the industries under their purview.
50 to 52,	Working out standard procedures for handling computer evidence and promulgating them.	Police	Develop common standard.  Promulgate standard once available.	The police have drawn up a computer forensics handbook on the standard procedure for handling computer evidence for use by investigators and computer forensics officers. The handbook has been circulated to other LEAs for reference. The LEAs will have further discussions on the development of a common standard.
54 to 55.	Setting up a committee on computer crime with representatives from law enforcement and private sector.		Set up committee.	Please refer to the progress of this item on P.8.



<i>Working Group's Recommendations</i>		<i>Lead Action Party</i>	<i>Action</i>	<i>Progress</i>
<i>(D) Medium to long term</i>				
4 to 8.	Mandating disclosure of decrypted text or decryption tool of encoded computer information for investigation, subject to judicial scrutiny and other safeguards.	Security Bureau	Work out proposed implementation details and further consult before draft legislation is prepared.	The Security Bureau is examining the relevant legislation and measures of other countries, and will draw up proposals for consultation.
<i>(E) Long term</i>				
2.	Conducting in-depth study of jurisdictional rules.	Department of Justice (D of J)	Conduct study on legal issues involved.	The D of J has examined the Criminal Jurisdiction Ordinance. Its view is that the Ordinance is meant to provide exceptions to the normal jurisdictional rules. Changing the ambit of the Ordinance fundamentally to cover all criminal offences should not be attempted lightly. Regarding the deception offences covered by the Ordinance, they often involve the use of computers either as a tool or a storage medium for information. The Ordinance should therefore be sufficient to deal with these offences.
17.	Rectifying the gap in law regarding "deception" machines.	D of J	Conduct study on legal issues involved.	The D of J has examined the issue of "deception" of machines. Its view is that as many machines nowadays have built-in computers, "deception" of machines could be dealt with by the computer offences under sections 60 and 161 of the Crimes Ordinance. There is therefore no need to effect any legislative amendments at present.
53.	Establishing central computer forensic examination unit in the long run	Police	Consider merging existing computer forensic capabilities among law enforcement agencies.	The LEAs have conducted preliminary discussions on the establishment of a central computer forensic examination unit, and will further research into this issue.

**Airport Core Programme**

12. **MR ALBERT CHAN** (in Chinese): *Madam President, in connection with the projects under the Airport Core Programme (ACP), will the Government inform this Council:*

- (a) *of the respective total expenditures of various projects as at the end of last month and the differences between the figures and the estimated expenditures originally approved; where there is over-spending, of the organization(s) to shoulder the extra expenditures;*
- (b) *whether it is aware of the number and amounts of claims ultimately received by the Airport Authority (AA) in respect of the relevant construction contracts, together with a breakdown by cases settled and not yet settled; where there is over-spending, of the reasons for that; and*
- (c) *whether it has formulated measures to minimize over-spending and claims in respect of large-scale infrastructure projects in future; if it has, of the details of the measures; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President,

- (a) In respect of the ACP projects, the total expenditure for all government projects under the ACP on a net basis (that is, after adjustment for reimbursable Airport Railway works and reimbursable Airport works) as at 31 March 2004 was \$48,026 million, which is \$1,582 million less than the published estimated expenditure of \$49,608 million. All funding and expenditure are in money-of-the-day price. There is no over-spending in respect of the government ACP projects.

As at 31 March 2004, the AA had expended \$49,325 million on the New Airport projects. This is \$462 million less than the published estimated expenditure of \$49,787 million. There is no over-spending in respect of the New Airport projects.

As at 31 March 2004, the Mass Transit Railway Corporation (MTRC) (now MTR Corporation Limited) had expended \$33,477 million on the Airport Railway project. This is \$523 million less than the published estimated expenditure of \$34,000 million. There is no overspending in respect of the Airport Railway project.

- (b) The AA has received a total of 12 120 claims notifications in respect of construction contracts of the projects led by the AA. All had been resolved, at a cost of \$5,622 million. This amount forms part of the abovementioned total expenditure of \$49,325 million for New Airport projects.
- (c) To minimize overspending and claims in public works projects, risk analyses are carried out at the planning stage when preparing project estimates. Comprehensive site investigations are conducted at the design stage to assess the underground conditions as accurately as possible. Where necessary, advanced contracts could be considered to provide detailed information before commencement of some large scale or complex projects to ensure that workable solutions are available. Guidelines are also being prepared for the preparation of comprehensive risk management plans throughout the entire project delivery process. In recent years, we have further introduced new measures to avoid contractual claims. Partnering approach has been used to promote a dispute avoidance culture in the construction contracts. Dispute avoidance techniques are also used in managing construction contracts.

### **Waiting Time for Specialist Out-patient Service in Public Hospitals**

13. **DR RAYMOND HO** (in Chinese): *Madam President, it was reported that a patient suffering from a liver tumour died in early March this year, allegedly because he had not been given timely consultation and treatment due to the long waiting time for specialist out-patient service in public hospitals. In this connection, will the Government inform this Council whether it knows:*

- (a) *the respective average waiting times for the first specialist out-patient appointments for medical, cardiac and oncologic consultations at public hospitals in Hong Kong over the past year;*

- (b) *who determine(s) the waiting time for these first appointments and the determining criteria; and*
- (c) *if the Hospital Authority (HA) will put in place a mechanism to shorten the waiting time; if it will, of the details?*

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

- (a) In 2003-04, the median waiting times for the first appointment of consultation at specialist out-patient clinics operated by the HA were 13 weeks for internal medicine, eight weeks for cardiology and less than one week for clinical oncology. The actual waiting time for the first appointment at specialist out-patient clinics varies from one patient to another depending on the patient's clinical conditions and on the patient load of the clinic at the time.
- (b) Under the revised triage system introduced by the HA recently, specialist out-patient clinics arrange for the first appointment of consultation for new patients on the basis of the urgency of their clinical conditions at the time of referral, taking into account various factors including the patient's clinical history, the presenting symptoms and the findings from physical examination and investigations. Referrals of new patients are usually screened first by a nurse and then by a doctor in the relevant specialty and classified into one of the following categories: Priority 1 cases for patients with the most urgent medical needs; Priority 2 cases for patients with comparatively less urgent medical needs; and routine cases for patients where medical needs do not appear to be urgent. In order to ensure that patients with urgent medical needs are attended to within a reasonable time, the HA has targeted to keep the median waiting time for Priority 1 and 2 cases within two weeks and within eight weeks respectively. In addition, to ensure that no urgent medical conditions are overlooked at the initial triage, all referrals that have been classified as routine cases would be double-checked by a senior doctor in the relevant specialty within seven working days of the triaging.

- (c) The HA will continue to refine the triage system to ensure that patients with urgent medical conditions would be attended to in a timely manner. In particular, the HA will refine the prioritization criteria to enhance the screening of referral letters by doctors.

### **Robberies Targeting Hikers**

14. **MR LAU KONG-WAH** (in Chinese): *Madam President, concerning robberies targeting hikers, will the Government inform this Council:*

- (a) *of the percentage of illegal entrants among the suspects arrested for such robberies since last year;*
- (b) *of the detection rate for such cases in the past three years, and how it compares with the overall detection rate for robberies;*
- (c) *of the specific measures in place to combat such robberies; and*
- (d) *whether it will consider setting up police posts at entrances and exits of country parks and hiking trails?*

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

- (a) and (b)

The police do not have separate figures for robberies in country parks for the years 2001 and 2002. Since 2003, the relevant numbers of such cases, cases detected, suspects arrested and illegal immigrants among those arrested are as follows:

	<i>No. of robbery cases</i>	<i>No. of cases detected</i>	<i>No. of suspects arrested (No. of illegal immigrants arrested in brackets)</i>
2003	18	3	11 (10)
2004 (January to March)	9	1	1 (1)

In 2003, the overall detection rate for robbery cases is 24.5%. In January to March of 2004, the rate is 28.5%.

- (c) In order to ensure the safety of hikers, various Police Districts have deployed officers to patrol country parks and remote hiking places in the light of operational requirements. The Agriculture, Fisheries and Conservation Department has also stepped up patrol in country parks, and maintained close liaison with the police to combat such crimes. Furthermore, the Civil Aid Service deploys patrol teams to country parks during Sundays and public holidays. In addition, the public can make use of the emergency telephone help-lines installed in country parks to seek assistance directly from the 999 control centre or the nearby police station.
- (d) We consider that deploying officers to patrol places such as country parks and hiking trails in a flexible and strategic manner would make it difficult for criminals to evade the operations of the police. This should have more deterrent effect than setting up fixed police posts. Therefore, the police do not have plans to set up police posts in country parks or hiking trails at present.

### **Chief Executive's Further Request for Central Authorities to Help in Hong Kong's Economic Development**

15. **MS EMILY LAU** (in Chinese): *Madam President, at a press conference on 14 March, the State Premier said that recently, the Chief Executive had again raised with him requests for measures which could further boost Hong Kong's economic development. In this connection, will the executive authorities inform this Council:*

- (a) *of the specific contents of the requests the Chief Executive raised with the Premier and the reasons for making such requests; and*

- (b) *given the current pace of recovery of Hong Kong's economy as well as the wealth and income levels of the Government and the people (with the gross domestic product forecast to grow by 6% in real terms this year, the official foreign reserve assets exceeding \$960 billion, deposits with authorized institutions totalling over \$3,600 billion and the gross domestic product per capita exceeding \$181,000), whether they have assessed if there is still a need to request the Central Authorities to help Hong Kong; if an assessment has been made, of the findings; if not, the reasons for that?*

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

- (a) During his visit to Beijing between 4th and 7th March for the opening ceremony of the National People's Congress, the Chief Executive met with President HU Jintao, Premier WEN Jiabao and officials from several Central Government authorities with close links to Hong Kong. The Chief Executive took the opportunity to update the leaders on the economic, social, political and other developments in Hong Kong.

On the economic front, the Chief Executive briefed the leaders on the economic rebound in the latter half of 2003. The Chief Executive also proposed to the leaders that on the basis of the Closer Economic Partnership Arrangement (CEPA) and other measures introduced by the Central Government, co-operation between the Mainland and Hong Kong could be deepened and broadened to ensure sustained economic growth in Hong Kong. The leaders agreed with this direction and pledged their continued support for Hong Kong.

- (b) Since our return to the Motherland, the Central Government has been providing care and support for Hong Kong and paying high regard to the efforts made by Hong Kong people and our contributions to the country. On 29th June last year during his visit

to Hong Kong, Premier WEN said, "With their industry and creativeness, the people of Hong Kong have over the years built a prosperous city, helping to ensure Hong Kong's return to the Motherland and the implementation of the 'one country, two systems' policy, making significant contributions to the reform and modernization of the Mainland."

Economic integration between the Mainland and the Hong Kong Special Administrative Region is a natural market trend. This has been established in the Chief Executive's previous policy addresses as our clear strategic direction: leveraging on the Mainland, engaging globally and promoting economic growth. CEPA, the "individual visit" scheme, personal Renminbi business and other initiatives are struck as a win-win deal beneficial to the economic development of both the country and Hong Kong. Through these initiatives, Hong Kong does not only benefit from the economic impetus but also contribute more to the modernization of China. For instance, CEPA allows Hong Kong a head start over other trading partners to enter the mainland market. It also facilitates the Mainland to gain early experience and make better preparation for the full implementation of the World Trade Organization commitments. CEPA also allows mainland businesses to tap Hong Kong's professional services and expertise, thus sharpening their competitive edge and boosting the country's economic advancement. We believe that Hong Kong should continue to play an active role in the economic reform and opening-up of the Mainland, and Hong Kong people should keep building on our strengths and seize every opportunity to bring our unique advantages into full play.

### **Cases of Sexual Offences**

16. **DR LAW CHI-KWONG** (in Chinese): *Madam President, regarding cases of sexual offences, will the Government inform this Council of the following in each of the past two years:*



- (a) *the respective numbers of reports to the police involving various sexual offences for example, rape, indecent assault, incest, intercourse with girl under 16 and intercourse with mentally incapacitated person, with a breakdown by the victims' gender and age (in groups of five years);*
- (b) *the respective numbers of cases in which the victims withdrew the charge, the police discontinued the investigation, the offenders admitted the acts concerned and were cautioned by police superintendents, and the Department of Justice (D of J) decided not to institute prosecution; and*
- (c) *the respective numbers of cases in which the D of J instituted prosecution and the defendants were convicted, and the number of victims involved in such cases?*

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

- (a) the number of report cases relating to sexual crimes is set out at the Annex.
- (b) We do not have readily available information on the details requested.
- (c) A total 570 prosecutions relating to the sexual crimes referred to in part (a) above were concluded<sup>1</sup> in 2002. In these cases, 414<sup>2</sup> defendants were convicted. In 2003, 564 prosecutions were concluded, with 414<sup>2</sup> defendants convicted. we do not have readily available information on the number of victims involved in these cases.

<sup>1</sup> It should be noted that the cases concluded in one year might not necessarily be reported in the same year.

<sup>2</sup> These figures include five defendants in 2002 and six defendants in 2003, who were charged with sexual related offences but finally convicted of common assault. For the purpose of this reply, if a defendant was charged with more than one type of sexual offences, he/she is counted once.

## Statistics on Sexual Crimes of 2002 and 2003

Crime*	2002							2003						
	Victims by Age Group and Sex						Total Reported Cases	Victims by Age Group and Sex						Total Reported Cases
	< 16		16 to 20		> 20			< 16		16 to 20		> 20		
	M	F	M	F	M	F	M	F	M	F	M	F		
Rape	-	29	-	29	-	37	95	-	18	-	20	-	32	70
Indecent Assault	15	281	-	187	11	497	991	15	274	5	216	9	499	1 018
Incest	-	5	-	1	-	-	6	-	1	-	1	-	-	2
Intercourse with girl aged under 16	-	202	-	-	-	-	202	-	226	-	-	-	-	226
Intercourse with mentally incapacitated person	-	1	-	2	-	8	11	-	2	-	3	-	8	13
Others (including gross indecency, indecent conduct towards child aged under 16, and so on)	12	13	-	2	1	1	31	19	10	1	1	2	3	37
Total	27	531	-	221	12	543	1 336	34	531	6	241	11	542	1 366

\* Some cases like gross indecency may not have victims, and therefore the number of cases reported may not tally with the number of victims. For other cases, there was usually one victim in each report.

### Civil Servants Taking up Paid Outside Part-time Work

17. **MR HENRY WU** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the mechanism for the declaration, approval and renewal of approval for serving civil servants to take up paid outside part-time work including long-term and short-term employment; and*

- (b) *the number of civil servants who applied for approval for taking up such work in each quarter of the past three years and the bureaux to which they belonged, broken down by the salary bands set out in Part 1 of Schedule 6 of the Public Officers Pay Adjustments (2004/2005) Ordinance; among them, the number of persons whose applications were rejected and the reasons therefor, as well as the number of civil servants currently taking up such work and the bureaux to which they belong?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President, the Administration's reply is set out hereunder.

*Part (a)*

We have well established rules governing civil servants' engagement in outside work. The main principles include the following:

- (i) The Government has a prior call at all times on the abilities, energies and attention of all its staff;
- (ii) outside activity (whether paid or unpaid) which may impair an officer's performance of his duties or distract his attention from them must be avoided;
- (iii) no officer has the right to supplement his income by outside work;
- (iv) only in the most exceptional circumstances is outside work permissible during the officer's normal working hours; and
- (v) no professional or assistant professional officer may undertake paid outside work in his profession either by way of private practice or as

a paid employee, except for teaching work or where the work is clearly in the public interest, and with the approval of the Head of Department.

An officer must obtain the prior approval of his or her Head of Department before he or she undertakes any paid outside work.

In considering applications for outside work, Heads of Department have to take into account the following factors:

- (i) whether the timing, frequency and duration of the outside work would affect the officer's efficiency;
- (ii) whether the remuneration involved is so considerable in relation to the officer's salary that it could result in some loss of interest in his or her government appointment;
- (iii) whether the outside work proposed may conflict (or appear to conflict) with the officer's duties as a government servant;
- (iv) whether the outside work proposed may be a source of embarrassment to the Government; and
- (v) whether the outside work is in line with the principles prescribed in the second paragraph above.

Permission for an officer to undertake outside work may be withdrawn at any time should it appear to the Head of Department that it is in the public interest to do so. In addition, all approved cases of outside work are subject to review at least every six months. Before granting permission for the officer to continue his or her engagement in outside work, the relevant Head of Department must be satisfied that the officer has been performing his or her normal duties in a satisfactory and effective manner.

The rules on outside work are widely promulgated within the Civil Service. Officers who fail to comply with the rules render themselves liable to disciplinary action. In the three years ending March 2004, 23 civil servants were subject to formal disciplinary action on grounds of unauthorized outside work.

*Part (b)*

The tables at Annex I show:

- (i) the number of civil servants who sought approval for taking up outside work in each quarter of the past three years, broken down by bureaux and salary bands; and
- (ii) the number of applications rejected.

The increase in the number of outside work applications approved in the fourth quarter of 2003 involves mainly polling and counting duties related to the District Councils elections which were held within the quarter.

The main reasons for rejection include possible adverse impact on performance or efficiency at work (about 70% of the rejected cases); and real or potential conflict with the officer's official duties or position (about 23%).

As at 1 April 2004, 5 432 civil servants have obtained permission to undertake certain specified outside work. The table at Annex II gives the details, broken down by bureaux (including departments under their purview) and salary bands. Almost 2 000 cases of approved outside work involve part-time service with the auxiliary forces, including 1 130 with Auxiliary Police, 440 with Auxiliary Medical Service and 400 with Civil Aid Service. There are also cases of outside work which are one-off in nature, such as delivering talks, helping out in examinations conducted by the Government, and so on.

Number of applications for permission to undertake outside work processed in the past three years in all government bureaux and departments

Salary Band		Year											
		2001 Q2	2001 Q3	2001 Q4	2002 Q1	2002 Q2	2002 Q3	2002 Q4	2003 Q1	2003 Q2	2003 Q3	2003 Q4	2004 Q1
Salary band *(1) (Note 1)	P (Note 2)	604	487	447	470	504	756	669	603	674	654	1 312	539
	R (Note 2)	5	2	0	0	1	2	2	0	4	2	3	0
Salary band *(2)	P	1 483	1 446	1 589	1 519	1 382	1 699	1 907	1 537	1 616	1 728	6 367	1 555
	R	3	0	1	1	1	1	2	1	0	5	5	5
Salary band *(3)	P	324	419	381	379	438	535	445	444	370	531	782	487
	R	0	0	1	2	1	1	2	0	0	0	0	3
Salary band *(4)	P	30	56	45	42	29	54	38	59	25	62	65	89
	R	0	0	0	0	0	0	0	0	0	0	0	0
Salary band *(5)	P	2	18	14	10	10	15	8	11	9	15	7	17
	R	0	0	0	0	0	0	0	0	0	0	0	0
Sub-total of (1) - (5)	P	2 443	2 426	2 476	2 420	2 363	3 059	3 067	2 654	2 694	2 990	8 533 (Note 3)	2 687
	R	8	2	2	3	3	4	6	1	4	7	8	8

Note (1) : Salary bands based on Part 1 of Schedule 6 of the Public Officers Pay Adjustments (2004/2005) Ordinance with salary scales effective 1 January 2004

\* (1) Monthly salary below \$14,800

\* (2) Monthly salary of \$14,800 or above but not above \$45,375

\* (3) Monthly salary above \$45,375 but not above \$90,228

\* (4) Monthly salary above \$90,228 but below \$127,900

\* (5) Monthly salary of \$127,900 or above

Note (2) : P - no. of applications processed

R - no. of applications rejected

Note (3) : The increase in the number in the fourth quarter of 2003 is mainly a result of the increase of applications to undertake polling and counting duties related to the 2003 District Councils elections.

For number of outside work applications in individual bureaux and department(s) under their purview, please see the following:

CSB	Civil Service Bureau and department(s) under its purview	FSTB	Financial Services and the Treasury Bureau and department(s) under its purview
CITB	Commerce, Industry and Technology Bureau and department(s) under its purview	HWFB	Health, Welfare and Food Bureau and department(s) under its purview
CAB	Constitutional Affairs Bureau and department(s) under its purview	HAB	Home Affairs Bureau and department(s) under its purview
EDLB	Economic Development and Labour Bureau and department(s) under its purview	HPLB	Housing, Planning and Lands Bureau and department(s) under its purview
EMB	Education and Manpower Bureau and department(s) under its purview	SB	Security Bureau and department(s) under its purview
ETWB	Environment, Transport and Works Bureau and department(s) under its purview		Other departments



<i>Salary Band</i>		<i>Year</i>	<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
			<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(III) Bureau : CAB</b>														
Salary band *(1)	P			1		1					1			
	R													
Salary band *(2)	P	4	5	5	5	3	5	3	2	4	3	2	2	2
	R													
Salary band *(3)	P		2		1	1	1					2		
	R													
Salary band *(4)	P			1										1
	R													
Salary band *(5)	P			1										
	R													
Sub-total of (1) - (5)	P	4	7	8	6	5	6	3	2	4	4	4	4	3
	R	0	0	0	0	0	0	0	0	0	0	0	0	0

<i>Salary Band</i>		<i>Year</i>	<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
			<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(IV) Bureau : EDLB</b>														
Salary band *(1)	P	26	20	62	33	39	29	44	35	52	20	93	20	20
	R	3										1		
Salary band *(2)	P	29	83	378	123	120	98	328	88	135	68	438	68	68
	R			1								2	2	
Salary band *(3)	P	13	45	44	74	64	49	61	55	58	58	78	36	36
	R													
Salary band *(4)	P	1		1					1			1	1	1
	R													
Salary band *(5)	P		2	3	3	3	2	1	2	1	1		1	1
	R													
Sub-total of (1) - (5)	P	69	150	488	233	226	178	434	181	246	147	610	126	126
	R	3	0	1	0	0	0	0	0	0	0	3	2	2



<i>Year</i>		<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
<i>Salary Band</i>		<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(V) Bureau : EMB</b>													
Salary band *(1)	P	16	63	23	24	13	180	19	23	21	143	109	26
	R												
Salary band *(2)	P	158	237	124	116	166	224	130	122	131	214	356	204
	R												
Salary band *(3)	P	74	88	54	48	102	102	66	49	55	75	82	77
	R							1					
Salary band *(4)	P		1								1	2	2
	R												
Salary band *(5)	P			1									
	R												
Sub-total of (1) - (5)	P	248	389	202	188	281	506	215	194	207	433	549	309
	R	0	0	0	0	0	0	1	0	0	0	0	0

<i>Year</i>		<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
<i>Salary Band</i>		<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(VI) Bureau : ETWB</b>													
Salary band *(1)	P	109	69	84	70	85	59	96	61	95	64	94	74
	R							1		1		1	
Salary band *(2)	P	154	217	165	196	177	206	181	183	152	194	501	206
	R												1
Salary band *(3)	P	51	76	61	49	56	102	68	64	36	110	165	95
	R					1							
Salary band *(4)	P	3	7	6	8	1	5	6	13	2	6	13	14
	R												
Salary band *(5)	P		1	2	3	2	1		2	4		1	5
	R												
Sub-total of (1) - (5)	P	317	370	318	326	321	373	351	323	289	374	774	394
	R	0	0	0	0	1	0	1	0	1	0	1	1

<i>Salary Band</i>		<i>Year</i>	<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
			<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(VII) Bureau : FSTB</b>														
Salary band *(1)	P	25	8	18	16	21	13	24	11	22	12	37	23	
	R		1							1	1			
Salary band *(2)	P	136	130	154	122	149	109	131	134	154	96	412	137	
	R	1												
Salary band *(3)	P	17	22	12	15	20	22	22	23	19	11	30	21	
	R													
Salary band *(4)	P	2	5	7	5	4	4	4	4	1	2	3	4	
	R													
Salary band *(5)	P			1			1			1	1		1	
	R													
Sub-total of (1) - (5)	P	180	165	192	158	194	149	181	172	197	122	482	186	
	R	1	1	0	0	0	0	0	0	1	1	0	0	

<i>Salary Band</i>		<i>Year</i>	<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
			<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(VIII) Bureau : HWFB</b>														
Salary band *(1)	P	143	77	46	102	65	62	106	84	84	142	256	99	
	R							1			1			
Salary band *(2)	P	449	224	231	436	248	276	434	243	274	370	957	230	
	R						1				2	1	1	
Salary band *(3)	P	51	72	84	69	68	65	68	66	54	77	106	63	
	R			1										
Salary band *(4)	P	1	17	8	7	7	12	9	4	7	9	18	10	
	R													
Salary band *(5)	P	1	11	5		3	5	2	0	0	7	2	2	
	R													
Sub-total of (1) - (5)	P	645	401	374	614	391	420	619	397	419	605	1 339	404	
	R	0	0	1	0	0	1	1	0	0	3	1	1	



<i>Salary Band</i>		<i>Year</i>	<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
			<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(XI) Bureau : SB</b>														
Salary band *(1)	P	143	136	126	120	127	110	155	124	159	121	273	134	
	R									1				
Salary band *(2)	P	287	329	313	318	296	336	333	321	311	355	1 111	326	
	R	1			1	1		2	1		2	2		
Salary band *(3)	P	47	40	42	52	52	55	46	48	57	41	80	33	
	R				2		1							
Salary band *(4)	P	5	7	5	9	4	8	6	12	3	19	10	18	
	R													
Salary band *(5)	P													
	R													
Sub-total of (1) - (5)	P	482	512	486	499	479	509	540	505	530	536	1 474	511	
	R	1	0	0	3	1	1	2	1	1	2	2	0	

<i>Salary Band</i>		<i>Year</i>	<i>2001</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2002</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2003</i>	<i>2004</i>
			<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>
<b>(XII) Other departments</b>														
Salary band *(1)	P	6	13	6	15	6	10	6	8	4	6	22	7	
	R						1							
Salary band *(2)	P	29	24	27	20	25	32	33	25	36	31	124	27	
	R													
Salary band *(3)	P	17	15	13	10	11	19	15	14	10	19	33	18	
	R													
Salary band *(4)	P	7	7	9	6	5	4	5	6	7	7	7	8	
	R													
Salary band *(5)	P		3	1	2	1	5	3	7	1	3	3	4	
	R													
Sub-total of (1) - (5)	P	59	62	56	53	48	70	62	60	58	66	189	64	
	R	0	0	0	0	0	1	0	0	0	0	0	0	

Number of civil servants who have obtained permission as at 1 April 2004 to undertake certain specified outside work (by bureaux (including departments) and salary bands)

<i>Bureaux</i> <i>No of staff</i>	<i>CSB</i> <i>(Note 2)</i>	<i>CITB</i>	<i>CAB</i>	<i>EDLB</i>	<i>EMB</i>	<i>ETWB</i>	<i>FSTB</i>	<i>HWFB</i>	<i>HAB</i>	<i>HPLB</i>	<i>SB</i>	<i>Other departments</i>	<i>Sub-total</i>
Salary band *(1) (Note 1)	2	25	1	63	197	222	33	317	96	236	228	10	1 430
Salary band *(2)	18	57	4	314	348	362	239	696	226	333	531	47	3 175
Salary band *(3)	5	15		55	154	113	31	172	17	108	80	12	762
Salary band *(4)		1		1	1	10	3	11		9	4	6	46
Salary band *(5)		1				3	1	9		1		4	19 (Note 3)
Total	25	99	5	433	700	710	307	1 205	339	687	843	79	5 432 (Note 4)

Note (1) : Salary bands based on Part 1 of Schedule 6 of the Public Officers Pay Adjustments (2004/2005) Ordinance with salary scales effective 1 January 2004

- \* (1) Monthly salary below \$14,800
- \* (2) Monthly salary of \$14,800 or above but not above \$45,375
- \* (3) Monthly salary above \$45,375 but not above \$90,228
- \* (4) Monthly salary above \$90,228 but below \$127,900
- \* (5) Monthly salary of \$127,900 or above

Note (2) : Names of bureaux including department(s) under their purview:

CSB	Civil Service Bureau and department(s) under its purview	FSTB	Financial Services and the Treasury Bureau and department(s) under its purview
CITB	Commerce, Industry and Technology Bureau and department(s) under its purview	HWFB	Health, Welfare and Food Bureau and department(s) under its purview
CAB	Constitutional Affairs Bureau and department(s) under its purview	HAB	Home Affairs Bureau and department(s) under its purview
EDLB	Economic Development and Labour Bureau and department(s) under its purview	HPLB	Housing, Planning and Lands Bureau and department(s) under its purview
EMB	Education and Manpower Bureau and department(s) under its purview	SB	Security Bureau and department(s) under its purview
ETWB	Environment, Transport and Works Bureau and department(s) under its purview		

Note (3) : The majority of the cases (74%) involve part-time lecturing or serving as external examiner at tertiary institutions, and the remaining (26%) include serving as an advisor to or part-time work for non-profit-making bodies.

Note (4) : These include approved outside work cases involving part-time service with Auxiliary Police (1 130), Auxiliary Medical Service (440) and Civil Aid Service (400).

**Exclusion of Previously-registered Electors of Health Services Functional Constituency from 2003 Final Register**

18. **MR MICHAEL MAK** (in Chinese): *Madam President, it is learnt that 3 054 or 9.6% of the electors who were already registered in 2000 for the Health Services Functional Constituency (FC) have not been included in the 2003 final register concerned. The main reason for their deletion from the register is that their registered addresses are no longer their principal residential addresses (that is, they have not informed the Registration and Electoral Office (REO) of the change of address). In this connection, will the Government inform this Council:*

- (a) whether it regularly verifies the information in the register of the Health Services FC by sampling; if it does, of the criteria and method of sampling;*
- (b) of the respective numbers of cases in which enquiries or inquiries were made on whether the registered addresses of the registered electors in the above register were their principal residential addresses and the replies received over the past three years; the information they were requested to provide and the time they were given to make their replies; whether the Administration has made such inquiries on each of the above deletion cases; if it has, of the method and timetable of the inquiries; if not, the reasons for that; and*
- (c) of the information on which it based for judging that a registered elector has moved but not informed the REO?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): Madam President, taking the question raised by the Honourable Michael MAK as a whole, our reply is as follows:

Pursuant to section 22 of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B) (hereafter referred to as the "Regulation"), the Electoral Registration Officer may make inquiries that he considers fit regarding persons

registered in the FC final register to ascertain the relevant information in the register. In general, the Electoral Registration Officer will make inquiries regarding registered electors under the following circumstances:

- (i) polling cards sent to the relevant electors in past election were returned;
- (ii) according to the information provided by the Housing Department and the Rating and Valuation Department, the buildings which the relevant electors registered as their residential addresses have been demolished;
- (iii) information collected by the Home Affairs Department when conducting door-to-door registration and updating electors' information during past voter registration exercises is different from that contained in the voter register; and
- (iv) information on eligible FC electors provided by organizations concerned indicates that the relevant information has changed.

All inquiries are made in writing by the Electoral Registration Officer, and sent by registered post addressed to the person from whom it is made.

In order to verify an elector's correct principal residential address, the Electoral Registration Officer will, in the inquiry, request the elector to provide a correct principal residential address before the deadline for voter registration of the year concerned. Under section 24(1) of the Regulation, those who fail to reply on time will have their names entered on the omissions list prepared for the compilation of a FC register. The omissions list will be available for public inspection at the REO and at specified district offices during a specified period. If those in the omissions list do not lodge a notice of claim to the Revising Officer through the Electoral Registration Officer within the period specified by the law, they will not be included in the FC final register. The cases of all persons who fail to provide a correct principal residential address to the Electoral Registration Officer and are consequently not included in the FC final register are processed according to the above procedures.

From 2001 to 2003, the Electoral Registration Officer made inquiries to a total of 3 155 registered electors of the Health Services FC according to the

above procedures and received 596 replies. All those who replied were able to remain on the final register of the Health Services FC. Those who did not make timely reply and were therefore excluded from the FC final register can apply to REO in future for re-registration. If they are eligible to be registered, their particulars will be included in the next relevant provisional register.

### **Drying Rack of an Old Design in Public Housing Flats**

19. **DR RAYMOND HO** (in Chinese): *Madam President, it was reported that a woman in Lei Tung Estate, Ap Lei Chau, fell to death allegedly because she lost balance while collecting the laundry on the drying rack of an old design commonly known as the "three joss sticks". In this connection, will the Government inform this Council:*

- (a) whether it has assessed the safety of this type of drying racks; if so, of the assessment results;*
- (b) whether replacement drying racks that comply with safety standards have been installed free of charge over the past three years for the public housing flats using this type of drying racks; if so, of the names of the housing estates concerned and the design of the newly installed drying racks; if not, the reasons for that; and*
- (c) of the current number of public housing estates where this old type of drying racks is still used, and whether it plans to install replacement drying racks that comply with safety standards for these estates?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese):  
Madam President, my reply to the three-part question is as follows:

- (a) "Pole-socket" type clothes-drying racks have been widely used in the Housing Authority's public rental flats for three to four decades. Before adopting this design, the Housing Department (HD) had conducted thorough vetting and a number of safety tests. The design is generally safe with proper use. To enhance tenants'



safety awareness and ensure public safety, from time to time the HD posts up notices and distributes leaflets to educate tenants on the proper use of drying racks.

- (b) As mentioned above, "pole-socket" drying racks are safe with proper use. Due to their physical limitations, some disabled and elderly tenants may experience difficulties in using this type of drying racks. Since 1995 the HD has been installing aluminum laundry racks with cord pulleys free of charge for these tenants upon request as replacement of the "pole-socket" design. At present, there are about 86 900 households eligible for free replacement, but we do not have the statistics on the actual number of free installations in the past three years and the housing estates involved.
- (c) Around 518 560 flats in 146 public housing estates are provided with "pole-socket" drying racks. As most of these flats (about 64%) are also provided with drying racks on balcony ceilings, tenants can choose to use the kind of drying facilities which best meet their need and preferences. Since August 2002, households in Harmony blocks have also been permitted to install drying racks complying with approved designs in the designated area outside the living room.

Although "pole-socket" drying racks are safe by design, the HD continuously upgrades various public housing facilities in response to new circumstances and tenants' changing needs. In view of tenants' concern about the "pole-socket" design arising from a recent accident, it is suggested that this type of design should be replaced by aluminum racks with cord pulleys so as to provide an alternative to tenants. The HD is examining this proposal for consideration by the Housing Authority shortly.

### **Report on Wastage of Public Money by Hong Kong Science and Technology Parks Corporation**

20. **MS EMILY LAU** (in Chinese): *Madam President, will the Executive Authorities inform this Council whether:*

- (a) *they have conducted investigations into reports that the Hong Kong Science and Technology Parks Corporation (HKSTPC) has wasted public money; if so, of the findings; if not, the reasons for that;*
- (b) *they know if the Audit Commission will carry out a value-for-money audit on the accounts of the HKSTPC; if it will, when it will commence work; and*
- (c) *they will introduce measures to strengthen the supervision over the HKSTPC to ensure good use of public money; if so, of the details of such measures; if not, the reasons for that?*

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

- (a) The HKSTPC has recently been alleged in reports to have wasted public money. In this regard, the Board of Directors of the HKSTPC has decided to commission an independent investigation into the allegations with the assistance of an auditing firm. The investigation is underway.
- (b) We do not know if the Audit Commission will carry out a value-for-money audit on the accounts of the HKSTPC.
- (c) The investigation mentioned in part (a) of the answer above will include recommendations for improvement. We will closely monitor the investigation and recommendations to ensure that the HKSTPC will continue to uphold the highest standards of corporate governance, including making good use of public money.

## **BILLS**

### **First Reading of Bills**

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

**REVENUE BILL 2004**

**CLERK** (in Cantonese): Revenue Bill 2004.

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

**Second Reading of Bills**

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

**REVENUE BILL 2004**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move the Second Reading of the Revenue Bill 2004.

The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to effect two revenue-related measures published in the 2004-05 Budget.

The first proposal is to extend the entitlement for home loan interest deduction under salaries tax and personal assessment from five to seven years of assessment.

In order to provide relief to households heavily burdened with home mortgage payments, the Government introduced a salaries tax deduction, which may be claimed for a total of five tax years, in respect of their interest expenses. Notwithstanding the burden of home mortgage repayments on taxpayers in general is lighter now than when the deduction was introduced due to the fall in property prices and the drop in mortgage interest rates, we propose to extend the entitlement period by a further two years for the home loan interest deduction as a relief to all home owners to ease the heavy financial load still borne by many families. As the average amount of deduction claimed has been decreasing and for the last year stood at just around \$30,000, I therefore propose that the maximum deduction in any year be maintained at \$100,000.

As taxpayers who have, since 1998-99, claimed the deduction continuously will see their five-year entitlement period expired in the 2003-04 year of assessment, we propose to extend the limit for the deduction by a further two years in order to enable these people to enjoy the arrangement without interruption. The additional concession will take effect from the 2003-04 year of assessment. We estimate that several hundred thousand taxpayers will benefit from this measure which will cost the Government \$4.6 billion in salaries tax revenue over the next five years.

The second proposal is to extend the existing profits tax deduction for research and development expenses to cover expenses on design-related activities.

The Financial Secretary indicated in the Budget that the Government would proactively encourage research and development, innovation and design to help our industries break with tradition and move towards higher value-added outputs. For that reason, the Financial Secretary proposed to launch a "DesignSmart" initiative to instil into our industries high value-added, high intellectual property and creativity content and to turn Hong Kong into a focal point of design excellence in the region.

According to the existing provisions of the Inland Revenue Ordinance, the deduction for research and development expenses under profits tax will generally be granted, but the deduction will not cover the capital expenditure of design-related expenses. In order to facilitate the proposed "DesignSmart" initiative, we propose to extend the scope of deduction for research and development expenses under profits tax to cover design-related expenses. It is proposed that the extension take effect from the 2004-05 year of assessment. After the proposed extension, the scope of research and development expenditure deduction granted under our regime will compare favourably with other places. The extension of scope of the profits tax deduction for research and development expenses will cost \$30 million in a full year.

With these remarks, Madam President, I recommend the passage of the Bill by the Legislative Council.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue Bill 2004 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 Bills**

**PRESIDENT** (in Cantonese): We will now resume the Second Reading debate on the Appropriation Bill 2004. The public officers concerned will speak on the Bill, then the Financial Secretary will speak in reply.

### **APPROPRIATION BILL 2004**

#### **Resumption of debate on Second Reading which was moved on 10 March 2004**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, this year's Budget follows out the pragmatic approach to governance and a philosophy of giving a respite to the community as propounded by the Chief Executive in the policy address. The Budget proposes that the future direction of development for the territory should lie in the revitalization of the economy, the promotion of employment; cutting down on expenditure before raising revenue; vesting wealth in the people and creating a caring and helping society, and so on.

Since the Financial Secretary delivered the Budget on 10 March, Members of the Legislative Council, various sectors across the community and the general public have all responded to it positively. It is considered that the Budget is pragmatic and well-balanced. It dovetails with the momentum of recovery as seen in our economy and also prepares for seizing the opportunities for future development. As reported by the media and seen in the speeches made by Members of the Legislative Council last week, there is a similar view shared by various sectors and strata across the community as well as Members of the Legislative Council that the overall direction of the Budget is worthy of support, so are most of the proposals made in it.

We are grateful to Members for the fair and practical advice they have given on the Budget. The Financial Secretary and a few other principal officials will speak later in response to views raised in relation to their respective policy portfolios. First, I would like to focus on matters related to co-operation between Guangdong Province and Hong Kong, as well as on the population policy, as these two issues have been raised by Members in the debate. I would like to inform Members on the latest developments in these two areas.

Madam President, the Budget this year calls for "capitalizing on the Mainland/Hong Kong Closer Economic Partnership Arrangement" as a major strategy for our economic development in the future.

On 5 August last year, the Sixth Plenary of the Hong Kong/Guangdong Co-operation Joint Conference was held in Hong Kong. The two sides reached a consensus that Guangdong would be primarily tasked with manufacturing while Hong Kong would be tasked with services. This is a more in-depth interpretation of the idea of "a shop in front and a factory in the back". Ever since the middle of last year, the Governments of Guangdong and Hong Kong have begun work on a full-scale economic co-operation between both places riding on the momentum of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) launched in full swing. The signing of CEPA provides an institutional framework for the economic integration between Hong Kong and the Mainland. It has also offered excellent advantages and opportunities for the service industries of Hong Kong to gain access to the mainland market. During my visit to the nine cities in the Pearl River Delta (PRD), I found that all the cities were very serious about implementing CEPA. They asked that the professional services of Hong Kong be introduced into the PRD. In many cities on the Mainland, especially those in the PRD, one-stop CEPA service centres have been set up.

I believe with the promulgation of related laws and regulations by the Central Authorities and the details for implementation by the local authorities, the positive impact of CEPA on the service industries would become more obvious. At the end of this February, a large-scale joint seminar on CEPA services and trade was organized by the two sides. Mainland officials came to Hong Kong and briefed participants on the policies related to professional and distribution services under CEPA. Then there was a talk held in Guangzhou in March on co-operation in logistics where ideas were exchanged on the future

development of the logistics industry in Guangdong and Hong Kong. In the next few months, both sides will establish more web links, and through the dissemination of information and such like policies, it is hoped that co-operation in other professions such as legal services and construction can be established.

Apart from CEPA, the co-operation between Guangdong and Hong Kong also covers other major areas such as infrastructure development, co-operation at the boundary crossings, tourism, promoting the Greater PRD and the expansion of the hinterland for economic co-operation, and so on.

The Environment, Transport and Works Bureau has never relaxed in the planning of cross-boundary transport infrastructure. With respect to the Hong Kong-Zhuhai-Macao Bridge, the National Development and Reform Commission and the Government of the Hong Kong Special Administrative Region (SAR) completed a related study in July 2003 and confirmed the need and urgency of the bridge. Then in August the three Governments set up the HongKong-Zhuhai-Macao Bridge Advance Work Co-ordination Group after gaining the approval from the relevant committee of the State Council. Planning work for the project then began. In such a short period as eight months, the Co-ordination Group has made some substantial progress, including the reaching of a consensus on the arrangements related to the feasibility study of the bridge and a decision is made to combine all the project studies and take forward a detailed feasibility study on the works which is expected to complete by the end of this year. The Co-ordination Group has commissioned a planning and design institution to begin a feasibility study on the bridge project. An office of the Co-ordination Group has been set up to undertake specific work in relation to planning the bridge project.

With respect to the Guangzhou-Shenzhen-Hong Kong Express Rail Link, the SAR Government has formed a planning group with the national Ministry of Railroads. The second phase study is near completion. The next step will be co-ordination on the alignment of the rail and siting of stations. The research and advance work for this rail is particularly complicated because huge amounts of investment are involved and the project will stretch across Hong Kong and many municipalities and counties in Guangdong Province. The planning group must also take into account the aspirations of all quarters and co-ordinate views from all places before the best plan can be devised. Currently the Governments of the two sides are actively working on this.

Besides, there is another major infrastructure project, that is, the Shenzhen Western Corridor. Progress of the project has been smooth since its launch in last August. The project is expected to complete by end 2005. The design capacity of the Shenzhen Western Corridor is more than double the total of the three existing land boundary crossings. When the Shenzhen Western Corridor is formally commissioned, it is believed that the congestion of land cargo and passenger traffic will ease greatly.

Moreover, in order to improve the boundary-crossing facilities and services, the two sides have begun a number of improvement initiatives. These include the construction of the Lok Ma Chau Spur Line and the passenger footbridge at the Huanggang and Lok Ma Chau crossings, the new cross-boundary bridge for vehicles at Lok Ma Chau and Sha Tau Kok and the installation of air-conditioning facility in the Lo Wu footbridge. From 18 April onward, the number of Guangzhou-Kowloon through trains will be increased from 10 to 12 daily. These immediate and longer-term improvement initiatives will provide positive and substantial assistance in coping with the increase in cross-boundary passenger flow as the Individual Visit Scheme is extended to include all residents of Guangdong Province and certain cities in Jiangsu, Zhejiang and Fujian Provinces, as well as the cross-boundary freight traffic between Hong Kong and Guangdong which has been made heavier with the developments coming out of CEPA.

I believe Members will agree that co-operation between Guangdong and Hong Kong in tourism has caused marked effects in spurring the recovery of Hong Kong economy. The SAR Government is well-prepared to meet the rising demands as a result of the extension of the Individual Visit Scheme to cover all residents in Guangdong Province as from 1 May. We will also join tourism authorities in Guangdong Province and Macao to take part in international tourist fairs held overseas and promote the Greater Pearl River Delta as a tourism platform.

I would also like to make use of this opportunity to report on the work of the expert group on promoting the Greater PRD under the Hong Kong/Guangdong Co-operation Joint Conference. The expert group will work with various PRD cities and engage in a number of investment promotion activities in Europe, the United States and Asia this year. Based on the experience last year, investors from Japan and Korea are particularly interested keenly in CEPA, and taking into consideration the advantages offered by CEPA,



these investors from Japan and Korea would prefer the PRD to other popular manufacturing bases on the Mainland as their key investment area. This is because the PRD has excellent matching facilities and such investment preferences will also demonstrate the synergy effect and advantages of the Greater PRD.

Apart from promoting the Greater PRD to overseas investors, the SAR Government is also committed to attracting mainland private enterprises to set up companies in Hong Kong. Invest Hong Kong helped 142 foreign companies set up or expand their business in Hong Kong last year. Of these companies, those from China take up 15% of the total and that shows the great potentials of these mainland private enterprises. The SAR Government is fully convinced that economic co-operation between Guangdong and Hong Kong should aim at promoting a two-way flow of goods and investments. Private enterprises are growing fast on the Mainland and in the Province of Guangdong alone, there are more than 300 000 private enterprises in operation. The total industrial output of these private enterprises amounts to RMB 424.8 billion yuan. It can be seen that the private sector has become a driving force in the economic growth of Guangdong. To further attract private enterprises from the Mainland, the Central Policy Unit has taken the lead to study on plans to attract more of these enterprises to come here to set up operations. It is hoped that appropriate assistance will also be given in terms of policy and institution.

The Hong Kong-Zhuhai-Macao Bridge mentioned by me earlier will help greatly in opening up areas in Western Guangdong. As a matter of fact, propelled by the momentum of Hong Kong/Guangdong co-operation, we are actively exploring the advantages of opening up the eastern and western flanks of Guangdong as well as the mountainous areas there into the economic hinterland of Hong Kong. Tonight I will lead a business tour group composed of people from various sectors, including those from the small and medium enterprises, to visit the Zhanjiang and Yangjiang Municipalities in Western Guangdong.

I am convinced that members of the tour group from different chambers of commerce will bring the business opportunities offered by Western Guangdong back to Hong Kong. In addition, we will also make use of this opportunity to introduce Hong Kong to mainland enterprises as a platform through which they can reach out to the world. It is hoped that more private enterprises will be attracted to Hong Kong.

Looking ahead into the future, the Greater PRD will grow into an economic entity of the Pan-PRD. The latter is a conglomeration of nine provinces and two regions, that is, the Provinces of Fujian, Jiangxi, Yunan, Gueizhou, Sichuan, Guangdong, Guangxi, Hainan and Hunan, plus the Special Administrative Regions of Hong Kong and Macao. The economic strength of these places can be described in seven numbers, that is, "6045200". "60" means 600 billion, or a Gross Domestic Product of US\$600 billion, "45" means 450 million of population and "200" means an area of 2 million sq km. The vast economic potentials of the Pan-PRD are therefore apparent.

This grand design which holds together the economic features and strengths of nine provinces and two regions will promise an even vaster hinterland, bigger markets and a more abundant supply of talents for the Greater PRD, enabling the manufacturing and financial services of the region to scale yet greater heights. The shaping and growth of the Pan-PRD will become an inevitable trend. We would capitalize on this advantage and plan proactively to leverage on the edges of our international position and service industries, rely on the huge market of the Pan-PRD and forge better regional co-operation and development.

Promoting Guangdong/Hong Kong co-operation is a key policy of the SAR Government. It is also a common vision shared by Hong Kong, Guangdong and the Central Government. In future, the Governments of Guangdong and Hong Kong will strengthen their co-operation based on existing foundations and they will study and develop new areas of co-operation under the guiding principles of "forward-looking, comprehensive, pragmatic and mutually beneficial".

Madam President, I now turn to the latest developments in the Government's efforts to implement a population policy. In February last year when I introduced the Report on Population Policy to the Legislative Council, I pointed out that the primary objective of a population policy was to enable the population of Hong Kong to sustain our long-term socio-economic development. We believe a population policy should strive to improve the overall quality of our population to realize our vision of Hong Kong as a knowledge-based economy and a world-class city. In this context, we should also aim to address population ageing, foster the concept of active and healthy ageing, promote positive social integration of new arrivals, and ensure the long-term

sustainability of our economic growth. We believe the achievement of these goals will lead to a steady improvement of the standard of living of our people.

Last week when some Members spoke, they expressed concern over actions taken in pursuance of the Report. I can tell Members here that the Government is working in accordance with the timetable proposed in the Report. We will make an annual review of the implementation of the policy and the related plans and issue a report every two or three years. Now we are undertaking the first annual review.

Now I would like to highlight the progress of various initiatives proposed in the Report with respect to the three major areas of population, that is, demographic structure, the quality of the population and transient population.

In view of the extremely low fertility rate in Hong Kong, we have cancelled since the 2003-04 financial year tax measures which run counter to the policy of increasing population and every child in the family will be eligible for allowance, irrespective of the number of children in the family. As the One-Way Permit Scheme has an important bearing on population increase and demographic structure, we have made improvements to the Scheme. These include strictly enforcing the allocation of the sub-quota for Certificate of Entitlement (CoE) children to 60 per day to enable these children to come here as soon as possible. We have also taken measures to continue to allow CoE children whose right of abode has been verified to choose when to leave the Mainland for settlement in Hong Kong. In other words, they can now come to Hong Kong together with their mainland parents if they so wish. We also encourage mainland spouses to visit Hong Kong under the Two-Way Permit Scheme, as soon as they have applied for an One-Way Permit, so that they may accustom to the Hong Kong way of life and the living conditions of their Hong Kong families, thus helping them decide in an informed manner whether they wish to settle in Hong Kong.

Meanwhile, we also address the problem of population ageing in Hong Kong. Work has begun to encourage active and healthy ageing. The Task Force on Active Ageing under the Elderly Commission will undertake work in this area. The Task Force has identified four priority topics for the promotion of active ageing, these are: lifelong learning; financial security, retirement and work practices; intergenerational solidarity; and transport/built environment. The Elderly Commission will also join hands with the Social Welfare Department and other related departments to organize activities to promote healthy ageing.

On the issue of the quality of the population, we plan to adopt a two-pronged approach to enhance the quality of the population.

Apart from making more investments in education and enhancing the educational attainment of the population, we encourage the working population to upgrade skills and pursue continuing education. To those arrivals in Hong Kong on grounds of family reunion, we provide suitable education, training and skills upgrading schemes. These programmes of pre-employment and in-service training are tailored by the Vocational Training Council, the Construction Industry Training Authority, the Clothing Industry Training Authority and the Employees Retraining Board for new arrivals. The new arrivals may also join many other programmes such as skills upgrading schemes and those offered under the Continuing Education Fund. We have also held many meetings with the NGOs to discuss issues related to new arrivals.

In order to attract talents from all parts of the world, the Security Bureau finalized on the Admission Scheme for Mainland Talents and Professionals in July last year. To date, more than 2 300 applications have been approved. In last October, we also introduced a policy on investment immigrants. To date, 72 applications have been approved and the total investment amount involved is well over \$500 million.

After the release of the Report of the Task Force on Population Policy, the Government has decided to enforce in phases the requirement that heavily subsidized public services like social welfare and health care will only be available to people who have resided in Hong Kong for seven years or more. In respect of Comprehensive Social Security Assistance and other public assistance payments, the new initiative was approved by the Finance Committee in June 2003 and came into force in January 2004. As for public health care services, as from 1 April 2003, holders of Two-Way Permits and other visitors to Hong Kong are required to pay the full costs of such services. Government departments will act with great care in enforcing these policies in the hope that a balance is struck between making allowance for special cases and the proper allocation of resources.

Madam President, a number of colleagues will respond later to the views and suggestions made by Members last week. Finally, the Financial Secretary will give a sum-up.

I hope Members can vote in accordance with the unequivocal views and suggestions expressed by the public and lend their support to the 2004-05 Budget.

Thank you, Madam President.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the maintenance of an effective and long-term investment in the policy area of security is a guarantee for Hong Kong's continued status as one of the safest cities in the world.

Good law and order, together with clearance facilities and procedures that are user-friendly and reliable, will not only enable the public to live and work in contentment, but also constitutes an important factor for foreign businessmen to come to Hong Kong for investment and development. I would like to thank a number of Members for their support and understanding of our security policies and also their views concerning our expenditure in various aspects.

Just now the Chief Secretary for Administration talked about the Individual Visit Scheme. Since its introduction in July last year, the Scheme has been implemented in 16 cities on the Mainland. Starting from 1 May, seven other cities in Guangdong Province will be also covered by the Scheme. As at 25 April this year, more than 1.65 million mainlanders have visited Hong Kong through the Scheme, bringing about new job opportunities and substantial revenue to various sectors in Hong Kong, such as the hotel, catering, retail and entertainment industries.

The State Council has recently decided that, beginning with 1 July 2004, the scope of the Scheme will be further extended to altogether nine municipalities, namely, Nanjing, Suzhou and Wuxi in Jiangsu Province, Hangzhou, Ningbo and Taizhou in Zhejiang Province, and also Fuzhou (urban area only), Xiamen and Quanzhou in Fujian Province. This arrangement is very much welcomed by the SAR Government.

To tie in with the further expansion of the Scheme to other municipalities and provinces, we have a comprehensive set of measures in place to effect co-ordination between different government departments and the tourism industry to make proper arrangements concerning clearance, transportation, publicity and education, to ensure that we can deal with the crowd during peak

periods, and to provide the best services to visitors. The SAR Government will continue to closely liaise with the mainland authorities to ensure smooth clearance, and to step up monitoring work to minimize any illegal activities from taking place in Hong Kong.

Concerning admission of talents and investors, the community generally recognizes the importance of mutual co-ordination in development and the benefits that mainland visitors will bring to our economy. Local talents have been enabled to develop their businesses up north through the arrangements under CEPA. At the same time, we also need to recognize the valuable resources provided by mainland talents to the sustainable development of local industries and in opening up various mainland markets.

The Admission Scheme for Mainland Talents and Professionals and the Capital Investment Entrant Scheme have been operating smoothly and well received by the general public since their implementation last year. These two Schemes will be implemented vigorously to attract more talents and investors, with a view to promoting our economic development. For the Admission Scheme for Mainland Talents and Professionals, as at the end of March this year, the Immigration Department (ImmD) has received a total of 2 825 applications. Notwithstanding that 162 of them were withdrawn or could not be processed, over 86% of the remaining cases (that is, 2 304 applications) have been approved. Nevertheless, I would like to stress that while relaxing some of our requirements to attract talents that are genuinely needed in Hong Kong, the ImmD will step up measures to prevent cases of abuse or falsification.

As for the Capital Investment Entrant Scheme, as at 24 April this year, 289 applications have been received by the ImmD, among which 170 have been approved. Eighty-six applicants have made investment in specified items amounting to HK\$613 million. The investment on average by each applicant was about \$7.13 million, exceeding the minimum investment requirement of \$6.5 million. We will continue to listen to views from various parties on the Scheme, and when appropriate, view the Scheme, including the specified investment items.

Following the development of CEPA and the expansion of the Individual Visit Scheme, efforts to ensure the smooth movement of passenger and freight flow can all the more brook no relaxation. The Government will closely co-operate with the Shenzhen authorities to continuously enhance our clearance capacity. Other than the improvement measures for our infrastructure and ports

as mentioned by Chief Secretary for Administration Donald TSANG, all the entrance points will spare no efforts to co-operate with each other in providing flexible deployment, streamlining of procedures and effective use of technology, so as to facilitate the free movement of passengers and vehicles across the boundary.

At present, one of our top priorities is to ensure the smooth operation of the Automated Passenger Clearance (APC) and Automated Vehicle Clearance (AVC) Systems. To facilitate drivers in making use of the AVC System, we plan to allow them to apply for the smart ID card during the third cycle of the territory-wide identity card replacement exercise in September this year.

Also, our consensus with the Mainland is that, the co-location of immigration and custom facilities at boundary control points will be implemented at the Shenzhen Western Corridor as a start. With the concerted efforts of the Governments of Shenzhen and Hong Kong, the preliminary design of the new port has been completed. Both sides are actively preparing to launch construction works at the new port as soon as possible, so as to tie in with the commission of the Shenzhen Western Corridor at the end of 2005.

Madam President, in addition to adopting the aforesaid arrangements and measures in facilitating the movements of passengers and goods across the boundary, the Security Bureau will continue to exert its utmost to ensure the law and order in our community and to provide efficient services to the public.

Thank you, Madam President.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, during the Legislative Council's Budget debate last week, a number of Members expressed their views on the housing policy. I would like to give an overall response in the following paragraphs.

I believe that the majority of people have accepted the Government's position as enshrined in the Statement on Housing Policy delivered in late 2002. At the time we made it clear that the Government will minimize its intervention in the market, so as to maintain a fair and stable environment for the property market to resume its healthy development. The public also agrees that the Government's role is mainly to provide public rental housing for families in need. In relation to the arrangements made by the Government in this regard, the

community expects the Government to maintain a clear, comprehensive and consistent housing policy to restore the confidence of the public and investors in the property market. As revealed by statistics for the past few months, the property market is beginning to pick up, the number of negative equity cases is on the decrease, and the public and investors have regained confidence in the property market. The repositioned housing policy begins to show effects.

Since 2004, in line with the market-led principle, the supply of land has been triggered through the Application List System. Recently, two sites on the List, in Sha Tin and Ma On Shan respectively, have been successfully triggered for public sale. As the total upset price for the two sites accepted by the Government exceeds \$1.6 billion, some Members queried the estimate in the Budget that land sale revenue would only come up to \$4.5 billion.

Land sale revenue was estimated at \$4.5 billion because quite a number of sites on the Application List would only be offered for application in the latter half of the 2004-05 financial year. We expect that if these sites are successfully triggered for sale and after completing the land sale procedure, the revenue will only be received and credited in the 2005-06 financial year. For these reasons and in view of the latest developments in the property market, it is understandable that some might consider our estimates to be too conservative.

On the other hand, some in the market are concerned that the supply of land may be affected by the low success rate in triggering a land sale, and this may lead to disruptions in the supply of residential flats in future. The Honourable Abraham SHEK has also expressed concern about this. I would like to point out that the Application List System is a market-led mechanism in which the market determines flexibly when the sites and how many of them are offered for sale. The upset price for the land sale is also determined according to market price. This mechanism ensures a continual supply of land to meet market demand and to avoid any disruption. Moreover, the Application List is not the only source of land supply. Developers may change the use of their land for permissible development through lease modification.

The Honourable LAU Ping-cheung has said that the Government should provide more small sites for application to make it easier to trigger a land sale. The Application List, as announced this January, comprises 14 pieces of residential sites and nine of them have an area of less than one hectare. These smaller sites should be able to meet the needs of small and medium developers.



Whether a land sale can be successfully triggered ultimately depends on the commercial decision of developers and whether the upset prices offered by them meet the expectation of the Government.

With regard to the supply of residential flats, we have been closely monitoring the supply of private residential flats. According to latest information, it is estimated that around 26 000 new units will be completed this year and around 23 000 units in 2005. For 2006 and 2007, as our forecast currently stands, the estimated supply will be about 16 000 and 7 000 respectively. I must emphasize that these figures reflect only the production of flats generated from private residential development projects under construction and sold sites and do not represent the actual supply in each of the coming four years. The actual supply in future will be affected by the following two factors.

The first is the amount of unsold housing stock accumulated from previous years. The number of unsold completed flats has been on the decrease since our analysis of the supply of residential flats last July, reflecting an increasing take-up rate and a corresponding improvement in the imbalance between supply and demand of residential flats.

Second, we must take into account the new private residential flats which will be built any time between now and 2007. While I am sure that there will be continuous supply of flats, the actual amount of production is ultimately up to the market and the developers, who will decide on the timing and amount of production after careful assessment of latest market information. This process will be dictated by market forces. The Government's responsibility is to ensure an adequate supply of land to meet market demand and the requirements for long-term housing development of the community, with the aim of maintaining a reasonable balance between supply and demand of residential flats.

Regarding the disposal of surplus Home Ownership Scheme (HOS) flats, to ensure consistent implementation of housing policy and restore the balance between supply and demand in the property market, the Housing Authority (HA) has decided earlier not to put up for sale unsold and returned HOS flats in the form of subsidized housing before the end of 2006. We are also examining practicable options to dispose of those HOS flats which have never been put up for sale by changing their use. The Honourable IP Kwok-him has suggested transferring the surplus HOS flats to staff quarters for the disciplined services and selling them orderly to existing public rental housing tenants. I fully

understand the concern of Members and the public and am grateful for Members' suggestions on the disposal of the surplus flats. In fact, we have studied various disposal options in a positive and open manner, in particular the suggestion of transferring the HOS flats to staff quarters for the disciplined services. Our discussions with the government departments concerned have reached the final stage. Besides, we also intend to transfer another 3 000 flats to public rental housing. The HA will discuss the proposals in due course.

Regarding the suggestion to sell HOS flats to public housing tenants, although the private property market is becoming stable, we will continue to monitor closely the supply and demand of residential flats and to avoid impacting on the property market which has just begun to revive. On this premise, the HA will from time to time review the timetable for disposing of the unsold and returned HOS flats.

In their speeches, both the Honourable Mrs Selina CHOW and the Honourable CHAN Kwok-keung have requested the Government to carry on with the Home Assistance Loan Scheme, so as to enable first-time home-buyers to purchase their own flats. In recent years, flats of different types and pricing are available in the private property market. Moreover, the loan packages and mortgage terms are also very flexible. Potential home-buyers can choose properties meeting their requirements having regard to their personal circumstances and affordability. Housing loans provided by the Government is a form of market intervention. The main thrust of our housing policy is to make maximum use of market forces to determine supply and demand of flats, while focusing public resources in the provision of public rental housing. In line with this important principle, we consider it necessary to conduct a comprehensive review of the Home Assistance Loan Scheme. We will put forward our recommendations to the HA shortly.

Proper building management and maintenance is essential to the sustainable development of Hong Kong. The public consultation on "Building Management and Maintenance", which lasted for three and a half months, just closed in mid-April 2004. During the consultation period, we consulted the 18 District Councils and attended over 20 consultation forums with the industry and the public. Around 130 written submissions were received. I am grateful to the public, in particular Members of this Council, for actively expressing their views.

We are now analysing the views received. Meanwhile, I am pleased to report to Members some preliminary analysis on the mainstream views. The views received point to a community consensus on the need to take timely action to address the building neglect problem. Many owners and members of owners' corporations have indicated their willingness to take up the responsibility for managing and maintaining their buildings, and at the same time hope that the support and assistance rendered to them can be further enhanced. There are also suggestions on placing certain mandatory requirements on owners as a long-term measure to ensure proper building management and maintenance.

Our initial idea is to invite, subject to the availability of public resources, non-governmental organizations (NGOs) to provide appropriate support and assistance to the old and vulnerable owners living in dilapidated buildings. Some examples of possible assistance include organizing the owners to form owners' corporations, helping them in appointing contractors for undertaking maintenance works, and providing technical support to owners on building management and maintenance matters in conjunction with relevant professionals. The NGOs may also refer owners who are in genuine need to relevant government departments, so that their building condition and living quality can be improved through social welfare measures, public housing resources, building safety loans, and so on. The involvement of NGOs would help organize the owners in these buildings and give them the necessary assistance. This would facilitate the industry to provide the required management and maintenance services to these owners direct in the long run. We will explore the feasibility of this approach with NGOs and the industry shortly, and will consider introducing a pilot scheme in this regard.

Public views received are divided on what concrete measures should be put in place to facilitate or mandate owners to undertake building management and maintenance. Suggestions raised include mandatory building inspection, mandatory engagement of building management companies and mandatory formation of owners' corporations. Since this subject concerns our community at large, we will examine closely and carefully the implications of any mandatory measure before it is considered for implementation.

We will work out a clearer way forward in the coming months and thereafter consult relevant parties on various options. We will consult the public again before finalizing any further proposals.

Thank you, Madam President.

**SECRETARY FOR HEALTH, WELFARE AND FOOD:** Madam President, I would like to begin by thanking Members for their valuable comments in respect of welfare and health issues. From Members' comments, it can be seen that social welfare is a matter close to your hearts, as it is also close to ours. Policies in respect of social welfare must be sustainable and underpinned by effective strategies and targeted programmes. In order to meet the objectives of the policies and assist the people the policies intended to serve, these programmes must be evidence-based and must be evaluated to demonstrate effectiveness.

As I explained to Members in this Council recently, our mission is to build a "Caring and Just Society", a society with rich diversity recognizing the strengths of differently endowed individuals. Our strategies seek to enhance both individual and community capacities to deal with adversities, and are implemented through an extensive range of services provided by both the Social Welfare Department (SWD) and our non-government organization partners.

On the question of welfare expenditure, our investment in social welfare has increased by 23% over the five years from 2000-01 to 2004-05. For direct services, that is, discounting the provisions for the Comprehensive Social Security Assistance (CSSA) and other financial assistance, the increase is still 14% or \$1.2 billion. For the financial year 2004-05, the recurrent welfare provision amounts to \$33.7 billion. Discounting provisions for social security, impact of civil service pay cut, lapsing of temporary jobs and one-off expenditure for SARS in 2003-04, there is still a net increase of \$105 million in the 2004 Budget, after the deduction of efficiency savings to cater for new and additional services mainly in elderly services and in rehabilitation and medical social services.

Despite the overall stringent financial situation, there is still an increase in our investment in welfare services; and despite the need to seek efficiency savings, priority services would always be kept intact. This is why when we discussed this year's proposed efficiency savings with the welfare sector, we made it abundantly clear that we would be ready to provide assistance to subvented non-government agencies which encounter genuine difficulties in meeting the savings target. The Director of Social Welfare has been working closely with the sector in this regard.

Madam President, I have referred to the expression "investment in welfare services" because I believe this is how social welfare should be regarded. Effective social welfare programmes are not just about provision of welfare services. Effective social welfare programmes should be about investments in strategies and initiatives which yield results. Such programmes need to evolve and be recreated periodically to meet changing societal needs, and should seek to build up social capital and enhance individual and community capacities to cope with changes and adversities. Active economic and social participation, social inclusion and self-reliance are some examples of investment returns.

I have shared with Members this "social investment approach" not so long ago. I must say that I am very much encouraged that at a Conference held earlier this month to revisit our welfare philosophies, the majority of the over 400 attendees from the welfare and third sectors reaffirmed that social welfare should take on a social investment instead of service provision perspective. We will continue to work closely with our non-government organization welfare partners to develop the concepts of social investment and social capital further.

Separately, we are also discussing with both the welfare and business sectors on how best to use the \$200 million earmarked in the Budget to promote tripartite social partnership to encourage corporations to take part in helping the disadvantaged. We hope that the process in formulating a social investment strategy would help us identify and agree on renewed priority areas for action, set pointers on how to yield social returns and benefits to the individuals, and endorse the principles in relation to effective evaluation models. The business sector would definitely have a positive role to play in building up our community's capacities to deal with adversities. I look forward to working with our two partners to further develop sustainable strategies.

Many Members are concerned about the social problems in Hong Kong, like poverty and domestic violence. Again, the Government shares the same concern and sentiment. Poverty is a manifestation of adversities. It is a complex and multi-dimensional phenomenon and there is no simple panacea. Broad-based economic growth is integral to providing opportunities for people in adversities to uplift their position; education, training and retraining are also essential to empowering them to capitalize on the opportunities available. In the context of social welfare, we seek to build up personal capacities to meet life's challenges, to provide a safety net for those in need, and to render assistance to those who fall close to the net. It is incumbent upon us to ensure

that a safety net is available to provide for the basic and essential needs of individuals and families who are in adversities.

The CSSA scheme, which is non-cash limited and accounts for about 11% of the recurrent expenditure of the Government this year, has been providing direct financial assistance to the needy. We also seek to ensure that effective measures are in place to help able-bodied CSSA recipients or near recipients to become economically active again. In this connection, the SWD will conduct a study to evaluate the employment assistance programmes for CSSA recipients to identify ways to improve the effectiveness of these programmes.

Turning to family violence, this is something which no society wishes to see or can tolerate, in particular when the vulnerable and innocent children fall victim to such acts. All acts of violence should be seriously and harshly sanctioned. In the context of domestic violence, remedial action is not the solution: prevention is the key. We have put in place a continuum of preventive, supportive and specialized services designed to prevent family problems and to deal with them when they arise.

There is however no ground for complacency. We are concerned about the problem, and as part of our efforts to map out evidence-based strategies, the Director of Social Welfare commissioned last year a study on child abuse and spouse battering. We look forward to receiving the experts' advice on the possible improvement measures. In the light of the tragedy in Tin Shui Wai, the Director of Social Welfare has initiated a review of the provision and service delivery process of family services in Tin Shui Wai, which will identify measures to strengthen the effectiveness, co-ordination and other aspects concerning service provision and delivery of family service in the area, and to identify any other general issues concerning the handling of family cases.

Madam President, a harmonious and violence-free society is never an accident. While resources are essential to tackling social problems, they are only as good as the programmes so designed and the community it is intended to serve. A harmonious society is built on the concerted efforts of all in the community. As with any other social problem, family violence, in many instances, is a manifestation of how some individuals react in adversity and when under pressure. That is why from a broader perspective, it is crucial for us to ensure that our welfare services adopt a social investment approach to seek to build up individual and community capacities. This would ensure that both individuals and the community at large are better placed to face life's challenges.

In response to some Members' reference to health care financing, the financial sustainability of our health care system has long been a major concern for the Administration. In fact, we have on various occasions consulted the Legislative Council and the community on how best to address this issue, for example, the Harvard Report in 1999 and the Health Care Reform Consultation Document in 2000. We have since introduced various strategic measures including: (i) containment of costs and enhancement of productivity; (ii) improving the interface between the public and private health care sectors; (iii) revamp of public fees structure as a demand management tool; and (iv) initiating studies to assess the feasibility of establishing a Health Protection Account (HPA) scheme to serve as a longer-term health financing option.

On the containment of costs and enhancement of productivity, both the Hospital Authority (HA) and the Department of Health (DH) will continue to explore further opportunities for efficiency savings. We are also of the view that effective preventive programmes will improve the overall health status of the population as well as contribute towards cost-effectiveness in the longer run.

On improving the interface between the public and private health care sectors, we will continue to jointly explore with the Private Hospital Association and other private service providers on how the two sectors can collaborate to the benefits of the community. For example, to allow patients a greater choice of service between the two sectors, the HA will make available to its patients more information relating to the private sector.

On the revamp of public fees structure, we have from November 2002 to April 2003 introduced a new fees structure for our public health care services. The revised structure has been effective in influencing public behaviour in the desired direction, for example, since the introduction of the new fee, the utilization rate of our Accident and Emergency services has decreased by over 10%. It should be emphasized that the revamped fee structure has not affected the affordability of public health care services to the community. Recipients of CSSA continue to enjoy waivers for their medical expenses. For vulnerable groups in the community who are not CSSA recipients, we have introduced in April 2003 an enhanced medical fee waiver mechanism to protect them from undue financial burdens arising from their medical expenses. Moreover, the maximum validity period of waiver certificates has been increased from six to 12 months.

Finally, on the proposal to establish a HPA scheme in Hong Kong, a study group involving medical professionals, epidemiologists, actuaries, economists, statisticians and social scientists from the different universities, the HA and the DH was formed to examine in greater depth the feasibility of applying the proposed HPA scheme as an additional source of health care funding in Hong Kong. Studies conducted by this group included existing pattern of health care services utilization, projection of future health care utilization, saving behaviours of our community, actuarial study of various HPA models, economic analysis of the impact of the HPA scheme on savings and consumption, and so on. This group is in the process of finalizing its studies, and we plan to present the group's findings to the Legislative Council in mid-2004.

Thank you, Madam President.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I am grateful to Members for the valuable advice on labour and economic development given by them during the debate on the Budget last week. I would like to dwell first on the issue of employment for, like Members, we are very much concerned about the issue.

The unemployment rate has fallen from 8.7% in the middle of last year to 7.2% presently, showing that our economy is on its way to recovery. Ever since the Chinese New Year, the Labour Department has been receiving about 1 000 job vacancies on average from the private sector every working day. This shows that sentiments in the labour market have improved. However, as the economy has turned for the better and many people are rejoining the labour market, this has led to a constant rise in the workforce over the past few months. Therefore, though new jobs are increasing, the unemployment rate has not seen any further decline.

The Mainland's relaxation of restrictions on individuals visiting Hong Kong has made the tourism, hotel, retail, catering and such like industries buoyant and many jobs are created in these industries. Despite this development, grass-roots workers with low skills and low educational attainments are still facing an acute unemployment problem. In this connection, the Government has launched many employment initiatives specifically to address the problem and assist the unemployed. We plan to use \$880 million this year to extend some 11 000 jobs, most of which are suitable for persons with



low skills. We will continue to make great efforts to promote the Re-employment Training Scheme for the Middle Aged and the Special Incentive Allowance Scheme for Local Domestic Helpers. With the allowances given to the employers or employees, it is hoped that low-skilled middle-aged persons can be attracted to undergo re-employment training or to join the ranks of local domestic helpers. Thus they will have greater chances of placement. The two schemes now have a total of about 15 000 job opportunities. We would keep in view of the effects of these schemes from time to time to make sure that these schemes can meet public needs.

As for young people who may lack working experience and are first-time job-seekers, we will continue to offer the Youth Pre-employment Training Programmes and the Youth Work Experience and Training Scheme to help the young people gain work experience and enhance skills through various kinds of pre-employment and in-service training, thus increasing their employability.

These two schemes have met positive evaluation by the community. Ever since 1999 to the present, more than 60 000 people have benefited from these schemes. This year we will establish a trial scheme called Youth Sustainable Development and Engagement Fund to assist young people in self-employment. Various NGOs and their networks will be enlisted to offer training and support to young people who wish to become self-employed. We will use \$280 million this year to implement these three schemes in order to assist 18 000 young people in their employment.

Apart from these employment schemes, the Economic and Employment Council headed by the Financial Secretary will share collective wisdom with various sectors and draw up relevant measures to improve the business environment, thereby creating more job opportunities.

Members have also expressed concern about the problem of illegal employment. In an attempt to protect the employment opportunities of local workers, the relevant departments set up an interdepartmental working group last year to co-ordinate enforcement actions, exchange intelligence and formulate strategies to combat illegal employment. In the first quarter of this year, more than 1 400 illegal workers were arrested. With respect to penalties, in the first two months of this year, of the 48 employers convicted of employing illegal workers, 33 were given imprisonment terms ranging from 28 days to 15 months.

The punishment imposed was heavier than that during the same period last year. I believe stiffer sentences will certainly achieve a deterrent effect.

Madam President, during the Budget debate, Members also put forward many views on the development of the tourism industry. The year of 2003 was a challenging year for the tourism industry. Despite the impact of SARS, thanks to the concerted efforts made by the industry, a rapid recovery has appeared. Last year, a total of 15.5 million visitor arrivals to Hong Kong was recorded, being the second highest number of arrivals on record. In the first quarter of this year, overall visitor arrivals increased by 15%. The Hong Kong Tourism Board (HKTB) estimates that the total arrivals this year will reach more than 20 million. Apart from strong growth in visits by mainlanders, it is encouraging to note that visitor arrivals from some long-haul markets have returned to positive growth. As of February this year, the number of visitors from Europe, Australia and the United States has gone up by about 13% compared to the same period last year. So visitor arrivals from long-haul markets have returned to the pre-SARS level.

With the Individual Visit Scheme of the Mainland going to be extended to include the whole of Guangdong Province next month and the expansion of the Scheme to nine cities in the three provinces of Jiangsu, Zhejiang and Fujian in July, a total of 32 cities with a population as many as some 150 million can visit Hong Kong under the Individual Visit Scheme. The benefits which will be brought to the tourism, hotel, catering, retail and entertainment industries would be immense. Since the introduction of the Individual Visit Scheme last July, more than 16.5 million mainland residents have visited Hong Kong under the Scheme, spending some \$9 billion here. We will continue to upgrade our tourist facilities and co-ordinate with the authorities concerned in matters related to customs clearance at the boundary crossings, transport, hotel and accommodation, and passenger flow control at the tourist spots, and so on. All these measures will seek to afford to travellers a pleasant stay in Hong Kong.

It is also important that the service quality of other tourism-related trades be improved. In this connection, the Tourism Commission, the HKTB and the sector will adopt measures to enhance the service quality of other tourism-related trades and to promote a hospitality culture in Hong Kong.

Some time ago, the Government used \$16 million to assist the sector in organizing some in-service training programmes for tour guides. A total of

some 5 000 serving tour guides have joined these programmes and completed the required assessment examinations. From July this year onwards, all travel agents must employ certificated tour guides to serve in-bound visitors in the interest of ensuring the quality of tour guides. To enhance public awareness of the importance of developing the tourism industry and promoting a culture of hospitality, educational efforts related to "A Hospitable Hong Kong" Campaign would continue. Quality service seminars and activities will be organized and assessments made on the quality of service in industries related to tourism in order ensure that they reach international standards.

With respect to the protection of consumer interests of tourists, we think that the promotion of best business practice and enhancement of the awareness of consumer interests is the best method. As regards publicity and promotion, the HKTb has prepared information leaflets and booklets for distribution at the land boundary crossings and at the airport. The leaflets and booklets would be updated from time to time to ensure that tourists will be provided with the latest information. In this connection, we have strengthened our co-operation with the relevant authorities on the Mainland.

The HKTb is striving to enhance the Quality Tourism Services Scheme by stepping up its publicity drives in both Hong Kong and the Mainland, following up the complaints lodged against companies accredited by the Scheme and providing visitors with information on the enquiry hotlines of the HKTb and the complaints hotlines of the Consumer Council through various publicity channels. We are also making a review of consumer protection laws to examine how consumer interests can be better protected. As for travellers on group tours, the Travel Industry Council of Hong Kong requires its members to enforce strictly the 100% refund protection scheme so as to provide the greatest consumption protection to travellers in the shopping activities arranged by tour agents.

On new tourist facilities, new tourist spots will be completed in succession. Now a multimedia show called "A Symphony of Lights" is staged every night, making the night scene in the Victoria Harbour more sparkling and dazzling than ever. The Avenue of Stars opened yesterday offers a new attraction to tourists. These items are the brainchild of our creative endeavours. Other large-scale projects will come on stage soon. At the centre of the new attractions is the Hong Kong Disneyland. Another project, the Tung Chung Cable Car Project has begun. When added to other projects like the Tourist Corridor and the Heart Sutra Inscription, Lantau Island will surely become an appealing place to visit.

Other tourism development projects like the Tsim Sha Tsui Promenade Beautification Project, the Hong Kong Wetland Park and the conversion of the former Marine Police Headquarters are all making good progress.

As for the new cruise terminal which is also a subject of concern for Members, in a bid to speed up pier developments, we are considering inviting interested parties to tender proposals on other suitable sites besides Southeast Kowloon for the cruise terminal, as well as suggestions on matters related to its development and mode of operation.

Madam President, I hope Members will agree that there are many new tourist attractions here and we will continue to endeavour to launch other projects as innovative and popular as "A Symphony of Lights" and the Avenue of Stars. We will strive to enhance service quality in the tourism industry, protect consumer interests so that visitors to Hong Kong can feel the fun and shop with confidence, that they can truly "live it" and "love it" in Hong Kong.

A number of Members mentioned fair competition legislation in the debate. As to whether or not there is a need for such laws, it has been discussed in this Council on many occasions. I must reiterate that the Government's competition policy is aimed at achieving greater economic benefits and promoting free trade for the benefit of consumers. Promoting competition is only a means to achieve such an end.

Currently laws or administrative measures are formulated in accordance with the needs of different industries and in the light of the actual situation. The aim is to maintain a level playing field and promote fair competition. We think that this is more flexible in responding to changes than by drawing up an all-embracing piece of legislation on competition, as the former can cater for the needs of various industries and suits a free and open economy like Hong Kong.

Having said that, we remain open in respect of competition legislation. We will continue to keep a close watch on the developments in competition policies and laws in other places and review if Hong Kong needs to formulate competition laws in the light of the actual situation here.

Madam President, in fact, the Government has all along been working hard to promote fair competition. The Competition Policy Advisory Group issued a set of guidelines last September to provide the business sector with

standards, benchmarks and principles to assess the overall competitive environment in Hong Kong and to define and deal with anti-competitive behaviour. The Government is actively promoting the guidelines across various sectors. We suggest the sectors to all exercise self-discipline and draw up codes of conduct taking into account their specific conditions. This will help implement a competition policy for Hong Kong and further promote competition.

In addition, the Advisory Group is engaging in public education in this respect. Through such channels as school curriculum and interactive games outside the schools, the concept of fair competition is fostered among the young people who are introduced to various types of anti-competition behaviour. It is hoped that they will gain a better understanding of free trade and a level playing field in business and that, at the end of the day, their awareness of fair competition can be enhanced.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Financial Secretary, please reply.

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I would like to express my heartfelt thanks to Honourable Members for the many valuable views they have expressed on my maiden Budget.

The themes of this year's Budget are "promoting people-based governance, giving our community a respite, revitalizing the economy and improving people's livelihood". On public finances, the expenditure cuts that I have proposed are moderate and are not uniform across all Policy Bureaux, and the fiscal deficit is being tackled in a pragmatic and measured manner. On the economic front, I put great emphasis on "grasping our opportunities and constantly renewing our strengths" so as to lay a solid foundation for our long-term economic growth by capitalizing on the advantages brought by our closer economic ties with the Mainland and reinforcing Hong Kong's unique strengths. I hope that through revitalizing the economy, we can promote employment and improve people's livelihood. Various sectors of the community have generally endorsed the broad principles and directions set out in the Budget. I am deeply grateful to them.

The Chief Secretary for Administration and other Principal Officials have already responded to points raised on a number of issues. I will focus on several topics relating to our economy and public finances.

I have stated that the guiding principle for our economic policies should be "Market leads, Government facilitates". Many support this principle but some others criticize it as being too vague and generalized. Some Members have called on the Government to increase its intervention and others have suggested that we should have detailed planning for the future development of our economy. I believe that the Government should adhere to the principle of a free market economy and keep its role to a minimum. Intervention is required only when the market fails. The role of the Government should also be to create the best possible environment for business, to facilitate the market's operation and to promote its development.

As I mentioned in my Budget speech, the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) is the best embodiment of the "Market leads, Government facilitates" principle. Some Members are concerned that our requests for the signing of CEPA and the introduction of other measures for economic co-operation with the Mainland might give the impression that we are "asking for big gifts" from the Central People's Government. I must reiterate that CEPA is the first free trade arrangement signed between our Motherland and Hong Kong. It is an economically symbiotic arrangement that generates "win-win" opportunities. Opening up of markets is never a "zero-sum game" as trade liberalization benefits both exporting and importing ends. As Premier WEN Jiabao remarked on his visit to Hong Kong last year, rather than CEPA, the real gift from the Central People's Government to Hong Kong is the Central People's Government's unwavering commitment to implementing "one country, two systems".

Hong Kong has been contributing to the opening-up and economic advancement of our nation and, at the same time, has been able to share the fruits of the Mainland's economic development. This is the advantage on which Hong Kong can capitalize under "one country, two systems". Two days ago, I met Vice President ZENG Qinghong in Shanghai. He again reaffirmed the contributions made by Hong Kong to the economic development of our Motherland. He also said that the development of the Mainland and that of Hong Kong were mutually beneficial and would create "win-win" opportunities,

and that Hong Kong would continue to play an active role in the future economic development of our nation.

Since CEPA came into operation in January this year, over 770 CEPA certificates of origin have been issued, with the value of products enjoying preferential treatment exceeding \$300 million. The Trade and Industry Department (TID) has also approved more than 220 applications for Certificate of Hong Kong Service Suppliers. I will not repeat here the economic benefits Hong Kong reaps under CEPA. Many Members have already stressed in their speeches the importance of making further inroads into the mainland market under the framework of this Arrangement. The SAR Government fully agrees with these views. We have been trying our utmost to promote the best use of CEPA as an open platform, and to continually expand the liberalization measures under CEPA. The TID has already received more than 160 applications to extend the range of products that may enjoy zero-tariff treatment, covering over 300 tariff codes. Upon verification, the TID will forward the relevant applications to the Ministry of Commerce and enter into discussion with the Mainland to enable such goods to be imported tariff-free into the Mainland under CEPA with effect from 1 January next year. As for trade in services, the Government will continue to strengthen the liberalization measures under CEPA through various means. The Government announced early this week the arrangements relating to the opening up to Hong Kong of the qualifying examinations and practices of patent agents in the Mainland. This is the result of the further liberalization of professional services under CEPA. The Government will actively seek an early start of consultation covering the whole service industry.

"Market leads" does not mean that the Government should be passive and do nothing. As I have pointed out in my Budget speech, the Government seeks to safeguard and promote Hong Kong's commercial and trade interests. If the need arises, the Government will, on its own initiative, step in and play an active role. An example of this is our success in securing the return of Hong Kong exhibitors to the BASELWORLD, a jewellery and watch fair in Switzerland. In April last year, because of the outbreak of SARS, companies from Hong Kong and some other Asian countries were barred by the relevant authorities from exhibiting at the fair. Following intervention by the SAR Government at the senior level and through the efforts of the Hong Kong Trade Development Council (TDC), an agreement was signed between the TDC and the

BASELWORLD organizer in September last year. Under the agreement, Hong Kong exhibitors were allowed to return to the Basel venue and exhibit at a prime location in a new exhibition hall. The agreement also granted them more favourable terms, guaranteeing that they could exhibit at the main BASELWORLD exhibition venue and at steady fees for the next six years. I attended this year's exhibition in Basel two weeks ago in order to show support for our exhibitors. I was very pleased that we had the largest Hong Kong delegation on record, with 333 Hong Kong companies exhibiting at the Hong Kong Pavilion. Many representatives from the industry told me how very satisfied they were with the arrangements. It was indeed a great success for our exhibitors, with a huge number of people visiting the Hong Kong Pavilion and the large number of orders secured.

Some Members have proposed developing the frontier closed area into a new economic zone. The area is strategically located adjacent to Shenzhen. Yet, it is hilly and part of it has ecological and conservation value. These, coupled with the presence of traditional villages and the shortage of infrastructural facilities, have limited the development potential of the area. Within the frontier closed area, the Lok Ma Chau Loop is a location with greater development potential. We and the Shenzhen Government will explore ways to make full use of this site on a reciprocal basis. In studying the future development potential of the area, we will consider the views of various sectors very carefully. With due regard to cost-effectiveness and the best interests of all parties concerned, we will develop a proposal that can be of benefit to the economic development of both Hong Kong and the Greater Pearl River Delta, that makes full use of the geographical advantages of the area, and that minimizes the impact on the ecological habitat.

As for enhancing the quality of our financial market, we have drawn up a series of improvement measures. These include giving statutory backing to certain fundamental listing requirements, and extending the scope of market misconduct to cover breaches of these requirements for a stronger deterrent effect. We have also proposed to empower the Securities and Futures Commission to impose sanctions on directors and corporate officers directly for breaches of statutory listing requirements. We believe that such measures, which address the root of the existing problems in our financial market, can help enhance its quality and are in line with its development. We will introduce into the Legislative Council a Securities and Futures (Amendment) Bill early next year to implement the above measures.



Many Members and citizens are concerned about the employment situation. This is also a subject of great concern to the Government. Tackling the structural unemployment problem is a major long-term challenge for us as Hong Kong undergoes economic restructuring. Realistically the problem cannot be solved within a short period of time. The Government will nevertheless continue to tackle it in a serious and proactive manner. We will enhance our co-operation with the labour sector and explore ways to ease the problem of skill mismatch. The Secretary for Economic Development and Labour has just spoken on the Government's specific measures to improve the unemployment problem of Hong Kong. In the long run, creation of jobs should be market-led. However, the Government will provide all the necessary support and encourage enterprises to create more employment opportunities by promoting investment and facilitating business.

According to the latest figures, the provisional fiscal deficit for 2003-04 stands at \$40.1 billion, a decrease of \$8.9 billion over the revised deficit of \$49 billion forecast in the Budget. This is because government expenditure is \$5.4 billion lower than departments' revised estimates of expenditure, reflecting that their concerted efforts to reduce expenditure have achieved some results. On the other hand, revenue is \$3.5 billion higher than expected. The main items that have generated more revenue include profits tax, salaries tax, stamp duty and land premium.

Though the fiscal deficit for 2003-04 is lower than expected, we must not treat the problem lightly as this deficit is still equivalent to 3.3% of GDP. We have experienced consolidated deficits for four consecutive years and the Operating Account has been running a deficit for six consecutive years. Tackling the fiscal deficit admits of no delay. The difficulty lies in the need, in restoring fiscal balance, to take into account the affordability of the public.

It is indeed not easy to strike a proper balance between reducing the fiscal deficit and safeguarding people's livelihood. I heard many mutually exclusive views in the course of preparing the Budget and during the public discussions that followed. Some criticized us for doing too little to cut public expenditure. Others, however, commented that the expenditure cuts are too drastic and are worried that public services will be affected as a result. Some Members have also requested that the timeline for achieving fiscal balance be deferred by one year. This reflects the fact that various sectors of the community have different expectations.

In order to address such different expectations, I have set in my Budget speech a specific objective, which is to restore fiscal balance in the Operating and Consolidated Accounts by 2008-09. As far as expenditure is concerned, I have laid down guidelines for the Government's annual operating expenditure, with a view to achieving the target of reducing operating expenditure to \$200 billion by 2008-09. Since Budget Day, the majority view of the community has been that this year's Budget is a sound and pragmatic one. It appears that we have generally struck the right balance.

The Government will first put its own house in order by managing its finances prudently in accordance with the principle of "cutting down on expenditure before raising revenue". Departments are making every effort to streamline their structures and re-engineer procedures so as to achieve the objective of doing more with less.

In common with Members of this Council and the general public, the Government is deeply concerned with wasteful use of public money in departments. We attach great importance to the Director of Audit's reports and will certainly follow up their recommendations for improvement in a bid to avoid wasting resources.

Some Members are worried that the reduction of expenditure will affect our education and social welfare services. I must reiterate that the Government will not waver in its commitment to invest in education and provide for the disadvantaged. The recurrent expenditure on education is estimated to be \$49.2 billion for this year, which is comparable to last year's original estimates. The education budget accounts for the largest proportion of government expenditure. This clearly demonstrates the importance we attach to education. To tackle the fiscal deficit problem, we need the commitment and support of all sectors of the community. Many people understand that the education sector also needs to make its contribution in this respect and I am very appreciative of this. I must stress that, in taking forward the cost-saving measures, the Secretary for Education and Manpower will weigh the pros and cons, try his best to balance the needs of various parties and ensure the most effective use of resources. We do not want to see the quality of education being compromised as a result of the move to achieve savings.

We are also very concerned about the plight of the poor and the disadvantaged. The Secretary for Health, Welfare and Food has just spoken of

the assistance provided by the Government to the vulnerable. Despite the current tight fiscal position, the Government has earmarked an additional \$200 million on a one-off basis for promoting the development of a tripartite social partnership comprising the Government, the business community and the welfare sector, and for encouraging corporations to take part in helping the disadvantaged. This shows the importance that the Government attaches to social welfare. I hope that this initiative can motivate various sectors of the community to take up a share of social responsibility and work together to care for the needs of the disadvantaged.

Some have felt that the Budget may be too optimistic in its economic forecasts for the next five years and have criticized the Government for being over-reliant on economic recovery to generate additional revenue. Others, however, are of the view that the Budget is overly conservative in its revenue forecasts. Our forecasts of 6% GDP growth in real terms for 2004 and the 3.8% GDP trend growth rate over the medium term are the best assessments and estimates possible and are based on reliable economic data. While welcoming the Budget after it was announced, the International Monetary Fund considers that our medium-term economic forecasts are somewhat conservative. As an open economy, Hong Kong is of course vulnerable to external factors. Each year, I will review Hong Kong's economic development and financial position and put forward necessary operating revenue proposals at the appropriate time.

Last year, this Council passed a number of specific proposals to raise revenue and relieve the pressure on our fiscal deficit. As our economy has just started to recover, I believe that we should give the community a respite so as to create favourable conditions for a sustained economic recovery. Therefore, I have decided to put forth no new proposals for further increases in salaries tax, profits tax or any other taxes. Some have criticized this approach as being too passive and insufficiently proactive. Having taken all factors into account, I consider that this approach is a pragmatic one as it can give the people and the enterprises a respite while laying the foundation for the long-term development and growth of our economy. In fact, the decision has been widely accepted by the public.

A number of Members have proposed that we shelve the second phase of salaries tax adjustments endorsed by the Legislative Council last year. Such a suggestion, if implemented, would cost the Government \$3.3 billion a year, thus further increasing the Operating Account deficit. As a result, the Government

might need to raise other taxes in order to achieve the target of restoring balance in the Operating Account by 2008-09. Given our tight fiscal position and the current persistent deficits, there is really no room for any tax reduction. In fact, outside this Chamber, I have not noticed any loud calls for shelving the second phase of salaries tax adjustments. This clearly shows that the public understand the urgency of cutting the fiscal deficit and are willing to share the responsibility for this.

The Goods and Services Tax (GST) is the subject that has generated the most extensive debate on the Budget. The Government is considering introducing GST not only to broaden the tax base and provide a more stable source of revenue, but also to open up a new revenue stream to finance the existing structural deficit. This proposal is based on the report submitted by the Advisory Committee on New and Broad-based Taxes upon its completion of a comprehensive review of our tax system. A number of opinion surveys on the Budget indicate that at present over 30% of the citizens are in favour of introducing GST, and one even shows that over half of the young people surveyed consider it advisable to introduce such a tax. This reflects that members of the community are considering this subject from a modern viewpoint and in a pragmatic manner.

Drawing on the experience of other places and having regard to our actual circumstances, an internal committee set up by the Government is studying how best to implement a GST in Hong Kong. The Committee will also take fully into account the impact of this tax on low-income families. It will submit a report to me at the end of this year. We will launch a consultation on the tax next year at the earliest. I hope that various sectors of the community will then have an informed and rational debate on this subject and reach a consensus on the way forward.

Another subject that has also attracted public attention is the proposed Personalized Vehicle Registration Marks Scheme. This innovative scheme has been generally well-received by many members of the public. Some quarters of the community are concerned about the possible impact of the scheme on law enforcement, as there will be a greater variety of combinations of vehicle registration marks. But the fact is that similar schemes have been introduced and are functioning smoothly in a number of other places such as the United States, Australia, New Zealand and the United Kingdom. In conceiving this scheme, we have consulted the Police Force and the Transport Department (TD)

fully to ensure that its implementation will not jeopardize road safety or increase the burden on the law enforcement agencies. Some people have expressed concern that proceeds from the auctioning of special vehicle registration marks will be reduced upon the introduction of the new scheme, thus indirectly reducing the resources available to social welfare organizations. I would like to point out that combinations of personal vehicle registration marks under the scheme will differ greatly from those under the existing arrangements. The scheme and the existing arrangements would therefore appeal to different vehicle owners and are not a "zero-sum game". At a recent TD auction of special vehicle registration marks, we still saw very intense bidding for special registration marks. The Government will introduce the relevant legislation into the Legislative Council as soon as possible with a view to putting this scheme into effect around the end of this year or early next year.

As regards the proposal to issue government bonds, I am glad that it is generally supported by Members and various sectors of the community. We have invited a number of shortlisted banks to submit detailed proposals next month in connection with the proposed issuance of up to \$20 billion of government bonds. We also intend to move a motion in mid-May to seek the Legislative Council's approval of the concerned resolution to authorize such borrowings under the Loans Ordinance. If the resolution is passed by Members and market conditions are favourable, we aim to launch the offer of these bonds before mid-July. In a related development, the offering of \$6 billion worth of securitization bonds backed by future revenues from government-owned toll tunnels and bridges was launched on 19 April 2004. The subscription and placing arrangements are scheduled for completion in less than two weeks' time with a view to listing the bonds on the Stock Exchange on 10 May 2004.

Apart from providing greater flexibility in the management of our liquidity and funding infrastructure projects, the issuance of government bonds offers investors another option. Institutional investors are no strangers to bonds but the general public do not know much about this investment vehicle. The issuance of government bonds will therefore help enhance the community's understanding of bonds, thereby deepening our bond market. I have mentioned in my Budget speech that quality bonds are an investment option that can provide a steady and higher return. In saying that, I am comparing bonds with interests on bank deposits. It will be a completely different story if one is speculating in bonds. Members of the public should pay attention to the impact of interest rate changes on bond prices. If interest rates rise, bond prices will fall. After all,

risks exist in any form of investment. Investors must assess their position before making any investment decision.

An Amendment Bill to effect capital restructuring of the Airport Authority was introduced into the Legislative Council on 24 March 2004. The first Bills Committee meeting will be held in early May and we are hopeful that, before the end of the current Legislative Session, we can obtain the necessary approvals from the Legislative Council for the Authority to return \$6 billion in equity to the Government.

Madam President, in preparing the Budget, I have consulted the community widely and talked with members of the public on many occasions, hoping to listen to views from as many sectors of the community as possible. I am glad to learn that many Members have given recognition to my work in this respect. Business and community organizations, the public and the media have also expressed their support for the Budget in various fora. This is most encouraging. I have repeatedly emphasized that our discussions and decisions on public policies must be carried out in an open and transparent manner so as to engender a spirit of informed, rational and constructive debate, during which a consensus can be reached. I hope to follow out this spirit and work with all sectors of the community in creating a prosperous, vibrant and caring society.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Appropriation Bill 2004 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Yiu-chung rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for three minutes. After three minutes, voting shall start.

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

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

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Mr Albert HO, Dr Raymond HO, Mr Martin LEE, Dr Eric LI, Mr Fred LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Timothy FOK, Dr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the motion.

Ms Cyd HO, Mr LEE Cheuk-yan, Miss Margaret NG, Mr LEUNG Yiu-chung and Ms Emily LAU voted against the motion.

Mr Henry WU, Mr Michael MAK and Mr Albert CHAN abstained.

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

THE PRESIDENT announced that there were 52 Members present, 43 were in favour of the motion, five against it and three abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Appropriation Bill 2004.

Council went into Committee.

### **Committee Stage**

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

### **APPROPRIATION BILL 2004**

**CHAIRMAN** (in Cantonese): We are to consider the Schedule first, in accordance with Rule 68 of the Rules of Procedure.

I now propose the question to you and that is: That the sums for the following heads stand part of the Schedule.

**CLERK** (in Cantonese): Heads 22 to 28, 30, 31, 35, 37, 39, 42 to 49, 51, 53, 55, 59, 60, 62, 63, 70, 72, 74, 76, 78, 79, 80, 82, 90, 91, 92, 94, 95, 96, 100, 106, 110, 112, 114, 116, 118, 120, 121, 136, 138, 142, 143, 145, 147, 148, 149, 151, 152, 155, 156, 158, 159, 160, 162, 163, 166, 168, 170, 173, 174, 180, 181, 184, 186, 188, 190 and 194.

**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 sums for the heads stated stand part of the Schedule. 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): Head 21.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Chairman, I move that head 21 be reduced by \$1.9 million in respect of subhead 000, as printed on the Agenda.

Madam Chairman, the Democratic Party demands for the deletion of the post of Senior Special Assistant in the Chief Executive's Office (CE's Office). Since Andrew LO left the Government at the end of 2001, the post has been left vacant until the eve of the delivery of 2003 Budget. At that time, the Democratic Party planned to request for the deletion of that vacant post and thus enquired about the annual expenditure of that post from the Finance Branch. However, as the Finance Branch delayed giving us a reply, the CE's Office filled that vacancy in an extremely efficient manner that had rarely been seen. The officer filling the vacancy, be it before the promotion or after, is mainly responsible for work related to the relationship between the SAR and the Central Authorities and mainland organizations. Despite the nature of his duties remaining unchanged, he has been given a substantial pay rise of some \$40,000. This definitely runs counter to the target of minimizing expenditure in face of a fiscal deficit.

The CE's Office is the model of all the other government departments. Had it not set a good example, how could it rectify the wrongs of others? In the end, the Democratic Party failed to have the post deleted last year. This year, the Democratic Party will unremittingly press for the deletion of this post. We aim to cut expenses and reduce the fiscal deficit on the one hand, and to caution the CE's Office to draw a lesson from this, not to intervene further the autonomy of universities on the other. If it can learn when to take forward and when to hold back, it would have rendered us a great service indeed.

With these remarks, Madam President, I beg to move.

**Mr CHEUNG Man-kwong moved the following motion:**

"RESOLVED that head 21 be reduced by \$1,900,000 in respect of subhead 000."

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, the amendment moved by Mr CHEUNG Man-kwong this time demands for a reduction of the operational expenses of the CE's Office. As he has just said, the amendment proposes a reduction of provision by \$1.9 million, which is the annual remuneration for the post of Senior Special Assistant in the Chief Executive's Office.

Mr CHEUNG Man-kwong justifies his proposal on the grounds that the post of Senior Special Assistant in the CE's Office had been left vacant since Mr Andrew LO's resignation in December 2001. It was only filled last year by the promotion of Mr CHAN Kin-ping, the Special Assistant. He seems to imply that the promotion of any officer to fill the post is utterly uncalled for. Insofar as I understand Mr CHEUNG's remarks, his proposal to reduce the amount of provision means to indicate that it is not necessary for the relevant post to stand alone, for the duties under the post may be undertaken by other departments. Certainly, the Liberal Party also supports expenditure cuts in general.

However, the Liberal Party does not consider the relevant argument justified. I even have an impression that the proposal is being personal, we thus find the proposal absolutely meaningless. First, the post of Senior Special Assistant in the CE's Office was neither introduced nor created by the Chief Executive. A similar post was established during the era of Christopher PATTEN, the former governor. If Members do remember, when the former governor Christopher PATTEN arrived at Hong Kong in 1992 to assume office, he brought along two of his loyal followers, Edward LLEWELLYN and Martin DINHAM, from Britain to act as his personal advisers. I remember that no one seemed to have raised any opposition to such an arrangement at that time, including Members in this Chamber — Members of former Legislative Council. The two assisted former governor Christopher PATTEN in drafting speeches,

formulating policies, scrutinizing government policies, communicating with officials and the media, as well as Members.

If we care to look up the official information, we will find that the salaries for the two gentlemen in the year 1996 were \$123,200 and \$75,040 respectively. But that was 1996, eight years ago. On the contrary, when Mr CHAN Kin-ping was promoted last year, his monthly salary was only increased to about \$120,000, I thus do not think the arrangement smacks of any serious irregularities. If Mr CHEUNG queries Mr CHAN's salary for it is exorbitantly high or for other reasons, and if he argues that Mr CHAN's salary exceeds the sum of the salaries of his two predecessors, I perhaps may share such queries. But the fact is that it is not the case.

Moreover, the major duties of the Senior Special Assistant are to co-ordinate the communication between the Chief Executive and mainland authorities and organizations, and to conduct studies and give advice on liaison matters between the Chief Executive, and community organizations and groups of different sectors. Besides, with the conclusion of CEPA, and increasing exchanges between the Mainland and Hong Kong, we consider assigning someone well-versed in mainland issues and the State situation to assist the Chief Executive serves not only a practical need, but also stands as reasonable and sensible. Therefore, the Liberal Party will not support this amendment.

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

**MR IP KWOK-HIM** (in Cantonese): Madam Chairman, Mr CHEUNG Man-kwong's amendment seeks a reduction of \$1.9 million. The reduction request is in fact a demand for the deletion of the post of Senior Special Assistant in the CE's Office. The major duties of the post are to assist the Chief Executive in dealing with issues related to the Mainland, and to communicate with the Central Government and mainland organizations at a higher level.

The Democratic Alliance for Betterment of Hong Kong (DAB) is of the view that the job and this post should and need to be retained. Mr Howard YOUNG has mentioned just now some causes and consequences; I do not intend to make any additions or further interpretation in this respect. But we consider the post indispensable. The DAB considers this amendment, Mr CHEUNG

Man-kwong's amendment, meaningless and uncalled for. In fact, the ultimate aim of this amendment is to undermine the prestige of governance of the Chief Executive. The DAB thus opposes this amendment.

Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Financial Secretary, do you wish to speak?

**FINANCIAL SECRETARY** (in Cantonese): Madam Chairman, I would like to thank Honourable Members for speaking on this motion, for this allows me the opportunity to talk about the work of the Chief Executive's Office (CE's Office).

Mr CHEUNG Man-kwong has proposed to reduce the 2004-05 Estimate of the CE's Office by \$1.9 million. In this respect, Mr CHEUNG proposes to delete the post of Senior Special Assistant (SSA). Over the years, the CE's Office has been following the Government's target in maximizing utilization of resources, enhancing productivity and reducing expenditure. For 2004-05, the draft Estimate for the two programme areas of the CE's Office stands at \$59.76 million. This is a budget reflecting savings achieved through reduction of staffing and operating expenditure. Compared to the revised Estimate for the same programme areas in 2003-04, the CE's Office will achieve savings of \$1.3 million. In relation to the actual expenditure in 2002-03, a total of \$4.8 million was saved. The savings are substantial taking into account the small share of overall government expenditure of the CE's Office.

I must say that any further reduction of the provisions for the CE's Office will seriously hamper its effective operation, which is not in the public interest. The Government is therefore strongly opposed to Mr CHEUNG Man-kwong's proposed amendment.

One main role of the CE's Office is to ensure that the Chief Executive receives the best advice and support for formulating and co-ordinating policies. In terms of operations, this involves a lot of networking, liaison and

co-ordination. The SSA plays a vital role to advise the Chief Executive in the handling of Mainland-related issues and in liaising with the Central People's Government and mainland organizations at the high level. This job is crucial to the work portfolio of the CE's Office and the Government as a whole.

The SSA is appointed on non-civil service terms. Employment of persons from outside the Civil Service to perform specific functions is common in the Civil Service and is a long-standing practice. These non-civil service appointees do not form part of the civil service establishment. They cannot be promoted or transferred to civil service posts. Therefore, they will not be blocking the promotion of staff members in the Civil Service.

The CE's Office is committed to the target of the Government to cut down operating expenditure and establishment. However, any further reduction in addition to this would seriously prejudice the effective operation of the CE's Office, which would be contrary to the public interest. I therefore urge Honourable Members to oppose this amendment.

**CHAIRMAN** (in Cantonese): Mr CHEUNG Man-kwong, do you wish to speak again?

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Chairman, I would like to respond to the views of the Liberal Party and the DAB.

Mr Howard YOUNG, on behalf of the Liberal Party, stated that they agreed to expenditure cuts but disagreed with the deletion of the post of Senior Special Assistant in the CE's Office and the reduction of the \$1.9 million the post incurred. Members should note that Mr CHAN Kin-ping, who is now the Senior Special Assistant in the CE's Office, is actually performing the same duties, the handling of the relationship between the SAR and the Central Authorities and mainland organizations, he used to undertake before promotion. The Democratic Party once intended to propose the deletion of a vacant post, the Senior Special Assistant post previously taken up by Andrew LO. We had been waiting for days for the Finance Branch to provide information on the remuneration of that post. However, it just happened that Mr CHAN Kin-ping was promoted to fill the vacant post with a pay rise of some \$40,000 while we

were waiting. This, in the end, rendered us impossible to delete and know the actual remuneration of that post. The point I would like to make here is that, if the Liberal Party really hopes that savings can be achieved, while it does not deny that Mr CHAN Kin-ping is performing the same duties as before, why they cannot accept the amendment proposed by the Democratic Party today. Despite the deletion of the post, the same duties will continue to be undertaken by Mr CHAN Kin-ping, while savings will be achieved. The deletion can indeed serve two purposes. Why can the provision not be reduced? Why can it not support the reduction?

Mr IP Kwok-him, on behalf of the DAB, said that our proposal to reduce the expenditure had sought only to undermine the prestige of governance of the Chief Executive. Frankly, irrespective of the deletion of the post, the Chief Executive does not have much prestige in governance. Besides, by overriding the Chief Executive on designing the political system, QIAO Xiaoyang has already reduced the prestige of the Chief Executive to naught, and has even knocked the Chief Executive off the position he should maintain. How could my motion proposing a slight reduction of \$1.9 million damage the prestige of the Chief Executive? Prestige cannot be built on the maintenance of this \$1.9 million provision. It is by respecting the aspiration for democracy of the 7 million people in Hong Kong that the foundation for prestige can be established. Today, I thus hope that Members will support the Democratic Party in deleting the post of Senior Special Assistant in the CE's Office and the reduction of \$1.9 million.

Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Man-kwong rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr CHEUNG Man-kwong has claimed a division. The division bell will ring for three minutes. After three minutes, voting shall start.

**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:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN and Mr WONG Sing-chi voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Frederick FUNG, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, five were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 13 were in favour of the amendment and 13 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 amendment was negated.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 21 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

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

**CLERK** (in Cantonese): Head 122.



**MR JAMES TO** (in Cantonese): Madam Chairman, I move that head 122 be reduced by \$55.5 million in respect of subhead 000, as printed on the Agenda.

Over the years, I have repeatedly demanded for the abolition of the Complaints Against Police Office (CAPO) because it is not independent of the Police Force and thus lacks credibility. I do not intend to repeat my arguments in detail today.

The Government has been lobbying Members to oppose my motion. If I have not had it wrong, the lobbying letter Members have on hand now is the same as the one they received last year, the year before last and two years ago. Of course, some people may say, "Ah TO, as you move the same motion every year, so they also use the same letter every year". But the question is, in each of the past few years, the Government has kept on saying that the Independent Police Complaints Council (IPCC) will be turned into a statutory body, and that once the relevant drafting work is completed, the legislation would be submitted to the Legislative Council. In the year before last and even two years ago, the Government already said so. Last year, it also said so. This year, it is still saying so. This is the point I like to put across clearly to Honourable colleagues. Besides, with the assumption of office by the new Secretary, the Government may come up with some new arguments this time. The former Secretary who performed poorly has already resigned. Mr Ambrose LEE, the incumbent, may have something different.

However, the question remains: Has the Government provided a timetable? No, it definitely has not. That is to say, in view of the system with police officers investigating their own men that lacks credibility, the Government hopes that a remedial measure, the setting up of the IPCC, may improve the situation. However, the IPCC is not a statutory body. Though the Government has indicated its intention of turning the IPCC into a statutory body to reinforce its authority and monitoring power, it keeps dragging its feet and causing further delay.

Let us review some history. In 1993, the former Legislative Council passed a motion urging for the CAPO to become independent of the Police Force. In 1997, the Government intended to turn the IPCC into a statutory body, and my amendment to vest investigation powers in the IPCC was passed. That is to say when the IPCC considers the investigation conducted by the CAPO involve irregularities, the IPCC may conduct investigation. It is thus not a matter of

concern whether or not the CAPO is independent of the Police Force; the CAPO may remain in the establishment of the Hong Kong Police Force. It is only when the IPCC appointed by the Government as the monitoring body considers a case may involve irregularities that it can invoke its investigation power. Though my amendment in this regard was passed, the Government later withdrew the entire legislation at the Committee stage. It would rather drop its plan to turn the IPCC into a statutory body than to incorporate my amendment. In the year 1997 to 1998, at the time of the Provisional Legislative Council, only indispensable legislation would be dealt with, which the previously mentioned bill might not be regarded as one.

This issue has been dragged on from 1998 until today, the year 2004. Frankly speaking, every year in his policy address, the Chief Executive says that the IPCC will be turned into a statutory body and that it will take effect very soon. However, year after year, delay after delay, the issue remains outstanding. It is now 2004. I do not know what colleagues have in mind. Despite their opposition to the independence of the CAPO of the Police Force, Members should at least speak up to exert some pressure on the Government. Now, the Government fails to perform or complete the task it has determined to undertake. If we just mention it casually or not even give a word about it, merely stop short at stating opposition against the non-independence of the IPCC of the Police Force, I do not think this Council can convey a forceful message to the Government. This Council will not be able to point out that the Government delays, year after year, in making improvement to the current system in areas where improvement is due. I do not know whether Members find this acceptable.

Moreover, Members have to understand the stance of the police and the Government. They consider, despite the non-independence of the CAPO of the Police Force, a lot of measures may still be adopted by the Government. Members of the IPCC, some of which being appointed by the Government, once proposed appointing a non-police officer as the head of the CAPO, which is now pitched at the rank of Chief Superintendent. However, the proposal was turned down by the Government. Please bear in mind that this is a proposal initiated by the IPCC. Moreover, in the lobbying letter, the creation of some observer posts was mentioned. I suggested that the Government should consider appointing professionals or employing full-time observers and monitoring officers instead of members of District Council or Fight Crime Committee who are fully occupied by their official duties, who may not be readily available. However, these suggestions were also turned down by the Government.

The improvement promised by the Government in the lobbying letter is nothing more than turning the IPCC into a statutory body. However, the process has been subject to prolonged delay, not seeing fruition so far. I hope colleagues will consider whether they can still put up with the approach adopted by the Government in handling this issue. This has become a usual practice of the Government, for every time when it demands authority, it strives for it immediately, but it dawdles over when it comes to the establishment of monitoring and checking mechanisms. This is the impression I have gained. At the time I put forth that proposal, during 1993 to 1994, Henry TANG, our incumbent Financial Secretary, was sitting next to me, that is the seat Ms Cyd HO is now sitting. Mr TANG was present when the proposal was first moved in 1993. Today, the Financial Secretary has secured an important position in the Government. I thus hope that he will speed up the process in the Government. If the Financial Secretary should consider the issue from his own perspective, he should think about the public trust he may win in this regard. A system of investigating its own men after all lacks credibility, unable to convince the public. Even in cases where the police officers involved are cleared of any claims or abuse of power, I do not think that justice has been done. The public are not convinced, and they will still consider that something must have been covered up and someone must have been condoned. In the end, public grievance will mount up.

After all, the argument of the Government is based only on the fact that several thousands of complaints are received by the CAPO every year, and on this it claims the CAPO would not have received complaints if it lacks credibility. Secretary, please bear in mind that many complainants lodged complaints with the CAPO because we told them to do so, because we explained to them that it was the only channel available. If no complaints are lodged despite the occurrence of incidents, next year, the Secretary may simply reply that a drop in the number of complaints is the result of the improved performance of the police. By that time, I am not sure if I would say that the credibility of the CAPO has diminished to a level where no one bothers to lodge a complaint with it. The reality is that the public have no other channels of redress. Without any alternatives, they can only resort to the CAPO. Though they may not be willing to do so at the outset, they have to make their complaints to the CAPO as the last resort.

I wish colleagues, though they may not support the underlying concept of my proposal, could see that the Government is delaying unduly a task that it is

capable of and has undertaken to do. Will colleagues please speak up to strike home a forceful message to the Government, pressing it to make progress?

**Mr James TO moved the following motion:**

"RESOLVED that head 122 be reduced by \$55,500,000 in respect of subhead 000."

**MS CYD HO** (in Cantonese): Madam Chairman, firstly, I would like to express my admiration for Mr James TO for his proposing this amendment every year. But I would indeed much prefer the Government to accept the Council's opinions as soon as possible so that we do not need to propose an amendment to reduce the subhead anymore. As a matter of fact, since the Independent Police Complaints Council Bill (the Bill) was withdrawn by the Administration before its Third Reading in 1997, proper measures are still lacking to enable the CAPO to operate more independently so as to gain the confidence of the public. Although the Government has already incorporated the enabling legislation in respect of the Independent Police Complaints Council (IPCC) into the legislative programme and indicated that the bill would be introduced again, there has just been much talk but no practical work to date.

The objective of the Bill is to enhance the credibility and transparency of the existing police complaints system. However, we think that the IPCC should be vested with substantive powers to initiate investigation into the details of complaint cases under certain circumstances to ensure an open and fair investigation. Otherwise, the core problem of the lack of confidence in the police complaints system of "investigation of its own men" will never ever be solved.

Madam Chairman, there are two recent incidents which can fully and clearly reflect the lack of confidence of the public in the police complaints system. The first one is the family tragedy that happened in Tin Shui Wai recently. At first, the police denied that the victim had visited the police station to make a report. However, since the victim's friend came forth to testify against it, the police then changed their statement, saying that it was found, after investigation, that the victim had visited the police station to ask for help, but the police officer on duty did not think that she was in immediate danger. Obviously, this police

officer has breached the internal code of the Police Force. Although Mr Stephen Gowan CHANDLER, the Regional Commander of New Territories North Region, described the incident as "very unfortunate", he did not practically point out if there were any lack of propriety in the procedures of handling the case. In this way, it is very difficult to restore the confidence of the community. On the same day, a women's organization went to the Government Headquarters to present a petition. The Secretary let them talk to the press first, hoping to contain the damage. Yet it simply could not restore public confidence. In this incident, we notice that the victim's friends have preferred to tell the media what they know about this incident to lodging a formal complaint with the CAPO about this case. I believe that if the Government does not seriously tackle the problem regarding the credibility of the CAPO, similar incidents will follow. Consequently, the police will face an even bigger problem because the public will gradually use the media to try the police. As a result, the credibility of the police will diminish.

Madam Chairman, another example is sex workers. We once raised an oral question here. At that time, we asked the Secretary if he knew the number of complaint cases lodged by sex workers in the last few years. The Secretary replied that there had been only one such case in the last three years. We then raised a follow-up question, asking if he knew why only one such worker had been willing to complain in the last three years. It was because after the complaint was lodged, first, such case was difficult to follow up, and, second, according to the complainant, she had had even bigger troubles after lodging the complaint.

Such problems can never be solved without an independent complaints body. Therefore, Madam Chairman, if this CAPO is just a vase, or an office that stonewalls complaints against the police, I will fully support the reduction of this subhead, so as to compel the Government to realistically face this problem. No matter for the person concerned or an innocent person being complained against, if he wishes to receive impartial treatment or see a credible investigation to clear his name, I believe that this measure will be a better one.

Thank you, Madam Chairman.

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

**MR LAU KONG-WAH** (in Cantonese): Madam Chairman, as Mr James TO said, this topic may be nothing new, in terms of answers or responses. I believe that we are just repeating our views given in the last few years. However, as regards Mr James TO's views, I only agree that the new bill concerned, which was proposed by the Government and has been under discussion for several years, should be laid before the Legislative Council as soon as possible, so as to facilitate the implementation of some new measures for the police complaints system in response to the aspirations of the public. However, there is one point which I do not agree. If we come to a conclusion that the entire CAPO cannot play its monitoring role simply because it fails to properly handle one or two cases or because the public or even Members think that there are faults or deficiencies, I will think that the conclusion is indeed a bit biased. This I cannot accept. Therefore, Madam Chairman, I think if all Members and I support Mr James TO's amendment, it will mean that the CAPO has to fold. If it is really folded, there will be no channel for members of the public to lodge complaints. I believe members of the public do not want to see that, and neither does the DAB. For this reason, we do not support this amendment. Thank you, Madam Chairman.

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

**MR FREDERICK FUNG** (in Cantonese): Madam Chairman, in fact, this issue has already been discussed many times. In terms of the general direction, I share Mr James TO's view, and also hope that the police will expeditiously present the bill concerned to the Legislative Council. However, I cannot vote for the amendment this time because I have already consulted some residents of the district. In fact, a substantial number of residents in Sham Shui Po are sometimes unfairly or irrationally treated in some situations. Nevertheless, if we vote for the amendment, it will mean that no more funding will be allocated. In other words, the CAPO will then be immediately closed down. Although there are faults and deficiencies in the CAPO, the responses I have received indicate that it is still better than nothing. That means even if only 10, 20 or 50 cases out of 100 cases may be handled, it is still a bit better than none is handled. If there is already another body which can substitute this one, I will fully agree that there is no need to retain this office. However, if I vote for the amendment

today, the CAPO will then disappear. In other words, there will be no mechanism at all. By doing so, I think there will be one less service, or at least, one less mechanism for the public to lodge complaints. For this reason, I cannot vote for the amendment.

**MR ALBERT CHAN** (in Cantonese): Madam Chairman, this issue has been under discussion for many years. In fact, there should be nothing new with it. However, having heard Mr LAU kong-wah's speech, I feel so uncomfortable, just like having been pricked. Mr LAU Kong-wah has just said that this system should not be abandoned simply because of one or two cases. Yet we are not just talking about one or two cases, I hope the Democratic Alliance for Betterment of Hong Kong (DAB) will clearly note this point.

If we look up the valid investigation records of the CAPO, we can see that over 97% or 98% of the complaints are not substantiated. It is the same every year. In the districts, the DAB has plenty of District Council members. I think the DAB also has many members, in particular, those professional drivers, who feel very frustrated or aggrieved about the way they are treated by the police. Their unfair treatment is usually not reasonably handled or redressed. Even if they lodge complaints with the CAPO, they are often advised not to lay a charge. If they are being prosecuted by the police, they will be advised by the CAPO to come back after the prosecution is over and done with. Even within the CAPO, there are many examples of unjust handling of complaints by the public. Not to mention filed complaints, when members of the public complain to the CAPO, they are already unfairly, unjustly and unreasonably treated. Therefore, the CAPO is basically a tumour in the system. As long as this tumour exists, the whole system can never be healthy. If we think, especially from the standpoint of Members or the public, that the whole system is important, we must first remove this tumour, which is the CAPO, from the system for it is this tumour that makes the whole system unable to properly function.

Therefore, I think that in terms of our work, especially having heard Mr Frederick FUNG's speech, such logic thinking may be questionable. If we all agree that this system has to be reformed, we have to promote the reform of the system by all means. The Government has adopted a hegemonic administrative approach to reject all proposals, to decline the wishes of the public and to turn down the suggestions of the Legislative Council. What measures can be

adopted to compel the Government to take actions? To the Legislative Council, the most effective measure is to make use of financial means to defeat it. If we give up our weapons and tools on hand, we will be just like having surrendered. Obviously, there are some measures which can be used to compel the Government to do something to improve people's livelihood and to meet the expectations of the public. Yet none of these measures is adopted. As Members of the Legislative Council, how can we answer to the public? How can we explain ourselves to the public?

I wish to point out again that the problem with the CAPO is not just one or two cases as Mr LAU Kong-wah mentioned, but a problem of the system with thousands and thousands of cases. During discussions with the grassroots over this issue, they have shown strong feelings of injustice and anger.

Let us review some serious cases in the past, in which the complaints lodged by members of the public or the complainants induced no results. As I can recall, in a case happened earlier, it was fortunate that the unlawful conduct of police officers was recorded by closed-circuit television (CCTV) cameras. Eventually, with such records and details, the complaint was substantiated and the police officers were charged with improper behaviour. In this case, some drugs seemed to have been stuffed onto certain persons to frame them. Fortunately, the CCTV cameras installed in the lift filmed and recorded the incident. Subsequently, the complaint was substantiated.

In the last few years, I have also received many complaints, including some from drug addicts. Some drug addicts often go in and out of prison, but some of them are very discontented. They said that they had obviously been framed in some situations. Even if they had no drugs with them, police officers would stuff some into them and claim that the drugs belonged to them. However, with their poor criminal records, no matter where they go, their case will never be heeded at all. Even if there is a witness, he will not dare to testify. Such examples are too many to enumerate. Therefore, if the system is not changed and improved, such problems will still arise every day. How can police officers brazenly commit such unlawful acts? It is simply because there is a partial and biased complaints system to allow them to do whatever they want.

Therefore, if this system remains unchanged, I welcome Mr James TO to propose or move an amendment to cut this provision every year until this system



has been improved. I hope Members can make use of their tools and weapons on hand to compel the Government to improve this system.

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

**MR LAU KONG-WAH** (in Cantonese): Madam Chairman, perhaps Mr Albert CHAN was a bit impulsive when he rose to deliver his speech. He might not have understood my view. Please let me clarify here. The one or two cases mentioned by me refer to the one or two cases quoted by some Members earlier. However, I think that we should not be biased.

Even if, like Mr Albert CHAN has just said, 90% of the complaint cases are not substantiated, I believe Mr Albert CHAN can hardly tell us that such 90% of the cases will definitely be substantiated. It is not necessarily be the case.

Thirdly, I have never said that the CAPO is perfect without any deficiency. I have absolutely never made this point. That is why I hope the government department concerned will expeditiously present the new bill to the Legislative Council in order to remedy the deficiency.

Lastly, if the CAPO is closed down due to abolition or disapproval of funding, it is actually not in public interest and a channel for the public to lodge complaints will also be blocked.

**MR ALBERT CHAN** (in Cantonese): Madam Chairman, Mr LAU Kong-wah's greatest strength is to deny his own remarks. I clearly heard him say that we should not be biased because of one or two cases. Yet the problem of the CAPO is not simply a matter of one or two cases. As regards the public complaints system, I personally have already encountered dozens of cases or even hundreds of cases regarding complaints against police officers in our own offices established in the districts. I have no knowledge of the situation on the DAB side. Since some members of the public may think that the DAB is partial to the Government, partial to the CAPO system, they may not dare to complain to the DAB at all. Therefore, if Members in the DAB say that there are only

one or two cases, I would firmly and clearly tell Mr LAU Kong-wah that this is absolutely not the truth.

**MR LAU KONG-WAH** (in Cantonese): Lastly, such argument may be too pointless. Yet you should have already heard clearly that I was just talking about the one or two cases mentioned in this Council. In fact, Mr Albert CHAN may also want to know about our district work. We have set up many offices, where we also receive complaints from members of the public against the CAPO. If the Government searches its records, it will find out that we have written to the CAPO to express our dissatisfaction with certain procedures and approaches. This is not just for one or two cases. However, we cannot wipe out everything the CAPO has done simply because of this reason and conclude that the CAPO has failed to do a right or good job. Such a conclusion is biased. This is the biggest difference between Mr Albert CHAN and me, LAU Kong-wah. I do not believe all civil servants in the CAPO treat members of the public as "nobody". This is not the case. In fact, we have also handled some cases, which eventually led to the conviction of some police officers. Why are these cases not counted? Why is the focus only placed on the other side? This is our biggest difference. Thank you, Madam Chairman.

**MR ALBERT HO** (in Cantonese): Madam Chairman, I think the argument is now clear enough. If we consider the system an important factor, do we have a good system to ensure the procedures are fair? Fair procedures will make everybody feel at ease because the results coming out of such procedures will more likely be fair. At least, those affected by the results of such procedures will feel more convinced. This is the crux of the problem. At the moment, Mr LAU Kong-wah thinks that, maybe it is because he represents the DAB's view, the system is not important, and the most important point is if the person responsible can properly handle it. At least, he gives me this impression. I consider such view very questionable.

The existing figures have already clearly indicated that in the present situation, only very few cases, about 10 cases or so, out of 4 000 to 5 000 complaint cases in a year are substantiated. The fact is that we, Council Members, in the front line, receive many people complaining about their

grievances and misgivings. Well, I agree with Mr LAU Kong-wah that we do not know whether those several thousand complaint cases can be substantiated because we have only heard one side of the story. However, if there is a good system, at least we will be sincerely convinced. What is the problem of the existing system? The problem is its lack of independence because it is now the police investigating the police. On the other hand, I also know that they are subject to many constraints because of this reason. There may be many interactions between departments with the Police Force. For example, the police officer concerned may be transferred back to a police station in question in the future. Moreover, the system has indeed imposed many constraints, subjecting them to many impediments and enormous intangible pressure. More importantly, it is the perception that matters. Under the existing arrangement, even if the case is handled in an impartial manner, members of the public may not believe so. Since it is the police investigating the police, the police officers concerned may once work in the same district and may know each other or may be colleagues or even good friends.

Let us put aside the problem of the Independent Police Complaints Council for the moment. In fact, we have also made many reform proposals. For example, we have suggested if the CAPO should be headed by an independent person who comes not from the Police Force, and that more non-police officers should be added to the CAPO to help administer and monitor the relevant work. So far, structural reforms regarding the CAPO have all been turned down. I think that any improvement to the system is meant not only to do justice to the complainants, but also to the police officers being complained against since the complaints concerned may not be substantiated initially. However, in the present situation, members of the public think that the system harbours the police and so it is not fair at all. This way, it is not only unfair to the complainants, but also to the police. Therefore, I must emphasize once again that this is a problem of the system. We should not argue that some cases are properly handled or that problematic cases will be followed up. We cannot say that there are absolutely not any good people, and so on. This is not where the problem lies. If the system is not good, even a good person cannot do anything.

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

(No Member indicated a wish to speak)

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, the Government strongly opposes Mr James TO's amendment about cancelling the provisions for the Complaints Against Police Office (CAPO). During the scrutiny of the Appropriation Bill in the past few years, Mr TO also proposed the same amendment. I understand that he advocates the establishment of an independent body to investigate into complaints against the police. But I hope Members can objectively consider this: Is it really wise to cut off the entire operating expenditure of the CAPO? Will this amendment improve the existing system or will it only destroy the system in its entirety, thus depriving the public of a channel to lodge complaints?

At present, complaints against police officers are handled by the CAPO. The CAPO and other divisions responsible for front-line work and operations are subordinated to different departments of the Police Force and supervised by different Commanders. The purpose is to ensure that complaints are fully and impartially investigated. After the investigation is completed, the CAPO will submit a detailed investigation report on each case to the Independent Police Complaints Council (IPCC) for scrutiny. The IPCC absolutely has the power to require the CAPO to submit any information and document relating to the complaint for scrutiny. Members of the IPCC may interview the witnesses to clarify any point in doubt. Besides, IPCC members can personally observe the investigation of the CAPO. If the IPCC is not satisfied with any aspect of the investigation conducted by the CAPO, it can ask questions and require further explanation or re-investigation by the CAPO, or even refer the case together with the recommendations made by the CAPO to the Chief Executive.

This system has operated for over two decades, during which improvements have been constantly made to it. Over the past few years, we have introduced a series of improvement measures, including opening up some of the regular meetings of the IPCC and the CAPO to the public, and setting up a dedicated team under the IPCC to monitor serious complaints. The CAPO is required to submit monthly progress reports on designated serious complaints, and the dedicated team can put forward views and raise questions in respect of the reports.

Moreover, the Observers Scheme has also been further expanded since September 1999. Some former IPCC members and community leaders have been appointed as observers who will personally observe the investigation of the CAPO by prior arrangements or on an ad hoc basis. They may interview the witnesses, complainants and complainees, and they may collect evidence at the scene where the complaint arises. Now there are altogether more than 80 observers, including serving IPCC members. This has greatly enhanced the monitoring capacity of the IPCC, and the number of visits made by observers also increased from 26 in 1996 to 231 last year.

In fact, the IPCC has fully and effectively given play to its monitoring role under the existing system. In 2003, the CAPO accepted the advice of the IPCC and revised the findings of the investigations of 105 cases. In reviewing the cases, the IPCC will often raise questions and make suggestions. The CAPO will basically take on board its advice and will often provide satisfactory explanation or take follow-up actions in relation to the suggestions and questions. Cases over which a consensus cannot be reached is very few in number and very often, there is not even one such case in a year. This shows that the IPCC has exerted significant influence in the overall complaint system.

There is the view that among the complaints received by the CAPO, the proportion of substantiated cases is on the low side. We must not totally negate the effectiveness or credibility of the existing police complaints system solely based on this figure. I believe Members will agree that police officers, like everyone else, have the right to presumption of innocence. Therefore, we cannot predetermine the proportion of "substantiated" complaints, and we absolutely cannot use the proportion of such cases as an indicator for evaluating the effectiveness of a complaint system.

We must point out that a majority of the cases are in fact not pursuable or withdrawn by the complainants. In 2003, these cases accounted for 43% of the total number of cases reviewed by the IPCC in the year. A common reason for complainants to withdraw their cases is that the nature of their complaints is trivial and they lodged such complaints only on impulse. That said, the CAPO will still look into the reason of withdrawal, and if the case is considered to stand a possibility of being substantiated, the CAPO will continue with the investigation into the case and will notify the complainant accordingly. As for cases that are not pursuable, the main reason is that the complainants concerned are not co-operative. Moreover, among allegations made in the complaints,

such trivial allegations as improper manner, the use of offensive language, and so on, account for the majority. In 2003, these allegations accounted for nearly 40% of the allegations examined by the IPCC in the year. Excluding withdrawn and curtailed cases, cases which were substantiated after investigation by the CAPO and review by the IPCC accounted for 14.5% last year.

Madam Chairman, the existing police complaints system can fully utilize the expertise of police officers and their profound knowledge of police work in the investigation into complaints. On the other hand, an independent and effective system is also in place for monitoring and checking purposes, in order to ensure that the complaints are fully and impartially investigated. Furthermore, through handling and investigating into the complaints, the police can promptly identify inadequacies in their work or procedures and hence address the problems at root to perfect the quality of service. Therefore, the current arrangement under which the CAPO is responsible for investigation while the IPCC is responsible for monitoring and review is appropriate and effective. To further enhance the existing system, we are drafting legislation to confer statutory status on the IPCC. This can more clearly delineate the terms of reference, functions and powers of the IPCC and further give play to the independence and transparency of the IPCC, thereby fostering public confidence in the police complaint system. We will table the bill to the Legislative Council upon completion of drafting and the relevant work.

Earlier in the debate, a number of Members expressed concern over when this new bill will be tabled to the Legislative Council. Mr TO alleged that we had deliberately caused delays to the bill on the IPCC. But I can tell Members that we have no intention whatsoever to cause any delay. Our original plan was to table the bill to the Legislative Council in this legislative year. However, as Members may know, the time slots available for the introduction of new bills are limited in every legislative year. Given that the Security Bureau has other pieces of more pressing legislation that need to be dealt with expeditiously in this legislative year, we are unable to table this bill within the current legislative year. We will actively carry on with the drafting work in the hope that the bill can be submitted in the next legislative year.

If Mr TO's amendment is passed, the CAPO would no longer exist, and it would then be impossible for us to receive and handle complaints from the public for a certain period of time. This is not in the public interest and is

irresponsible. This will completely destroy the proven police complaints system and hence deprive the public of a channel to lodge complaints. I, therefore, urge Members to support us and vote against Mr TO's amendment. Thank you, Madam Chairman.

**MR JAMES TO** (in Cantonese): Madam Chairman, perhaps it is necessary to deal with several viewpoints. Firstly, after abolishing the existing system, is it true that there will not be any channel for complaints? This requires Honourable colleagues to make a judgement now. If Members' judgement is that not even a daredevil will dare do without the CAPO in the Police Force or to completely forego any kind of complaints system — and we do not believe that anyone will dare — however, if any Member really thinks so, then please feel free to speak up.

For the time being, is it better to have the CAPO than otherwise? Mr Frederick FUNG said that it is, however, in fact his evaluation of its performance is not very high either. Should anyone ask me, in view of its present operation and the public's confidence in it, frankly speaking, I think that at present, there is not any recourse to complaints either because its approaches do not impress anyone as being impartial. Many people think that it is in fact the "Procrastination of Complaints Against Police Office", the "Elimination of Complaints Against Police Office" or the "Nominal Complaints Against Police Office". Many people do have such perceptions.

The same amount of money and the same argument lead us to talk about the Independent Commission Against Corruption (ICAC). The ICAC has been established for 30 years. Thirty years ago, some people also put forward the same argument, querying how other organization could possibly do a better job than the Police Force in investigating corruption in the police. Today, we have received a document provided by the Panel on Security and learnt that the ICAC has raised the issue of abuse of power for personal gains. It turns out that at present, it is impossible for the ICAC to arrest anyone suspected of abusing power for personal gains. This was revealed today and Members may as well have a look. Therefore, the ICAC wants to have this power. However, it turns out that such a power is provided for in the Police Force Ordinance, so it is possible for the Police Force to investigate any abuse of power for personal gains committed by one of their number or other people, and it can even investigate civil servants. However, it is not possible for the ICAC to do so, therefore,

having identified a problem, it has requested that a reform be introduced. From this, we can have a better understanding of the whole issue — some time ago, I have given an example of why an arrest could not be made.

Such an argument was already advanced several decades ago, right? Can the Government tell us the demerits of making the office independent? Will things go very badly, very wrong? If such a measure is not taken, can it solve the problems concerning its image and credibility? This is very important.

The Government gave us a reply, saying that the bill concerning the CAPO could not be listed in the legislative programme. This is only natural. Legislation intended to confer power on the Government will of course have priority, whereas legislation intended to monitor it will have to wait. Just think about this: after the Provisional Legislative Council in 1998, the first Legislative Council was formally established. In 2000, since the Government was reluctant to do anything in this area, so it conducted a consultation. From 2000 onwards, the Chief Executive said the same thing each year in his policy address. In 2000, it was said that things were in the pipeline, that action would be taken two years later; in 2001, nothing was done and it was said that action would be taken in 2002; when 2002 came, still nothing was done and it was said that action would be taken in 2003; in 2003, again nothing was done and it was said that action would be taken in 2004. Each year, there was always something that had to take precedence because every year, the Security Bureau would continually acquire one power after another but would not introduce any legislation that would subject it to any monitoring. For example, the Law Reform Commission already said that legislation on monitoring the Police Force had to be drawn up in a report published in 1992. It has been 12 years since and the outcome remains the same. When it comes to monitoring, of course it has to wait and there will definitely be no timeframe.

Moreover, without independence, many problems will occur. In fact, I hope Honourable colleagues will understand that this is an impasse. It is not possible for the CAPO to conduct any investigation involving someone who has a standing charge against him. Why? This is because if that person has given a statement, then the Police Force is obliged to provide the statement to the investigation team because the Police Force is one single department. That means if someone lodges a complaint against a police officer and at the same time, he has been charged by the police, then any statement given by him has to



be provided to the investigation team for investigation. From the viewpoint of the Department of Justice, this may be unfair to the person concerned, so he is told that his interest may be prejudiced.

However, we can also look at the approach adopted by the ICAC. If someone is involved in a case, has been arrested by the police and then he lodges a complaint about corruption against the police, the ICAC will open a file and investigate all the same, rather than refusing to investigate because of his involvement in a case. What is more, the ICAC will carry out some covert operations, that is, gadgets such as voice recorders will be installed and that person will be told to go and see if the people concerned will still take bribes. Often, cases are detected in this way. However, it is not possible for the CAPO to do so. Why? Because it was restricted by the law. Some members of the public suggested to me that the most important thing is to record part of the process when members of the public lodge complaints at the CAPO, since digital voice recorders nowadays are very small, then it will be known what a miserable time they have.

Besides, some Honourable colleagues asked if, with the same amount of money, it is possible to achieve anything much. In fact, the same amount of money is enough for establishing an independent body. The ICAC knows this full well and it is unnecessary to repeat it here. Some Honourable colleagues have cited several cases as examples. In fact, I can tell Honourable colleagues that often, the persons involved in many of the cases really do not have any confidence and therefore did not want to lodge any complaint. Even officers of the Customs and Excise Department (C&ED) have no confidence in the CAPO. Several years ago, an off-duty C&ED officer was severely beaten up by a group of PTU officers in Hung Hom. All members of his staff association came to see me and the first thing they asked was that I conduct an independent investigation rather than taking this matter to the CAPO, since they did not have confidence in it.

Furthermore, a dentist, who was a hall-mate of mine in university, was beaten up by someone who was believed to be a police officer, so badly that his front teeth were knocked out. He asked someone who had been his fellow student in university for several years and with whom he had lived in Ricci Hall for several years and who had become a Police Superintendent, "What do you think the outcome will be if I complain to the CAPO?" The Police Superintendent replied, "There is no point in lodging any complaint because

actually nothing can be found out." That was what that person heard the Police Superintendent, who was his fellow student in university, tell himself, saying that definitely nothing could be found out. That dentist told me that this Police Superintendent, who was his fellow student in university and with whom he had lived in Ricci Hall for several years, had told him that there was no point in doing so. The Police Superintendent counter-proposed that it would be better if he could tell him who did it, so that he could ask the person concerned in the relevant police district to come out, serve him a cup of tea and apologize. It can be seen that they were aware of the behaviour of their fellow colleagues. The Police Superintendent, when speaking to someone who had been his fellow student in university for several years, was of course telling the truth. However, the issue at stake is the confidence of society as a whole in the CAPO.

Each year, I will go to the Police Force to attend gatherings organized to celebrate the promotion of officers to the ranks of Chief Inspector or Police Superintendent. I know that many Honourable colleagues from different factions in the Legislative Council also attend these gatherings and discuss with the officers topics of common concern. The hot topic that they would discuss with me each year is invariably the independence of the CAPO. I found that in these two years, they themselves — I mean people who have been promoted to the ranks of Chief Inspector or Police Superintendent — increasingly feel that since matters have come to this pass, it does not matter if the CAPO becomes independent or not. If it becomes independent, its credibility will in fact be enhanced. Of course, they said that if the organization became independent, then they would just remain silent. I said that it did not matter and they could just remain silent. Anybody who goes to the ICAC can also remain silent. We can just see if an independent CAPO can get results in its investigations. Nowadays, more and more police officers also say to me, "So be it. We are tired of standing in your way." I hope the Secretary can go back and carry out some consultations. More and more police officers are holding this view. Of course, they were saying these things behind closed doors and my exchanges with them were very frank.

In his reply this time around, the Secretary did not even say when a bill could be tabled to the Legislative Council. I hope the Secretary can pay some attention to this so-called priority, particularly when this bill has been delayed for many years without being tabled to the Legislative Council. I wish to suggest that in determining the priority of bills in the next Legislative Session, the priority of this bill be set higher. Can a case be put for this in the Executive

Council or can this be raised with the Director of Administration? Otherwise, there will never be any definite date for tabling this bill and there will definitely never be any date in sight because the Government believes that the *status quo* is just fine. I wonder what Honourable colleagues think of this.

Finally, I wish to respond to Mr LAU Kong-wah's remark that he also wishes that when a bill is tabled, the present inadequacies can be addressed. However, I wish to throw down a challenge to Mr LAU Kong-wah, the DAB or Members of other parties, that is, when the Government tables a bill to allow the CAPO to become independent, will they demand that additional powers of investigation be vested in the CAPO? This is very important to improving the system. If they do not support this, then perhaps members of the public will be able to see through this all too clearly.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr. James TO has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN and Mr WONG Sing-chi voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Frederick FUNG, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 13 were in favour of the amendment and 13 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 amendment was negatived.

**MS MIRIAM LAU** (in Cantonese): Madam Chairman, I move that in the event of further divisions being claimed at this meeting in respect of the schedules to the provisions of the Appropriation Bill 2004 or other amendments thereto, this Council shall proceed forthwith to the division after the division bell has been rung for one minute.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

**MR JAMES TO** (in Cantonese): Madam Chairman, I oppose this motion. Why? Because the subheads to which we have referred are all independent, that is, debates are being conducted on independent subheads, not on the details of a subhead. For example, Mr CHEUNG Man-kwong proposed the deletion of a particular post — a particular post in the Chief Executive's Office, and the discussions that followed were about the CAPO or a secretive expenditure for a special service, and so on. I think it will be safer to keep to the original three minutes.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): If no other Member wishes to speak, Ms Miriam LAU, do you wish to reply?

(Ms Miriam LAU indicated that she did not wish to reply)

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

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.

**CHAIRMAN** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the motion.

Dr Eric LI, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted against the motion.

Geographical Constituencies and Election Committee:

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Mr Frederick FUNG 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, 27 were present, 22 were in favour of the motion and five against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 12 were in favour of the motion and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**MR JAMES TO** (in Cantonese): Madam Chairman, I move that head 122 be reduced by \$80 million in respect of subhead 103, as printed on the Agenda.

Madam Chairman, I am not going to repeat anything at length, however, I wish to remind Honourable colleagues and even the public that this expenditure by the police, which is commonly called "informer's fees", is in fact known in full as "rewards and special services". According to the Government, it includes rewards and informer's fees, as well as expenses on procuring and maintaining some equipment. Therefore, I will name it "expenditure for secretive special services", or at least to put it more neutrally, "expenditure for special services", since by simply calling it "informer's fees", we have no idea of the actual percentage that informer's fees take up in this expenditure.

Perhaps because of the popularity of films about police informers or undercover agents in recent years, the public may be misled into thinking that this sum of \$80 million will all be used as fees for informers. In fact, no one knows what proportion of this expenditure is used as informer's fees and how much of the expenditure is not used on this item. These expenses are quite sensitive and confidential in nature and there are also many other expenditures that do not come under this item, including the expenditure of about \$100 million required for the approximately 400 people in the establishment of the Criminal

Intelligence Bureau, which does not belong to this expenditure item of special services; the expenditure of about \$40 million for the 100 people in the establishment of the Technical Services Division, which does not come under this item either. In recent years, we have upgraded the secret communications equipment of the entire Crime Wing at a cost of \$200 million, which is also not included in this expenditure item.

In other words, if essential manpower and equipment are required, even if the expenditure runs up to hundreds of millions of dollars, still they do not come under this expenditure item. Therefore, it is really incomprehensible why an expenditure of as much as \$80 million is required. Is it possible to let people know the major breakdowns of these \$80 million? Otherwise, as far as the procurement and maintenance of some equipment is concerned, it is in fact possible to claim the expenses under other items unless they are related to secret communications or other confidential matters. This subhead has in fact aroused the greatest concern among us. The history of this subhead can be traced back to the British Hong Kong Administration era, when it was the provision earmarked for the Special Branch to carry out political surveillance and control. Of course, the provision then was far greater than that at present. However, the problem is that now we are not even allowed to know the subheads or the major items or, like the case in other jurisdictions where monitoring committees are set up to oversee its use, or to some extent, allow the Legislative Council to play a greater monitoring role. I believe that we are not convinced as far as the expenditure for this subhead is concerned. Apart from a portion of it — I believe there is certainly a portion which is used on crime prevention and the detection of serious crimes — how much of it is used in purposes that are doing Hong Kong people a disservice? How much of it is used to do sordid things, on the surveillance and control of members of the public, on the infringement and violation of human rights? These are things that we cannot see.

If Members look at the lobbying letter issued to Members by the Government, it is in fact more or less the same as those I have already mentioned. I believe they are 90% alike. Each time, I would always read through it to the end because we could see how they claim they would take the matter forward. Let me give an example. In the lobbying letter issued in 2000, it was undertaken that after the completion of the legislation concerning the interception of communications, the Administration would in due course give an account of the information that could be disclosed in this regard. Then, in 2001, they said that a review would be conducted and the work on how to strike a balance



between accountability and transparency would be completed in due course. It would then be decided what information could be disclosed. This year, the Government said that it would conduct reviews on an ongoing basis and that recently, the information concerning rewards and bounties had been published on the Internet. This is all we know.

Concerning the interception of communications, recently, in a meeting of the Panel on Security, we asked the Government about the progress made during all those years from 1997 to the present. Obviously, the Government also thought that this matter was definitely related to the so-called expenditure for special services or the mysterious expenditure. However, this matter has dragged on for seven years, yet the relevant legislation has not been put in place. In addition, the work in this area has been put off continually, year after year. If Members should have forgotten about it, let me put a reminder here. For example, in the lobbying letter issued last year, the Government said that it would complete the exercise by the end of 2003 or early 2004 in any event. Recently, I asked in a panel meeting when a timetable would be available. They explained that in the past several years, there were many matters that had to be dealt with and some of them had to assume a higher priority, for example, those concerning anti-terrorism or other matters. Therefore, it can be seen that when the Government wants to acquire power, things can be done very quickly, but when it comes to demands for monitoring, reining in certain powers or striking a balance, then it is always necessary to wait a long time.

Of course, we must be fair when dealing with any matter. The former Secretary did a poor job and had to bow out because she had to be held accountable, whereas the new Secretary has taken office for only a few months, less than a year. However, I wish to tell the Secretary that his management will continue and as the new Secretary, he should examine what society is in need of, what practices violate people's rights and what issues have to be addressed, since the Law Reform Commission has expressed such a need. Concerning the interception of communications, is a timetable available? No matter how complicated matters are, surely one cannot simply say, "New technologies have emerged". There will always be new technologies, otherwise Microsoft will not be able to survive. Look! It is still making new acquisitions. Telecommunication and information technologies all have to be updated, do they not? If we say that it is necessary to put things off because of new technologies, then we would never be able to achieve anything, would we? However,

Secretary, you have to bear in mind that in intercepting communications, you have justified your actions on the very hollow and vague ground of public interest given by the Chief Executive. In that case, it is possible to use this ground for any action and empower public officers to do it. In other words, the motive may be a serious abuse of power, an infringement of rights but it will not be subjected to any monitoring. This is precisely your motive. You did not set out to apply for a warrant from the Court and to do the like and to make improvements to the existing system. This is not the case. Therefore, this is a system which is very absurd and very much in need of improvement, however, the relevant work has been deferred for many years.

Many other organizations of an even more sensitive nature — for example, the intelligence organizations I have mentioned, even though the Secretary said they were not intelligence organizations — in fact disclose more information and more about the subheads and major items. The Secretary even said in the lobbying letter that senior officers had been designated to make verifications, but he did not tell us what it is meant by verification. "Verification" means that the money has already been spent, however, if the expenditure itself or duty covers what he claims to be purposes related to crime prevention but is actually related to violations of civil rights or political surveillance and control, then the officers concerned can still proceed under the system and then make verifications.

The Government has reviewed the relevant issues for eight years now, but so far has only said that it could disclose the numbers of times that the rewards, bounties, and so on, had been offered. However, we can see that in other places or countries, for example in the United Kingdom, which was mentioned in the Government's reply last year, a special committee known as the Security Intelligence Committee was established in the Parliament. In that case, is it possible for the Government to consider establishing such a committee in the Legislative Council to carry out monitoring? The Government has been considering this but so far has been unable to spell out any direction for the so-called counterbalance in any small degree.

In the last few years, I said that Article 23 and other relevant matters had aroused a great deal of concern in me. The Government said that there was no cause for concern because even if the legislation on Article 23 had been passed, the expenditure would not increase. In retrospect, I feel that the Government's remarks should have aroused even greater concern in me. Why?

This is because if some sort of work has already been carried out, then no increase in expenditure will be necessary. They have been working in this area all the time since the reunification, so of course it will be unnecessary to increase the expenditure. However, the problem is, there are two possible implications in this answer. Firstly, if political surveillance and control has already been carried out, then it would not be necessary to increase the expenditure. So, in the near future, is it possible for the Government to further disclose the areas that it has determined to be not permissible? For example, what kind of actions is considered by the Government to be political surveillance and control and will definitely not be taken? Can the Government determine the scope?

The Government definitely has to do so, otherwise, quite simply, regarding those people who stage rallies without applying for any permit, from the Government's viewpoint, would it not be necessary to tap the phone calls of these people in advance and check with whom they are talking and what people will take part in the rally? In that case, if the Government does that, is that not political surveillance and control? Of course, the Government can call this crime prevention for the people concerned are staging a rally without applying for any permit. It is possible to put down a record in this way in the Government's internal memorandums.

Therefore, if the Secretary wants to make the public feel more at ease, even if the Government is not requested to disclose the figures of this expenditure and in which areas they are used, it is at least possible to define a scope and specify "this is political surveillance and control and we will do nothing of this sort". Yesterday, South Africa celebrated the 10th anniversary of its gaining freedom. That was the theme that had been chosen. The Financial Secretary, Mr Henry TANG, was also present on the occasion. Their consul-general specifically mentioned that the freedom from surveillance and control was very important. I hope the Secretary can consider whether a policy or a principle should be formulated to make the public feel at ease, as long as the so-called confidentially that you have mentioned is not compromised.

Finally, I wish to talk about a rationale put forward by Mr Frederick FUNG last year. He said that if this subhead was deleted, when it became really necessary to combat serious crimes, there would not be any funds to do so. However, he also said in his speech a number of times that if no review of accountability and transparency had been made in the first year, he still had to

reluctantly support the Government, but in the second year, it would not be possible to do so. In the third year, there would be no grounds to do so at all. I told Mr Frederick FUNG just now that last year, since I had been taken ill, perhaps Mr Albert HO did not know much about the background to be able to refute him. In fact, such a situation has persisted not just for three years but many years — it is the umpteenth year now. I hope Mr Frederick FUNG can hear this clearly, so that he can change his mind and force the Government to do something instead. At least it will be possible to exert some definite pressure, telling the Government that if it goes on this way — in fact, we really do not know what fraction of the expenditure is used on sordid things like political surveillance and control — then we have no way of monitoring this at all.

I hope the Secretary can continue to serve in his present post. His public standing can be considered to be quite alright and I reckon he can remain in office. Therefore, I hope the Government can expeditiously — at least in the next couple of years — do what I have been requesting immediately. The former Secretary did not finish the job properly — this is called leaving many ends loose and she really left many loose ends behind — I hope the incumbent Secretary can at least enhance the protection of human rights afforded to the public.

**Mr James TO moved the following motion:**

"RESOLVED that head 122 be reduced by \$80,000,000 in respect of subhead 103."

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

**MR IP KWOK-HIM** (in Cantonese): Madam Chairman, the DAB objects to the amendment proposed by Mr James TO. As for the quality of our police, I believe the people of Hong Kong do have an idea in their mind. I have been listening attentively and patiently to Mr TO's speech. In fact, he has applied conspiracy theory extensively in his judgement about the police, especially when he mentioned that the police had done something to the detriment of the people of Hong Kong, such as suppression and persecution. I believe the way he has depicted, described or thought of the police does not represent the views of the public. As for.....

**MR JAMES TO** (in Cantonese): Madam Chairman, Mr IP has some misunderstanding.....

**CHAIRMAN** (in Cantonese): You can make an elucidation later.

**MR JAMES TO** (in Cantonese): OK.

**MR IP KWOK-HIM** (in Cantonese): Regarding the specific details of the provision, I can note from the papers provided by Secretary Ambrose LEE that this is a confidential expenditure item for a new reward and special service. As a member of the Standing Committee on Disciplined Services Salaries and Conditions of Service, I once had a chance of coming into contact with some undercover agents of the police, giving me an impression that their responsibilities are very important. The public might have recently or earlier on learnt about their work through the film "Infernal Affairs". They have made significant contribution to the maintenance of law and order in Hong Kong. Some serious crimes have been curbed even before launch. Any demand for disclosure of such details will simply defeat the purpose. Therefore, I think the police should enjoy the power or flexibility in using these funds in strict confidence so as to maximize the effectiveness. It appears to me that the standpoint is totally invalid should the deployment of such funds be regarded as a foul or covert means to the detriment of Hong Kong. The DAB thus objects to the amendment.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr James TO, do you wish to clarify the part of your speech that has been misunderstood by Mr IP Kwok-him?

**MR JAMES TO** (in Cantonese): Yes, because according to Mr IP Kwok-him's reference, I have accused the police of doing something "dirty and foul". But I only said, "There is no way of negating that the police have done any". This is what I meant. So, I did not say that they must have done it. I only hope that the Government can confirm that they will not. At this stage and under the

existing system, as well as in the light of information currently disclosed, I am not able to ascertain that the police will not do anything like this.

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

**MR FREDERICK FUNG** (in Cantonese): Madam Chairman, I agree in principle that the figure under the subhead should have a higher degree of transparency. However, what degree of transparency is desirable? This is disputable indeed. In fact, I do not fully agree that we should be informed of how every penny is spent because the use of this expenditure item is really sensitive. Of course, I am at a standpoint where I do not have any evidence to prove that the Government has spent this sum of money on doing something in violation of human rights or for political purposes. Our view will entirely be different if I have such evidence.

According to my understanding, this expenditure item will be used mainly on combating crimes and maintenance of law and order. If my presumption is reasonable, the Secretary should state clearly the number of informers hired by the police and the payment to each of them, and so on. In fact, I certainly know that the film "Infernal Affairs" should not be regarded as a reflection of the reality. However, it so happens that a case was cracked by a police officer working undercover as a villain when the first saga of the film "Infernal Affairs" was shown. I have no idea as to what extent transparency should be. I agree that a higher degree of transparency is necessary, but it should not be totally transparent. This is the second point. The first point, as I have just said, is that there is no evidence to prove that this sum of money is being spent on any other purposes.

Thirdly, as I have mentioned before, it is an undertaking relating to the capacity of an accountable Bureau Director. As a Bureau Director, he is making an undertaking to us when he responds in such capacity, no matter the promise is about this year, next year or the year after next. If the Bureau Director fails to honour his promise, he has failed to discharge his duties in a responsible manner.

As regards the transparency of this expenditure, I agree that the current degree of transparency is insufficient and must be enhanced. However, if I do

not accept this undertaking, should I continue to make the former Secretary, who stepped down last year, submit by refusing to approve this funding? The former Secretary is absent from this meeting. If I support the motion, today will be the last day that this sum of money ever exists. Come tomorrow, it will no longer be there. How bad will it affect the law and order situation? I think the assessment is rather difficult.

After reading the letter from the Secretary, I do find some transparency in one or two expenses. Compared to the degree of transparency demanded by Mr James TO, there are still some areas where the police or the Bureau can disclose more relevant information under the current situation. I hope that the Secretary can suggest, in his reply later, areas where further information can be disclosed. Thank you, Madam Chairman.

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

**MR FREDERICK FUNG** (in Cantonese): Madam Chairman, can I speak again?

**CHAIRMAN** (in Cantonese): Yes, you can, but you have just finished your speech.

**MR FREDERICK FUNG** (in Cantonese): Madam Chairman, I found that I had left out some points.

**CHAIRMAN** (in Cantonese): Mr Frederick FUNG, you may continue then.  
(*Laughter*)

**MR FREDERICK FUNG** (in Cantonese): Madam Chairman, I have omitted one point. I actually wish to tell the Secretary that an estate management committee meeting held in an estate yesterday was also attended by representatives from the Police Community Relations Office. We found that the law and order situation at the district level had deteriorated as the number of

crimes had increased. Having said that, I still assume that the Secretary will use the whole provision on maintaining law and order.

Moreover, my second concern is that, with mainlanders coming to Hong Kong on individual visits or in the name of visiting relatives, for instance, there are some who are indecent, unruly, or who intend to engage in crimes in Hong Kong. That is why informers' work in this aspect may have to be enhanced. But this does not mean enhancement at the expense of transparency. In recent years, we have been urging the Government at the district level to bar the entry of violators of labour or immigration laws. I do not know how to describe those who come to Hong Kong, for instance, with an intention to engage in prostitution. In this connection, I hope the police and the Bureau can tell us about their work in combating the triads in Hong Kong or triads from the Mainland.

As a result of persistent law enforcement actions taken by the police in the past two years, quite a number of such prostitutes have been arrested. However, their numbers are way beyond the police can get rid of completely. Even though the police have arrested 10 prostitutes, there may still be 20 at large. Even 40 are arrested, there may still be 100 more. With this crime situation becoming more and more serious, the public holds higher expectations of the police. I hope the Secretary can, in his reply today or later in writing if information is not available, elaborate how effective this \$80 million funding is in crime prevention, where such effectiveness is most conspicuous and what will the problems or losses be without such funding. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): If no other Member wishes to speak, I now call upon the Secretary for Security to reply.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, the Government opposes Mr James TO's amendment. The expenditure on "Rewards and Special Services" (RSS) involves police operations of a confidential nature, including the fight against serious crimes, narcotics offences and security matters. The amendment proposes to delete the entire provision of \$80 million for the estimated expenditure under the RSS subhead. This would seriously undermine the police's capability in maintaining law and order in Hong Kong.



We fully agree that the executive must be accountable to the Legislative Council in the use of public money. But I believe Members do understand that some criminals or syndicates are well organized with plenty of resources. Even with information which, at a glance, causes no harm, they can, through analysing the relevant expenditure, the distribution of resources each year and the trend of an increase or reduction in the provisions, decode action strategies of the police, thereby evading legal sanctions and even endangering the safety of police officers and consequently putting public interest in serious jeopardy.

To ensure that public money is well-spent and used in strict compliance with the relevant regulations, the RSS expenditures are controlled by a stringent monitoring mechanism. The Police Force has drawn up detailed internal guidelines on such expenditures for strict compliance by police officers. Under the internal monitoring mechanism of the Police Force, senior police officers will examine each item of expenditure and also conduct regular and surprise inspections to check the details of all such expenditure and accounts. In 2002-03 and 2003-04, senior police officers conducted 146 and 154 surprise inspections of expenditure under this subhead respectively, and found no irregularities.

Moreover, the RSS subhead is also subject to regular and surprise inspections of the Internal Audit Division of the Police Force, as well as independent audit inspections by senior officers of the Audit Commission in accordance with the Audit Ordinance, in order to ensure strict compliance by responsible officers with government financial and accounting regulations. The Internal Audit Division of the Police Force conducted 35 inspections of this subhead in each of the past two years and found no irregularities. The arrangements for the monitoring of expenditure under this subhead were already explained in detail at a meeting of the Panel on Security in February this year.

While keeping information on subhead 103 confidential, the Government also endeavours to enhance the transparency of this subhead so long as the capability of the police in fighting crimes is not compromised. In fact, we have in recent years given far more explanation on the use of RSS expenditures than any time in the past. Apart from explaining the actual expenditure under this subhead in each financial year and providing an estimate of this subhead in the coming year, the police have since 2001 provided to the Legislative Council information on the total number of cases of offers of rewards and the aggregate amount of rewards offered and also the number of payments for rewards. To

improve transparency and enhance monitoring, the relevant statistics have been published in a user-friendly manner on the website of the Police Force.

Earlier on Mr Frederick FUNG called for enhancement of transparency. Madam Chairman, I can tell Members that we will continue to review the existing arrangement for publishing information on the subhead, in order to strike a balance between the enhancement of transparency and the need to ensure confidentiality as far as possible. However, we cannot accept the situation that no provision is made available for the Police Force to offer rewards, for this will immediately deal a severe blow to the law and order situation as well as security of Hong Kong.

Earlier in the debate when Mr James TO mentioned the legislation on interception of communications, he said that we had dragged our feet. It is true that the progress of the review on interception of communications has been slower than expected. One reason is that we faced a lot of tasks of great urgency in the past few years, such as the issue of the right of abode, anti-terrorist legislation, and so on. Moreover, interception of communications is a complex issue. Apart from involving enforcement operations of a confidential nature, we also have to consider the development of information technology as well as the relevant measures in overseas countries. I can assure Members that we will certainly consider the relevant issues comprehensively and carefully. Ongoing efforts will be made to protect social security in Hong Kong while having regard for the need to enhance transparency. We will embark on the legislative process only after public consultation is completed.

Madam Chairman, the achievements of the police in combating serious crimes to make Hong Kong a stable and peaceful city are there for all to see. I believe it is absolutely not the wish of Members and the public to see that the work of the police in respect of intelligence for fighting crimes is in any way compromised. I, therefore, urge Members to oppose Mr James TO's motion.

Thank you, Madam Chairman.

**MR JAMES TO** (in Cantonese): Madam Chairman, I have to respond to a few points. First, Mr IP Kwok-him said that he had come into contact with some police undercover agents, and opined that publication of certain information would lead to serious consequences and that their personal safety would thus be

threatened. I hope Mr IP or other Members can understand that, after serving on the Panel on Security as Chairman for such a long time, I have had access to a lot of sensitive matters. I have also served on the Fight Crime Committee for more than a decade. I fully understand what we intend to do. I have not requested publicizing information on undercover or confidential operations, which will otherwise affect the people involved.

The crux of the issue is, if we look at it from the angle of history — Members should remember a dismissed ICAC senior official who once described how some political figures were subjected to his surveillance — we will find that such operations were supported by certain funding.

On the other hand, I have recently come into contact with some police officers, and some of them complained that many political incidents involved just a few people planning to launch marches. However, as the timing of the incidents coincided with other major events or the visits of some senior officials from the Central Authorities, they were deployed to follow up the abovementioned targets even though they were actually following up some drug cases. They found such assignments utterly meaningless. What were they supposed to do? Actually, Members should know it very well. They were required to perform such duties as telephone tapping and stalking. They found it really strange that they had to do something like this. This explains why the Secretary mentioned "security matters" at the end, apart from such actions as drugs raids, robberies, and so on. This is supposedly a grey area.

I challenged the Secretary to, if he has truly not done anything or feels that certain things will definitely not be done, at least rule these things out, or tell us what definitely will not be done, in order that the scope can be defined. However, the Government has never been willing to say something like that. Let me cite an example. For instance, it can be said that there is a need to perform telephone tapping and stalking, and perform secret tasks in advance with respect to people planning to launch marches without applying for the required permits. Can someone tell me what is the nature of such work? For instance, you may say that there is reason to believe that an assembly will involve 500 000 people, and in that case, it will be needless to perform such work, and this is what everyone knows. Of course, the Secretary can even say that marches will paralyze traffic at the boundary or in Central. However, this is not the case at the moment. Some activities can merely be considered as falling in the grey area. If the Secretary is determined to call these activities crimes, he may

widen the scope indefinitely. Of course, the scope of crimes can be further widened should Article 23 be invoked, and all these activities can be considered crimes. It can even be said that tapping is necessary under all circumstances for the purpose of preventing crime. As a result, all these will have to be properly done.

Therefore, Members must never think that those people must have committed a "crime" by judging from the expression "crime". This is totally wrong. At the moment, we are not discussing about such crimes as prostitution, gambling, drugs, robbery, and so on. Instead, we are discussing some so-called crimes in grey areas, crimes probably associated with the rights of the people.

I believe some Members might still be struggling with themselves with respect to certain problems, because the Government seems to be repeating all the time that it will continue reviewing. But, the problem is to what extent. Members will find it necessary to send out the signal that what the Government is doing is simply not working. Why? This is because in the past couple of years, Members can clearly see that the Government can act very quickly in acquiring powers. But when it comes to monitoring its work, the Government would merely resort to delaying tactics. It just acts like this regardless of the circumstances. When being pressurized by the international community to do such things as taking anti-terrorist actions, the Government will make all sorts of requests such as seeking powers as well as demanding the power to conduct surveillance. In the end, it cannot but to take a middle-of-the-road approach in seeking the passage of the relevant legislation. For so many years, the Government has been acting like this. It will take action only when being forced; otherwise, it will merely take an "indifferent" attitude. If I am to answer the question as to whether the Government is determined to do something, I can only say I do not know. How many senior government officials are determined to strike a balance? I feel that the Government's approach is not convincing at all.

Lastly, when it comes to monitoring, the Secretary mentioned senior officers, the Police Force's internal audit, and even the Audit Commission. However, I can tell Members that the Audit Commission has never carried out any value for money audit of this subhead. I am not asking them to publicize the result. They may merely provide a confidential report to colleagues in the Public Accounts Committee. However, they have never compiled such a value

for money report. Frankly speaking, even if the Audit Commission carries out audits according to the procedure by telling us that the money has been spent and what persons have signed the receipts for the money, it will still not be useful in the end.

Concerning a case that happened several years ago, the police have still not dared to give me a reply for they dare not rule out certain possibilities. In a burglary case taken place in the home of the Commissioner of Police, the jewellery belonging to the Commissioner's wife, after reaching Macao through many hands, was eventually redeemed with informer's fee. I can tell Members that I know who signed the form. In response to my inquiry letter, the Hong Kong Police Force dared not deny this. The Government will spend more than \$80 million on informer's fee. I just cannot help asking "how can that be?" if it was really the case that reformer's fee could be used for redeeming the jewellery stolen from the Commissioner's wife.

Some of the money is definitely useful in bringing criminals to justice. However, this is not the answer I want. We need institutional changes and accountability, right? While select committees have been set up in other places to handle such matters, can this Council do this? We completely lack any direction.

I hope the new Secretary can perhaps bring forth a new style. Can the Secretary seriously examine where extra efforts can be made? I fully understand that confidential operations are genuinely necessary for the police to combat crimes, capture big thieves, and detect triad cases. I also understand that many of these actions have to be conducted in secret. However, insofar as this issue is concerned, it is necessary for the Secretary to put our minds at ease by assuring us that he will not allow the money to be partially used for performing dirty and secret political surveillance tasks. This is my greatest concern.

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

(Members raised their hands)

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

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Frederick FUNG, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 25 were present, four were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 14 were in favour of the amendment and 13 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 amendment was negated.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 122 stand part of the schedule.

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

(No member indicated a wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

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

**CLERK** (in Cantonese): Head 144.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Chairman, I move that head 144 be reduced by \$3,232,000 in respect of subhead 000, as printed on the Agenda.

Madam Chairman, although constitutional affairs are the focus of the town this year, the Constitutional Affairs Bureau has the least responsibilities among the three Secretaries of Departments and 11 Directors of Bureaux. Its major tasks include: electoral affairs, constitutional review, promotion of the Basic Law, and liaison with Taiwanese organizations in Hong Kong.

Given that the vast majority of work related to electoral affairs has been undertaken by the independent Electoral Affairs Commission, and the co-ordination of constitutional review upgraded to the level of the Chief Secretary for Administration, the Secretary for Constitutional Affairs has been criticized to be merely playing a major supporting role and a courier. In addition, the entire task of promoting the Basic Law can actually be handed over to the Education and Manpower Bureau and the Home Affairs Bureau. As for liaison with Taiwanese organizations in Hong Kong, the Secretary for Constitutional Affairs has been widely blamed for his over-cautious attitude, and there is simply no role for him to play. The Constitutional Affairs Bureau, now completely idle, should really feel ashamed for getting the reward without any real achievements and disappear silently.

(THE CHAIRMAN'S DEPUTY, MS MIRIAM LAU, took the Chair)

During the deliberation on the legislation on the Accountability System for Principal Officials two years ago, the Democratic Party already proposed the abolition of the Constitutional Affairs Bureau and the co-ordination of constitutional affairs by the Chief Secretary for Administration. Our proposal was met by the full opposition of royalists in defence of TUNG Chee-hwa. The fact that a three-member political framework has been proposed by TUNG Chee-hwa, with the Chief Secretary for Administration being tasked to lead the Constitutional Affairs Bureau to carry out constitutional review proves that it is not necessary for the Constitutional Affairs Bureau to exist as an independent bureau. For these reasons, the Democratic Party proposes abolishing the post of Secretary for Constitutional Affairs and arranging for transfer of other civil servants in the Bureau to under the auspice of the Chief Secretary for Administration. This will serve the two-folded purpose of streamlining the government structure and reducing expenditure.



The Democratic Party has actually acted in the most lenient and restrained manner by proposing to scrap the post of Secretary for Constitutional Affairs. During the recent constitutional review in Hong Kong, both the Chief Secretary for Administration and the Secretary for Constitutional Affairs have merely repeated the position of the Central Authorities, assisted the Central Authorities in achieving their goal of having "Beijing people ruling Hong Kong", and betrayed Hong Kong's democracy, "one country, two systems" and "a high degree of autonomy". Having failed completely to uphold and reflect the position of Hong Kong people in striving for democracy and universal suffrage, both Secretaries have disappointed the Hong Kong people. They do not deserve drinking Hong Kong water and having Hong Kong blood in their veins. If we may turn the clock back, the Democratic Party will not only scrap the post of Secretary for Constitutional Affairs, but also the post of Chief Secretary for Administration to punish the two Secretaries as a warning to others and assuage public grievances.

With these remarks, Madam Deputy, I beg to move.

**Mr CHEUNG Man-kwong moved the following motion:**

"RESOLVED that head 144 be reduced by \$3,232,000 in respect of subhead 000."

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

**MR ALBERT HO** (in Cantonese): Madam Deputy, I speak in support of the motion moved by Mr CHEUNG Man-kwong.

As we all know, some time ago Mr QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National People's Congress (NPCSC), came to Hong Kong to explain why the NPCSC had rejected dual elections by universal suffrage in Hong Kong in 2007 and 2008. In the reasons cited by him, two points are very clear: First, the people of Hong Kong do not have a clear concept of the State and their understanding of the Basic Law is completely out of focus. Moreover, the people of Hong Kong have in the past often said things to distort the Basic Law and even confusing others. In my opinion, the Secretary for Constitutional Affairs is politically obliged to answer these serious accusations. The Democratic Party would support the Secretary if

he could stand forth undaunted and object to this view advanced by Mr QIAO Xiaoyang with intellectual acumen and well-founded arguments. We would support him if he does that. But if the Secretary does not have the boldness to refute such arguments and if he does not dare to say what he has in mind, and only voice his agreement or give his tacit approval to views expressed by officials from the Central Authorities, then I think only two options are left: one is that the Secretary himself should seriously consider whether or not he is still fit for the job and whether or not he should resign. The other is that he should consider why he should remain in office given the disgrace he has suffered and what his Policy Bureau can do.

On the first option. It is amazing to note that Hong Kong has to face such a serious accusation, that its people are not qualified to enjoy this fundamental right of universal suffrage for the reasons that we do not have any concept of the state; that we do not respect the Basic Law and that we have distorted many political concepts which are important issues of right and wrong. As the Secretary for Constitutional Affairs, he has these responsibilities: to steer Hong Kong back onto the right track and to proclaim some concepts which are considered as right. But I have never heard the Secretary say anything on these. He has not said that these concepts are wrong, that is, the people of Hong Kong do not understand the Basic Law well enough and that we have deviated from the principle of "one country, two systems". So I am fully convinced that the Secretary, personally or on behalf of the people of Hong Kong, does not accept or agree with what Mr QIAO Xiaoyang's remarks. If this is the case, then it is only fit and proper that the Secretary should do Hong Kong people justice. If he fails to do so, then he has not discharged his duties faithfully. As the Director of a Policy Bureau, how can he possibly continue discharging his duties? I would like to stress that this is an important issue of right and wrong. This is an issue about our dignity — a matter of grave importance that will go down in the history books. So the Secretary cannot hope to dodge his responsibilities.

It remains, of course, that there is another possibility and that is, the Secretary may think that despite his office, regrettably he does not have the powers and a role in it. For the Constitutional Affairs Bureau has been completely bypassed in such a short span as a few months. So many changes have taken place during the one month from end March to this day in April as the NPCSC has decided on so many vital issues while the Constitutional Affairs Bureau inclusive of the Secretary is still in the clouds. One month ago, he could never have dreamt that such things would ever happen and half a year ago, it would be out of his wildest imagination that the whole of Hong Kong would be accused of going in the wrong direction, that it has gone astray from the principle

of "one country, two systems". If this is really the case, then it is like the Secretary is now telling us that the actual powers to decide on the constitutional reform and the constitutional review are all vested with Beijing and nowhere else. As a matter of fact, even today, we may have to admit that this is really the truth, that all the powers are safely and securely vested in the hands of the officials in Beijing. And the Constitutional Affairs Bureau that we have, or even the three-member Task Force headed by the Chief Secretary for Administration, including the Secretary himself, are no more than a super secretariat which duty is to do as Beijing decrees. The report which this Task Force has released is no more than a work dictated upon the instructions of Beijing officials. When the situation has come to this pass, what value does this Bureau then have in existence?

Mr CHEUNG Man-kwong has said earlier that apart from undertaking the constitutional review, the Constitutional Affairs Bureau still has other duties such as promoting the Basic Law. But such work need not be done by a bureau of major importance, it can be left to the Home Affairs Department. For other matters of vital importance, such as liaison with Taiwan, these could have been done by the Chief Executive or the Chief Secretary for Administration. For that would be much better than how it is presently done by the Constitutional Affairs Bureau, in fear and trembling. So much that it does not dare even to contemplate the setting up of a liaison office in Taiwan. As for electoral affairs, the Electoral Affairs Commission under Justice WOO could handle everything independently. So is there a need for a Policy Bureau to take care of such matters? In sum, things currently done by the Constitutional Affairs Bureau show that it is not living up to its name, for the officials there are only doing nothing for their remunerations. Given the current financial situation, this is a waste of public money. As a dignified Administrative Officer, the Secretary should really search his soul to examine whether or not he should receive this pay.

So let us not waste the talents of the Secretary, nor the experience and expertise of officers in his Bureau. They should serve the people of Hong Kong better and elsewhere, in some other departments for which they are qualified to render their service. This Policy Bureau as we know it only exists in name and we have to face the stark truth of its surmise.

Madam Deputy, if there is anything wrong in what I have said just now, could the Secretary please stand up and correct me. What solid powers are left in his hands? Does he dare to tell us that what Mr QIAO Xiaoyang has said is dead wrong, that the people of Hong Kong are not like that? He knows from

the beginning that they are not. That is why he has remained silent for so long. If this is so, then we would have other considerations when we are to cast our votes.

I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Deputy, last year Ms Emily LAU also proposed a similar amendment, seeking to introduce a 30% punitive reduction to the expenditure estimate of the Constitutional Affairs Bureau. At that time, Secretary Stephen LAM's response was, that the whole discussion was just a display of political stand, instead of an objective, value for money evaluation. At that time, we held the view that the Budget debate was political by nature, and it was only natural that it should involve political stands. As we were dissatisfied with the performance of the Constitutional Affairs Bureau, so it was absolutely appropriate of us to make use of financial measures to limit the power of Constitutional Affairs Bureau and reduce the chances for it to commit greater wrong-doings.

However, apart from this, we also discussed the issue from the perspective of how to make better use of financial resources. At that time, we made the proposal that, upon the abolition of the Constitutional Affairs Bureau, the Chief Secretary for Administration should be directly responsible for the relevant duties. Although the amendment of Ms Emily LAU was not passed, strangely enough, no one knows why, the subsequent constitutional development has really progressed in exactly the same direction put forward in our suggestion. Ultimately, it is Chief Secretary Donald TSANG, not Secretary Stephen LAM, who is the person in charge of the constitutional development. I am not sure if it was because Mr TUNG had accepted our advice, or simply a historical co-incidence. But undoubtedly, our past viewpoints that have indicated certain directions really merit consideration by the ruling regime and are of good value. Anyway, today Mr CHEUNG Man-kwong has proposed an amendment which is quite similar to the one of last year. It offers us a very good opportunity to review once again whether the post of Secretary for Constitutional Affairs should continue to exist in the whole cause of constitutional development. We are holding the discussion once again today, because we hope that we can give Mr TUNG a chance to reflect upon himself to examine if he could learn some experience and lessons and be enlightened, thereby carrying on with the work of perfecting the Accountability System for Principal Officials formulated by him.

Madam Deputy, today, I would like to discuss the amendment from the perspective of practical utilization of resources. However, this does not mean that I hold no opinions or I shall refrain from making comments on the incompetent performance of Secretary Stephen LAM. If a post makes an Administrative Officer, who has over 20 years of service in the Government, idle and be despised by the people, it reflects that some problems had already existed when the post was first created and designed. We must review this and make amendments today.

In fact, looking at it from the perspective of the three major tasks of the Constitutional Affairs Bureau as well as the Accountability System for Principal Officials, I personally think that the post of Secretary for Constitutional Affairs needs not exist.

In fact, in regard to the three major tasks of the Constitutional Affairs Bureau, we find that, actually in the policy address of the Chief Executive, it was already announced that the Secretary for Constitutional Affairs does not need to exist in the review of electoral policies. In the past, we had been requesting the Secretary to expeditiously conduct consultations on future constitutional development proposals. The answer of the Secretary was that they were conducting some internal studies, and he indicated at the end of last year that he would soon release a consultation timetable. In the end, all of his promises have fallen flat. Mr TUNG said in the policy address that the relevant issues had to be examined all over again and be co-ordinated under the leadership of Chief Secretary for Administration Donald TSANG. This in effect has stripped the Secretary for Constitutional Affairs of the policy-making power in this area. So in the end, the Secretary has been demoted to a messenger for delivering a report to the Central Authorities, a nobody responsible for such odd duties as making arrangements for seminars, and so on. Such duties are even more trivial than those undertaken by an ordinary Assistant Secretary of a Policy Bureau. The people cannot help asking the question, "Why should we use a first-rate salary to employ a second-class actor to play a third-class role? Is this a good deal? Is this cost-effective?"

In addition, another duty of the Secretary for Constitutional Affairs is to implement the Sino-British Joint Declaration and the Basic Law. Such objectives are too difficult to be achieved by a petty Hong Kong official. The political developments during the past month have fully demonstrated that Hong

Kong has entered an era of "Beijing people ruling Hong Kong". The "high degree of autonomy" and "Hong Kong people ruling Hong Kong" pledged in the Sino-British Joint Declaration and the Basic Law could never be implemented and put into practice by a petty Hong Kong official. Instead, it all depends on the mood and the needs of Beijing officials. If they feel like it, they will give you a little bit. If they do not like it, you will get none. As a result, the work of the Secretary for Constitutional Affairs in this aspect is limited to only making some so-called promotional films to publicize the contents of the Basic Law and ask people to have faith and trust in their work. However, if we need to find someone to do such publicity work, why should we bother to spend several million dollars to employ the Secretary to do it?

Besides, when it comes to the communication between the Mainland and Hong Kong as well as Hong Kong and Taiwan affairs, as mentioned by us on numerous occasions in the past, the Chief Executive has done something in the communication between the Mainland and Hong Kong, so has the Chief Secretary for Administration, and also the Financial Secretary. Basically, the two places are closely related to each other, and each department has their respective opposite numbers in the Mainland for liaison. If we rely on the Secretary for Constitutional Affairs on all liaison affairs, I think we cannot accomplish anything. It is neither convenient, nor easy. Since so many departments have to handle their own liaison affairs, why should we need a middle man, such as the Secretary for Constitutional Affairs, to undertake such a duty? Therefore, on examining the work in this area, we can see that the existence of Secretary Stephen LAM is not necessary.

As for the work on Taiwan Affairs, I can recall that Secretary Stephen LAM proceeded to look for an opportunity to meet with Taiwan's representative in Hong Kong only when he was confronted with the amendment proposed by Ms Emily LAU. He had not done it before this. Obviously, Secretary Stephen LAM did not have any intention nor the sincerity to do this task properly. Maybe he was afraid that he could easily make a political blunder in doing this sort of work. So in order to protect himself from such blunders, he chose not to do it at all. In fact, such a situation may be attributable to problems on the part of himself. If his office is filled by another candidate, the whole matter may have a different course of development. But under the current circumstances, when we can see that the Central Government is adopting an oppressive stance towards Taiwan, it is indeed no easy task to handle the Taiwan-Hong Kong relationship. And it is also not a job that could be adequately handled by

someone with mediocre political intelligence. With the working capabilities of Secretary Stephen LAM, I feel that he is absolutely incompetent.

Taking an overall look of the three major tasks of the Constitutional Affairs Bureau at the moment, it is actually not necessary to have this Policy Bureau and the post of the Secretary. Furthermore, insofar as the duties of principal officials are concerned, we all know that principal officials have to provide leadership in policy-making. If most of the policy-making duties are undertaken by more senior officials or some other persons, especially nowadays, the policy-making in respect of constitutional development has been surprisingly taken over by the Central Authorities, then, what is the use of keeping the post of the Secretary? Apart from wasting public funds, the Secretary will appear to be an unnecessary obstacle.

We think that, in the overall development now, the Code for Accountable Officials requires them to be able to keep tabs on public opinions, and to consider the need of the people when serving society. Meanwhile, they should also strive to gain popular support for their policies and that of the Legislative Council. However, we cannot see the Secretary has put up any good performance in this aspect. As such, is it still necessary for us to maintain this post of the Secretary, especially the existence of Secretary Stephen LAM?

Madam Deputy, at the moment, as we look at the overall work of constitutional development, we can foresee that the Central Authorities will take the lead in conducting consultations on constitutional development, and the Chief Executive will not be particularly concerned about or take care of the aspirations of Hong Kong people. Therefore, I think the consultations to be conducted will only be some bogus consultations, and the expression of public opinions will not be respected. On this premises, is it still necessary for our Secretary for Constitutional Affairs to exist? Today, when we discuss the provision for this post, I think we should delete this post, so as not to waste any more public fund. We should ensure that public funds should be utilized in the most appropriate way.

Madam Deputy, I so submit.

**MR FREDERICK FUNG** (in Cantonese): Madam Deputy, I would also like to mention some facts, then I will talk about my views.

Secretary Stephen LAM really has all my sympathies. I feel so sorry for him. Speaking from the facts, Secretary LAM has really wanted to do a lot of things. I recall he said to us in about August or September last year that the Constitutional Affairs Bureau would issue a consultation paper in December that year and that there would be a timetable, to be followed by consultations in Hong Kong. That shows that Secretary Stephen LAM really wanted to do something. But at the end of last year, the Chief Executive went to Beijing on a duty visit, then he said clearly in the policy address that as the Central Authorities were very much concerned about the constitutional review in Hong Kong, so there was a need to set up a three-member group composed of Chief Secretary for Administration Donald TSANG, Secretary for Justice Elsie LEUNG and Secretary Stephen LAM, to gauge the concern of the Central Authorities and the wishes of Hong Kong people.

In fact, this three-member group has not remained idle. It has issued report number one and report number two. Report number one was submitted before the National People's Congress (NPC) interpreted the Basic Law provisions and it was written after consulting many groups and discussing with them. That shows that even if Secretary Stephen LAM is not wholly responsible for the writing of this report, at least he has one third of the responsibility. So I think that he has not been doing nothing.

Report number two was submitted before the Central Authorities made the decisions, that is for sure. After the first interpretation of the Basic Law, it is felt by the Standing Committee of the NPC that there must be a triggering mechanism. This means that the Chief Executive should first submit a report and the constitutional review can only begin after consent from the Central Authorities is obtained. When the Chief Executive was about to hand in his report, our three-member group also handed in its report number two. In view of this, again I think Secretary LAM has done something. For even if the report is not entirely his work, at least he has done one third of it. So I would think that we cannot say that Secretary LAM has not done anything.

After the Central Authorities had made an interpretation of the Basic Law, the mainland officials came to Hong Kong to give an account of it. After the officials from the Central Authorities had read the report by the Chief Executive, they conducted a consultation before making a decision. The people consulted were the so-called Hong Kong Deputies to the NPC, delegates to the Chinese People's Political Consultative Conference, leaders of some groups and other



well-known figures. Of course, this Council was excluded. So the Central Authorities have also done something and consultations are conducted. Then finally the Central Authorities came to a decision. I believe Members all know the decisions announced last Monday, that is, we cannot select our Chief Executive by universal suffrage in 2007, nor can we elect the Legislative Council by universal suffrage in 2008. Is Secretary Stephen LAM really placed in a very difficult position? He has in fact a part to play in everything.

I still recall last Thursday when permission was given by the President for me to propose an adjournment debate in great haste, and the same issue of consultation was discussed. The arguments are still ringing in the air and they have not gone for the entire week past. Chief Secretary for Administration Donald TSANG said very clearly in his reply. He told me not to worry, for the nine principles mentioned in the Chief Executive's report were only meant to serve as guidelines, they were not restrictive and binding. He also said that everyone could put forward their views. They could also do the same with respect to the dual elections by universal suffrage in 2007 and 2008.

So as we can see, for people from Chief Secretary for Administration Donald TSANG, Secretary for Justice Elise LEUNG to Secretary Stephen LAM, at least up to last Thursday, they thought that way. Then I would think, "How have they gone against the wishes of the Hong Kong people? What have they done wrong?" Even in the replies they made last Thursday, I still could not see that they had done anything wrong. What evidence is there to tell that they have done something wrong or have betrayed Hong Kong people.

(THE CHAIRMAN resumed the Chair)

However, in any case, the Standing Committee of the NPC has made the two decisions mentioned by me earlier. From these events, I have come to a few conclusions. First, what Secretary Stephen LAM had wished to do last year was suppressed by the Chief Executive. Second, after the three-member group had been formed and as it was working hard in conducting consultations and drafting the reports, it came as a surprise that the Standing Committee of the NPC was not only refusing to listen to the few Members from the democratic camp who try to, I do not know how I should put it, force through the gates or gatecrash and those who hold a Home Visit Permit.....

**CHAIRMAN** (in Cantonese): Mr Frederick FUNG, please face the Chair when you speak.

**MR FREDERICK FUNG** (in Cantonese): Sorry, Madam Chairman. I am sorry.

It turns out that not only were the views of the democratic camp went unheeded, even if they had met with those of us who wanted to go to Beijing or to Shenzhen, those of us who claimed to be representatives of public opinion, our views would not be heard. Not even the views expressed in the reports by the three-member group. Not even the remarks made by Chief Secretary for Administration Donald TSANG one week ago here and which still ring in the air today. They have all gone unheeded. Are we right when we blame Chief Secretary for Administration Donald TSANG, Secretary for Justice Elsie LEUNG and Secretary Stephen LAM?

Madam Chairman, I recall during the debate on that day, I was impressed by the boldness of Mr TSANG's remarks. As I have said in my reply, the Chief Secretary for Administration said that these nine major principles were never meant to be restrictive. But after the decisions made by the Standing Committee of the NPC, I do not know what would become of those nine major principles. About these remarks made by Mr TSANG last Thursday, do they not show that the three-member group is so simple and naïve in thinking that it is highly regarded by the Central Authorities? With the benefit of hindsight, however, this kind of simplicity is not only ridiculous, but also outrageous.

Madam Chairman, I still believe that the three-member group, including Secretary Stephen LAM, would like to get things done. If what I have said are all the truth, nothing but the truth as I know it, then I would think that these three persons have done nothing wrong. If that is not their fault, then whose fault is it? I can only say that it is a pity that the Standing Committee of the NPC did not do anything to tell them in advance or that it should not have acted as if the group did not exist. The fault does not lie with Secretary Stephen LAM, does it? So I do not think that because of this that we should stop paying Secretary Stephen LAM his salary and that the funding should be withheld.

Another fact is that Secretary Stephen LAM was really appointed by the Chief Executive and his appointment was endorsed by the Central Authorities which hold the real powers. Now only that the Central Authorities like to take

up the Secretary's duties. We cannot blame the Secretary for this. We cannot sack him. There is no cause to stop paying him his salary. So, I have another suggestion. Since the Central Authorities have done this and so much, and in such a resolute manner that Secretary Stephen LAM has been denied his duties, then may I suggest that the Central Authorities pay the Secretary his salary. For there is no reason why the SAR Government should pay for it. So, Madam Chairman, may I suggest that the salary we pay Secretary Stephen LAM which is in the sum of \$3,232,000, be handed over to the Central Authorities and that the Central Authorities be requested to pay Secretary LAM his salary.

I support the motion.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I remember that at the end of last year, Secretary Stephen LAM told this Council that he would definitely compile a timetable to inform Hong Kong people when the Government would start its consultation with the people with a view to discussing whether 2007 was a suitable time for introducing universal suffrage for the election of the Chief Executive, and whether 2008 was suitable timing for introducing universal suffrage for the election of all the seats in the Legislative Council. He even told me, it was necessary for Hong Kong to take some time to do it, but we had enough time, and told me not to worry. The Government would undertake a very important task, that is, to seek a consensus in the Council. He said that though some political parties had already indicated support for the dual elections by universal suffrage in 2007 and 2008, it required the support of 40 Members before the proposal could take off. As such, he would do his work and hoped that he could achieve such a consensus in the Council, so he said. At that time, I really admired him for making such remarks, and very much hoped that he could succeed. Unfortunately, there was no timetable, and I do not know how he could proceed with his work. Even in the policy address of the Chief Executive, there was no mention of a timetable. Instead, a three-member Task Force was established.

Among the duties of the three-member Task Force, the legal community generally thinks that the particular work that need not be done is to examine whether there are any legal problems in the Basic Law in respect of dual elections by universal suffrage in 2007 and 2008. I was all at sea. I really could not see any legal problems there. But they did do a lot of things by

creating something out of nothing. They had embarked on some tasks which they should never have proceeded to do, and then they published the First Report and delivered it to the Central Authorities. What happened next? It was really a "raw deal"! The Standing Committee of the National People's Congress (NPCSC) promulgated an interpretation of the Basic Law. Is it true that the NPCSC might not issue the interpretation if the First Report did not exist? The NPCSC just made them act underhand to betray Hong Kong people. On the basis of their First Report, the NPCSC chose to hand down an interpretation of the Basic Law. After the interpretation was handed down, we immediately found out that the Second Report was near completion.

As for the issues of principle generated by the dual elections by universal suffrage in 2007 and 2008, again I was all at sea. It never occurred to me that there could be nine principles. They were really inconceivable. In fact, they did not need nine principles. One single principle is already sufficient to deliver the deadly mission. In fact, item (i) has made it very clear already, that is, we have to listen to the words of Beijing. Therefore, even in the Second Report which was drafted under the conditions stipulated in the interpretation, all it has to do is to say how the SAR looks at the issue: Whether the method of electing the Chief Executive in 2007 should be amended, and whether the method for electing the Members of the Legislative Council should be amended in 2008. Just say whether it is necessary or not necessary, and that will do.

I totally agree with the conclusion drawn by the Article 45 Concern Group. However, they had not done that. Instead, they imposed nine additional hurdles. Then what happened next? The NPCSC of course accepted all these nine hurdles, and must be feeling satisfied. These nine hurdles are really deadly weapons because their effect is not only affecting the dual elections by universal suffrage in 2007 and 2008, but every time when these two issues are reviewed, the NPCSC will employ these nine principles in its consideration.

Item (i) is already sufficient for "stifling" any bid because it mentions that it shall depend on what the Central Authorities think: If they say "no", then it will be "no". Therefore, these nine principles are injuring Hong Kong people seriously; they are virtually betraying Hong Kong people. But they have been accepted now. But it is not as simple as just having these principles accepted. On the day before yesterday, the NPCSC ruled out the possibility of introducing

universal suffrage for the election of the Chief Executive in 2007, and in the meantime, it also ruled out the possibility of introducing universal suffrage for the election of all the seats in the Legislative Council in 2008. In addition, it spelt out in no implicit terms that in the Legislative Council election in 2008, the ratio between directly elected seats and seats returned by functional constituencies would be maintained at 50:50. The ratio cannot be changed. Some people may think that: This is not bad, because we can have 10 extra directly elected seats, or there will be 10 more directly elected seats and 10 more seats from functional constituencies, is it not good? However, anyone with a rational mind will soon realize that, the pro-democracy camp can never get any seats from the newly introduced functional constituencies. Do not have any wishful thinking over this. Surely the pro-Beijing and pro-Communist camp will get all these seats, otherwise they will not put forward such a proposal. However, for the 10 directly elected seats, due to the proportional representation system, how many such seats can be won by the pro-democracy camp? And also some people say that, in selecting the Chief Executive.....

**CHAIRMAN** (in Cantonese): Mr Martin LEE, you are straying farther and farther away from the question. We are not debating.....

**MR MARTIN LEE** (in Cantonese): Madam Chairman, it is about the money issue.

**CHAIRMAN** (in Cantonese): Can you come back to the question?

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I can discuss the question first because my conclusion supports Mr Frederick FUNG, that is, even if we do not pay this sum of money, it does not matter. As long as the Secretary can make the Central Authorities happy, they will pay him the money, or will even give him a pay rise. Then, you will be benefited — Madam Chairman, it should be: He will be benefited. (*Laughter*) I am sorry. This is the fact.

Therefore, should we look at the issue from another perspective? I recall that, a long time ago, there was an old movie entitled "If I were the real one".

But what will happen if it is "If I did not turn up"? If the Secretary actually had not turned up, then the First Report could not be produced. Since the Secretary did not turn up, the three-member Task Force could not afford to have the absence of such an important person, then we would not have the First Report. In that case, would it be possible that the NPCSC would not have proceeded to interpret the Basic Law? If there was no interpretation of the Basic Law, of course we would be very delighted. However, even if the NPCSC proceeded to interpret the Basic Law, at least our three senior officials would not be made to act underhand for other people, and maybe Chief Secretary for Administration Donald TSANG would not have slipped that they had been acting as the tools of other people. Therefore, if we did not have the Secretary, and if we did not have the First Report, it would not do us any harm. Maybe even the interpretation of the Basic Law is not required! What would happen if there was no Second Report? It would not do us any harm either. By then there would not be the nine hurdles because the Second Report did not exist in the first place. In this case, would the NPCSC rule out the dual elections? It may not. What else could happen even if it did rule them out? Would it not be the same as the situation now? Therefore, even if we did not have the Secretary, it may cause less harm to Hong Kong. Even if everything happens all the same, Madam Chairman, ultimately Hong Kong taxpayers should not be made to set aside the money for this purpose. The Central Authorities may wish to give him a pay rise, because he has done a good job. If the Central Authorities could really listen to what we have said, Secretary for Justice Elsie LEUNG and Chief Secretary for Administration Donald TSANG may also get pay rises. But the bill has to be footed by the Central Authorities, not us.

Thank you, Madam Chairman.

**MR LEUNG FU-WAH** (in Cantonese): Madam Chairman, after hearing the speech given by Mr Frederick FUNG, I am convinced that there is some truth in saying that some people may come from a seedy world but they are not entirely soiled. Mr FUNG's speech gave part of the truth, and that is, in the pan-opposition camp, there are people who still have a conscience.

Madam Chairman, Ms Emily LAU moved an amendment to the Appropriation Bill 2003, seeking that funding for the Constitutional Affairs Bureau be slashed by about 30%. But as the amendment was voted down, so in a likewise mentality of sham and pretense, Mr CHEUNG Man-kwong has proposed an amendment to the Appropriation Bill 2004 today to slash the funding

of the Constitutional Affairs Bureau by nearly 10%. Despite the fact that he has obviously pulled down the requested reduction, these two Members are aiming at the same thing in proposing their amendments. The aim is to target at Mr Stephen LAM, the Secretary for Constitutional Affairs. Maybe Secretary Stephen LAM and these two Members are predestined adversaries, that he will be pestered and harassed until he raises the white flag in surrender or even quits his job. For the only way to pull him out of such pestering and harassment by the opposition camp is to declare that he supports elections by universal suffrage in 2007 and 2008.

Obviously, the funding which Mr CHEUNG Man-kwong seeks to cut from the Constitutional Affairs Bureau today is the annual expenditure on the remuneration of the Secretary for Constitutional Affairs. This request is like the amendment proposed by Ms Emily LAU last year in that it is only a political move. And this move is directed against a person rather than against the matter. When a policy bureau is devoid of its director, how can it operate? When a policy bureau experiences a system failure, a paralysis or if its operation comes to a standstill, that will certainly have an adverse impact on the Government of the Hong Kong Special Administrative Region (SAR). That is certainly something we cannot afford to overlook. If that is an omission on the part of Mr CHEUNG Man-kwong before he proposed this amendment or if this has never occurred to him at all, then it would be quite a rash and ill-advised move to propose this amendment. But I am aware that Members from the opposition camp would make it a ritual to do so every year. There is only one reason for it, and that is constitutional development is not going as fast as they want, that there should be universal suffrage in no time.

Madam Chairman, of much more importance is Article 48 of the Basic Law which stipulates that the principal officials of the SAR Government will be nominated by the Chief Executive and reported to the Central People's Government for appointment under Article 15 of the Basic Law. As for the removal of the principal officials from office, it must first be proposed by the Chief Executive to the Central People's Government. So as to whether or not a principal official should be removed, it is not something for Members of this Council to decide, for the Council simply does not have such powers — powers to appoint or remove any principal official. But on the other hand, the Basic Law vests the powers with the Chief Executive, that he can suggest to the Central People's Government to remove a principal official and the final say rests with the Central People's Government as to whether or not that principal official should be removed.

The amendment proposed by Mr CHEUNG Man-kwong today is on the surface a request that funding for the Constitutional Affairs Bureau be slashed, but it is in fact an indirect request to dismiss a principal official of the SAR Government who is not to his satisfaction. Moreover, this is a move which is devoid of any legal base, and one which is doing the SAR Government injustice. The reason is simple. I have talked about the lack of legal base in this move. As to doing injustice to the SAR Government, if this amendment is passed, that will mean the Secretary for Constitutional Affairs will not be paid his salary for 2004-05. And unless he agrees to be a voluntary worker, the SAR Government is likely to be an unscrupulous employer which defaults on paying a salary to its staff. As a matter of fact, it is not that the Government intends to default on paying salaries, only that the Legislative Council does not approve of the funding for it. So the Government will have no money to pay for the salary of the Bureau Director and so injustice is done to the Government.

I am really somewhat worried at this point, for there may well be someday when a Member who, because of his or her dislike for some other Members or if their political stands are different, may propose to cut the funding of the Legislative Council Commission in an attempt to oust these Members not to their liking. Then the legislature will be disrupted. Bills cannot be passed. What will become of Hong Kong then? I just shudder to think of it. So I will oppose Mr CHEUNG Man-kwong's amendment.

Earlier on, Mr Albert HO talked about the two options left to the Secretary. In actual fact, the Democratic Party is also left with two options. One is that it should choose to love the country and Hong Kong, that it should stick to "one country, two systems" under the Basic Law and work with the people of our country and the people of Hong Kong for the well-being of our country and Hong Kong.

The other is that it will continue to go against the interest of the people, not abide by the Basic Law and raise opposition simply for the sake of opposition and assume the role of an outright opposition party. Facts show that the Democratic Party seems to have chosen the latter. That is to say, it does not care about the provisions in the Basic Law, that it does not care about the well-being of Hong Kong people, that it does not care about the future of our country and our people. It will only assume the role of putting up opposition but not doing anything constructive. I just have to ask, "What is the reason for its existence?"



Madam Chairman, the people should have learned a valuable lesson today, for they will know what is meant by a personal attack. The debate we have today can best illustrate and define what is meant by a personal attack.

Thank you, Madam Chairman.

**MISS MARGARET NG** (in Cantonese): Madam Chairman, at the beginning, I did not intend to speak, and I have always admired Mr Frederick FUNG for his political wisdom. But I now wish to speak; and, most unfortunately, having listened to him just now, I also feel the need to speak against his remarks.

I wish to point out that Article 4 of the Basic Law reads: "The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law." The Government of the Hong Kong Special Administrative Region (SAR) shall have the duty to do so. To us, what matter most are not so much the many interesting questions posed by Mr Frederick FUNG, but just some very simple questions: Has the Constitutional Affairs Bureau reflected the aspirations of Hong Kong people and fought for their interests? Has it done so, or has it not? Has it done enough, or has it not? Or, has it just been assisting the Central Authorities in their unconstitutional intervention, in casting Hong Kong people's opinions aside and injuring the interests of the SAR? If the latter is the case, then one can really say that the Secretary has not been doing what he is supposed to do, so we should not continue to give the Bureau any more funding. I also do not think that Mr CHEUNG Man-kwong's proposal is adequate, but I do not think that we should continue to allocate any more funding either.

Honestly, although the Constitutional Affairs Bureau may not have done quite so well this time around, it may not necessarily be so unforgivable anyway. But the greatest problem is that the Secretary is still so self-opinionated afterwards and even intends to keep on doing so. If this is really the work objective of the Constitutional Affairs Bureau, why should we continue to give it any more resources, to spend any public money on supporting its work of inflicting greater harm on Hong Kong?

Thank you, Madam Chairman.

**MS EMILY LAU** (in Cantonese): Madam Chairman, I am speaking in support of the resolution moved by Mr CHEUNG Man-kwong.

Madam Chairman, last year I moved a similar amendment which at that time sought to cut the provisions of Constitutional Affairs Bureau by 30%, that is, more than \$10 million. At that time, I said that the Constitutional Affairs Bureau had not made any achievement in the promotion work undertaken by it, namely, promoting the understanding of the Basic Law among the people of Hong Kong, forging a good relationship with the Hong Kong and Macao Affairs Office, Taiwan affairs, the accountability system, electoral issues, and so on. In regard to constitutional reform, their performance was very poor. Madam Chairman, Mr CHEUNG proposed today to delete the post of the Secretary for Constitutional Affairs, but even if his post is deleted, we still cannot solve the problems faced by Hong Kong. However, just as what former Premier Mr ZHU Rongji had once said in the United States (I forgot why he said it), what he did could help the Americans "let off some steam". Therefore, I believe, if this post is deleted, it will help Hong Kong people "let off some steam".

Madam Chairman, in fact, for issues like this one, we should not treat them as some kind of a joke. However, when we mention something that is disheartening and saddening, we must do it with some sense of humour. Madam Chairman, during this one month or so, we shall be dressing in black because this denotes a kind of protest, and this also signifies that our Secretaries have led us into a dark age. Therefore, on this point alone, he should be fired already, and his post should be deleted as well.

However, we still should take a look at what the Secretary has done recently, which could leave Hong Kong people with such a deep impression. At the end of last year, as I may still recall, the Secretary repeatedly told us that a timetable for constitutional reforms would soon be announced, by the end of the year. Later, he changed to say it would be the beginning of the following year, and then later, he said that it would be slightly delayed. However, by January, when the Chief Executive released his policy address, he said that President HU Jintao was highly concerned about the issue. And then no further news could be heard after that. I do not know if Secretary Stephen LAM really does not have any knowledge of the views of the Central Authorities. But many people say that you always have to guess the views of the Central Government. You made

some guesses about certain issues, but why have you been so ill-informed on this issue? Furthermore, the President had already conveyed this to the Chief Executive in early December last year, and Hong Kong people had been kept in the dark for more than a month. Why did he still say that he would present the timetable as soon as possible? In the end, nothing was presented. This incident has left a deep impression on the minds of Hong Kong people.

Besides, in March this year, when three pro-democracy Members attended a hearing conducted by the Congress of the United States, the Secretary came forward to make some comments again. When the Secretary spoke in the Legislative Council, he criticized these Members angrily, condemning their move as inappropriate. However, after the incident, I heard many people, or even the majority of the people say that they did not feel that there was any problem. Two Mr LEEs and Mr TO attended the Congress hearing, what was wrong with it? Why should the Secretary take the trouble of scolding them in the Legislative Council?

Madam Chairman, there was one more event that had left us with a deep impression. What happened on 15th of this month? The Secretary became the highest paid courier in history. He flew all the way to Beijing to deliver the report to the NPCSC in person. In doing so, he had done a favour for the mass media because we had never seen a Secretary deliver a report in front of the media. At that time, everybody was standing on the street, and in the strong wind, his hair was tousled and he was "not as handsome as usual". Yes, Madam Chairman, he was "not as handsome as usual". Therefore, the people said, "Could Hong Kong afford to hire such an expensive courier? Madam Chairman, therefore, I always say that we must have a sense of honour in doing certain things. So much for these three events — in fact, I could go on to say more, because the Secretary will go on listening. All these events have left a deep impression on our minds. Madam Chairman, can you tell such impressions are good or bad?

I am going to talk about something more saddening, that is, the incident of the interpretation of the Basic Law. But I am not going to repeat what has been said many times before in this Chamber. However, many people would ask, "If something like this should bring about such an outcome, will it cause great repercussions in society?" After the interpretation, even the Chief Executive and the Chief Secretary for Administration had to urge Hong Kong people to stay

calm and not to take some unwise actions. In fact, do we not know that this incident does have serious implications and a lot of Hong Kong people would feel unhappy about it? We all know that this incident will really bring about great consequences. Although the Financial Secretary kept saying that this would not cause any problem to the business sector, he was actually acting like someone whistling while he was walking in the midnight in order to conceal his fear. It was like the Chinese story which relates a stupid person who put up a sign saying that "300 taels of silver were not here" after he had buried 300 taels of silver underground. If there is no problem, why should this subject be brought up so often? It is precisely because someone has raised the issue, so he has to come forward to say something. If there is no problem, why should the United States Government raise the issue? And why should the British Government comment on it? Of course there were some other people who had mentioned it, why should they do so? Do they really love Hong Kong? Of course not, Madam Chairman. It is just because they have investments in Hong Kong, and they have nationals living here. They have business investments in Hong Kong. If the rule of law in Hong Kong is ruined, the Hong Kong system no longer works and the "one country, two systems" is finished, will investors continue to stay? What appeal will Hong Kong still have by then? CEPA, CEPA, does CEPA really offer such great appeal?

Let us switch our attention back to the Secretary. What actually has the Secretary done? What has he done to reflect our worries? Many people and I could not see what he has done, and then they would ask, "What actually has this person done in his post?"

Madam Chairman, I have noted some figures in the Budget. In 2003-04, SAR official delegations altogether made 1 100 visits to the Mainland. But among these delegations, why have none of the Members of the Legislative Council ever joined any of them? Among us Legislative Council Members, many of us cannot travel to the Mainland, what have the Secretary and the Chief Executive done in this regard? Last year, the British Government raised this issue in Beijing, and the Secretary again sternly condemned it as undue interference with our internal affairs. However, what kind of work has the Secretary ever done to help Members in this aspect?

For many years, we have not been able to travel to the Mainland. In 1998, I just "got off the train", just having gone through the election, Ms Cyd

HO and I went to meet with the Chief Executive to suggest that he might head a delegation to visit the Mainland because he had been saying that the Mainland had developed quite well and that we did need to know more about this. I suggested that an Executive Council and Legislative Council delegation be formed to visit the Mainland, and he should act as the leader of the delegation. However, he just told me not to be too outspoken. In other words, if I held my tongue, then I could go. So, what has the Secretary done during the past few years? Recently, several Members had wanted to visit the Mainland, they wanted to visit Beijing, but they failed. Ms Cyd HO tried twice without any success, nor could Mr James TO. What kind of work has the Secretary done? As for the invitation extended to them for a meeting by the Central Government Liaison Office, was that due to the effort of the Secretary?

Madam Chairman, I hope the Secretary can tell us later whether the Administration has the duty to do something if there is so much difficulty in the communication between Members and the Mainland. If nothing has been done, please tell us why this is not done. If something has been done, please let us know what has been done. How many attempts have been made? When or on which dates and to whom you have been speaking, and what are the details of your conversations?

Madam Chairman, there are also the Taiwan affairs. It happened once, it was quite funny when the Democratic Party raised a question in this aspect. I have forgotten who raised it. Anyway someone raised a question, let us assume that it was raised by a pro-democracy Member because Members of other political affiliations would not raise something like this. There was such a question being raised in the afternoon of that day, and in that morning, CHANG Liang-jen said that someone had invited him to lunch. And the Secretary even told us that he had met with CHANG Liang-jen. However, CHANG Liang-jen felt very unhappy afterwards. Why? It was because the Secretary actually did not have lunch with him. What the Secretary had done was to copy Bill CLINTON — when the two of them were in the same venue, he just went up to CHANG Liang-jen for two minutes, and then he told us in this Chamber that he had met with CHANG Liang-jen. At that time, we thought that they had really met, but the truth was that he had just gone up to Mr CHANG and said hello. In fact, how many times had he met with CHANG Liang-jen? Madam Chairman, I wish to know what has been done by the Secretary in this aspect? Now that CHANG Liang-jen will soon leave Hong Kong and his work will be

taken over by Byron WENG. What will happen next? Madam Chairman, in fact, I have been wanting to raise a question, but I cannot get a slot after waiting for a long time. What I have been wanting to ask is about the long time required for processing the application for approving the candidate deployed to Hong Kong by Taiwan's official organization. As far as I know, the application had already been submitted before the arrival of CHANG Liang-jen, but that a result is still pending for that application, and now CHANG Liang-jen is going to leave Hong Kong very soon. Of course the application does not involve Byron WENG, but someone else. But what actually has happened in the process?

Madam Chairman, I have cited several examples, but there is still one more, which is also the most important one. Madam Chairman, this could be the most important issue on your mind, that is, the understanding of the Basic Law. A lot of people in the other camp have frequently scolded the Secretary. For example, Mr LEUNG Chun-ying, the gentleman who is going to have a debate with me, has also openly scolded him and said that the Administration has not been doing enough, so that the people still lack understanding of the Basic Law. This is also an item of work in the portfolio of the Secretary. However, the Chief Secretary for Administration is the leader of that committee. Now the Democratic Party said that the work should be handed over to the Chief Secretary. I can say that the situation will not improve a lot. But one man doing a lousy job is better than two men doing the same lousy job. It is meaningless to waste more public fund. Frankly speaking, Madam Chairman, who can claim the best credit in enabling the people to gain a better understanding of the Basic Law? It must be Secretary Regina IP. The whole world now understands Article 23. But after that incident (we are just thanking her right now), what other articles were also understood by the people? It must be Articles 45 and 68. Do we need to turn Hong Kong nearly topsy-turvy every time when we want to make the people understand the provisions of the Basic Law?

Madam Chairman, I do not want to dwell on this anymore. The list can never be exhaustive. Therefore, in short, the Secretary really has not done anything since coming into office. There has not been anything that could leave a good impression on us. The Financial Secretary always mentions the fiscal deficit now, and says that we should save money as much as possible. On the question raised by me earlier today, I had asked about the waste of public funds in the case of the Science Park, and then the Government responded that some

money had to be spent to commission a consultancy to investigate the issue. I really hope that the Financial Secretary could follow up these issues. As I was raising an issue on the waste of public funds, yet the Government's reply for the 20th question said that it would commission a consultancy to study how public funds had been wasted. What a government! Madam Chairman, I shall say no more as you have already indicated that I have strayed from the question.

However, let us focus our discussion on Secretary Stephen LAM again. I really could not think of anything that he has done well. As such, I support the resolution of Mr CHEUNG.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, Ronnie CHAN today criticized the pro-democracy camp of frequently taking to the streets to demand democracy, thus making Beijing distrust Hong Kong. Ronnie CHAN's remarks remind me that he has a property development project called "The Harbourside". The Chinese name of the project is "君臨天下", which means "the Emperor is supreme in ruling the country". Therefore, I think Ronnie CHAN.....

**CHAIRMAN** (in Cantonese): Mr LEE, is there any connection between your remarks and Mr Ronnie CHAN? *(Laughter)*

**MR LEE CHEUK-YAN** (in Cantonese): Yes, there is. Yes. I shall explain in the following part of my speech. This is because Mr LEUNG Fu-wah said just now that the pro-democracy camp had two options: Option one is to love the country and Hong Kong, and option two is to act against the interest of voters. However, Ronnie CHAN's project of "the Emperor is supreme in ruling the country" is also giving Hong Kong people two options: Option one is becoming subservient to the authorities and act as the boot-lickers, and option two is refusing to be submissive. In fact, is it true that Ronnie CHAN wants all Hong Kong people accept "the Emperor is supreme in ruling the country", that is, everyone moves to live in "The Harbourside" or everyone accepts the situation of "the Emperor is supreme in ruling the country", and then we should refrain from fighting for all our rights with Beijing. The question today.....

**CHAIRMAN** (in Cantonese): Mr LEE, I must tell you that Mr Ronnie CHAN does not belong to this Council. So, I would like to ask you to bring your discussion back to matters related to the amendment.

**MR LEE CHEUK-YAN** (in Cantonese): Yes, I know that. Why should I say that he is related to the subject matter of today? In fact, the project "The Harbourside" does have some connection with the subject matter of today. Why? Now we are discussing a reduction of the resources of the Constitutional Affairs Bureau by about \$3.2 million. Why should we cut this \$3.2 million? It is because we already have the "Emperor" ruling supreme over us. We now have a fundamental question and doubt, that is, as Hong Kong already has the "Emperor" ruling supreme over us, is there a need for the Bureau to continue to exist?

Mr LEUNG Fu-wah said that we were directing the issue against a person rather than the matter. I wish to state very clearly that we are absolutely not making it personal. If we were, we would be slashing the remunerations of all the Secretaries as we feel that the entire Accountability System for Principal Officials does not work. Why should our criticism be directed against the Constitutional Affairs Bureau? It is not as simple as just involving Stephen LAM. Instead, the issue in question is, even by now, the whole Constitutional Affairs Bureau still does not know what kind of role it should play.

Ms Emily LAU said that she had proposed last year to slash the resources of the Constitutional Affairs Bureau by 30% — it is a move directed against the matter because she felt that there was not any job to be undertaken by the Constitutional Affairs Bureau. The Bureau could not initiate any consultation. Last year, it claimed to be conducting some studies, and then declared that a consultation would be held by the end of the year. But the Bureau really did not do anything last year. This year, we have another reason, which is also directed against the matter. Why do we propose to slash its resources again this year? Not due to the same reason of last year. The reason is slightly different from that of last year. The Bureau should start working this year, and it is prepared to do so. However, this year, the situation is even worse than that of last year. This year, it is not the case of having no work to do, for it is completely nullified.



Mr LEUNG Fu-wah asked just now, "If we did not have the Policy Bureau, how could the framework operate?" In fact, does the Policy Bureau still exist? We do not have it anymore now. We do not have the Policy Bureau anymore now. Do we still have the Constitutional Affairs Bureau to make policies? Is he still an accountability official? Absolutely not. How can it operate? It is operating. Therefore, we hold the same view as Mr LEUNG Fu-wah's, and we think that it absolutely cannot operate at all. May I ask how does it operate? If it cannot operate at all, we had better do without this Policy Bureau, which is in effect nullified; in fact it does not exist anymore. What actually has happened? The situation is, the Central Authorities have actually taken over the decision-making in respect of Hong Kong's political system. Therefore, in fact, the Policy Bureau without constitutional affairs or, the Constitutional Affairs Bureau without constitutional affairs has already been taken over by the Central Authorities.

I feel that the Central Authorities have not just taken over the post of the Secretary for Constitutional Affairs, but also the entire three-member Task Force, which we can now address as "Betraying Hong Kong Three-member Task Force". This three-member Task Force has actually been taken over by the Central Authorities. I do not know whether the Secretary for Constitutional Affairs could confirm to us that there has been a change in his employer? Has the Hong Kong and Macao Affairs Office of the State Council created three posts in its Office? The first one is Donald TSANG, the Chief Secretary of Stenographers, because TSANG Hin-chi once said that the "Nine Principles of Mr TUNG" were actually drafted after consulting the Central Authorities. His remarks help me to come to a conclusion: The entire Second Report of Donald TSANG was dictated to him by the Central Authorities and Mr TSANG jotted down all the instructions from the Central Authorities in short hand, and then incorporated them into his Second Report. Therefore, Donald TSANG has acted as the Chief Secretary of Stenographers.

As for Secretary Stephen LAM, many people have already pointed out that he had acted as a courier on that mission. Therefore, the post of Secretary for Courier Services has been created. He is no longer the Secretary for Constitutional Affairs, but the Secretary for Courier Services under the Hong Kong and Macao Affairs Office. I seldom heard Secretary for Justice Elsie LEUNG speak, so she could be acting as the Head of the Backdrop Division. The three of them have changed their employer and their service contracts, and they are undertaking duties very much different from what they should be performing.

Under such circumstances, the scope of today's debate is not at all adequate because, as I have just said, Donald TSANG has seen changes in his employer, his duties and his service contract, and he is now a stenographer. And Secretary for Justice Elsie LEUNG has changed to another job as well. Therefore, their remunerations should be reduced correspondingly. However, our question today is just about the Secretary for Constitutional Affairs. I would like to reiterate that we are not directing an attack against Secretary Stephen LAM, but against the worst incident, a most terrible fact, that is, the interference with the "high degree of autonomy" of Hong Kong by the Central Authorities. The Central Authorities have interfered with the constitutional affairs of Hong Kong, thereby stripping the entire Constitutional Affairs Bureau of all its duties. Madam Chairman, I support the amendment moved by Mr CHEUNG Man-kwong, mainly because I want to tell the people of Hong Kong that actually the Constitutional Affairs Bureau does not exist in Hong Kong anymore, and so does the post of the Secretary. If the post no longer exists, how can the remuneration continue to be paid in Hong Kong? Therefore, as the employers and the service contracts have been changed, it is better for us to let their official employer pay their salaries.

Lastly, as the situation has developed to such a state, it is indeed saddening for me to tell Secretary Stephen LAM in this way that his Bureau has been nullified. This is because we do not wish to see the NPCSC rule out the possibility of implementing universal suffrage, nor do we want to see the NPCSC's full-scale intervention in the constitutional development of Hong Kong, and its involvement has even reached such an extreme extent. However, this is really the fact. I do not know if Secretary Stephen LAM still holds any personal views. I feel that he should share with us his true feelings, he should say something even though he has already been nullified. Would he also feel it unreasonable of the NPCSC to interfere in such measure?

Thank you, Madam Chairman.

**MR MICHAEL MAK** (in Cantonese): Madam Chairman, were I Secretary Stephen LAM, I would not know where I should hide myself. He should feel too ashamed to show his face. Earlier on Ms Emily LAU made an appraisal of his performance. Unfortunately, this appraisal is not made by the Chief Executive, his boss. Had it been made by the Chief Executive, the Secretary should resign on his own initiative.

**CHAIRMAN** (in Cantonese): Mr MAK, we are discussing the Budget, not a person. I hope you will keep to the question under discussion, will you not?

**MR MICHAEL MAK** (in Cantonese): Alright. Thank you for your advice, Madam Chairman. Actually, this is also related because our discussion on the Budget now is about cutting the entire remuneration of Secretary Stephen LAM. If the appraisal report on him is poor, it means he is not equal to the duties. So, I think this post can be deleted, and I hope other Members will support this.

Madam Chairman, Secretary Stephen LAM has assumed office as the Secretary for Constitutional Affairs for more than one year. What exactly has he done? During the past year, what did he do insofar as constitutional development is concerned? We should really leave it to the Secretary to give us a clear answer. In fact, in the 1 July march and the District Council (DC) elections last year, the people already expressed very clearly their aspiration for the return of political power to the people through many explicit acts, including taking to the streets to stage demonstrations and casting votes. But still, the Secretary has not taken any concrete action to respond to the aspiration of the general public. So, the Secretary actually should complete an "examination paper" and give it to us. But even after the establishment of the three-member Task Force, he still did not complete his "examination paper". This examination paper, which was eventually handed in blank, makes people wonder if the Secretary is incapable or if he has become a decorative vase in a political sense? This, nobody knows. Only he himself or the Chief Executive knows. Therefore, the Constitutional Affairs Bureau is just ornamental! Has the Secretary truly performed the role expected of him? It still beats me even now.

Ms Emily LAU has made a good point earlier on. Last week when we went to Shenzhen, two Members of the Legislative Council were refused entry. What is the reason for them not being allowed in? I do not know if this is within the ambit of the Constitutional Affairs Bureau under the responsibility of Secretary Stephen LAM. The Secretary can tell us clearly whether this is his job in his response later. If this is his job, what exactly did he do in the past week? I would like to consider this before I press the button to either support or oppose this motion. I hope the Secretary can tell us the objectives that he wishes to achieve in various aspects or give an account of his own performance in the past year, so that we can have a clear understanding of his Bureau and we

will not feel that his Bureau is relatively mysterious and its work unclear. I think the Secretary must explain this later.

Much to our regret, Madam Chairman, on the issue of constitutional development, it seems that the Constitutional Affairs Bureau has not done its level best. Particularly, it has not truly reflected to the Central Government the aspiration of Hong Kong people for universal suffrage. It seems to have totally ignored the interest of Hong Kong people, knowing only to fathom the liking of the top echelons. If there is no dereliction of duty on the part of the Secretary, then it must be the ultimate wish of the Secretary to sell out Hong Kong people. The Government always says that we have to boost revenue and cut expenditure and also streamline the staff establishment. In this connection, the Constitutional Affairs Bureau can be made a major target of expenditure-cutting initiatives. The Government always says that redundant staff should be removed, particularly as Mr Albert CHAN (who is not in the Chamber now) often says indignantly that the Government has been "fattening the top at the expense of the bottom", which is the reality. How will the Secretary lead Hong Kong people to their utopia? How will he lead us to realize our ideal? What has the Secretary done in respect of the proposals for 2007 and 2008? How will he reflect the wish of the majority of Hong Kong people? Even the wish of the minority, he also has to reflect it. But we do not see how the wish of the majority has been reflected. There is no gradual and orderly progress whatsoever and no consideration is given to the actual situation of Hong Kong.

The Basic Law is very clearly written, although I have not learnt the Basic Law very well. I wonder if it is necessary for the Secretary to give us some lectures on it. While Hong Kong people are not well-versed in the Basic Law, many fundamental principles are set out in the Basic Law. Being a Bureau Secretary, how will he accurately reflect our views to the Central Authorities? How will the Secretary reflect the wish of Hong Kong people to Deputy Secretary-General QIAO Xiaoyang or to the entire Standing Committee of the National People's Congress? Will the Secretary please tell us why he has to personally deliver the Chief Executive's report to Beijing? Is it necessary for such a senior official to do a courier's job? We have many questions about this. Madam Chairman, why was a Bureau Secretary made to perform the role of a courier? How important was it? Was confidentiality involved? Insofar as this report is concerned, what exchanges and contacts were made by the Secretary with them after his arrival in Beijing?

I find it most puzzling and I hope the Secretary can really tell me whether he is a redundant official of the Hong Kong Special Administrative Region. What will be his job in the next few years? In respect of constitutional development, how will he perform up to the mark as a Bureau Secretary? Madam Chairman, if the Secretary cannot clearly provide the objectives and timetable of his work in this regard, then I think the Secretary is not performing up to the mark.

For these reasons, I support Mr CHEUNG Man-kwong's motion. Thank you, Madam Chairman.

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, the resolution moved by Mr CHEUNG Man-kwong today seeks to require the Government to reduce the expenditure of the Constitutional Affairs Bureau by \$3.23 million, which is equivalent to deleting the expenditure for the post of Secretary Stephen LAM for one year, and is in effect scrapping the Constitutional Affairs Bureau. He has explained this very clearly earlier.

On the surface, the Democratic Party has advanced many justifications, as what I have heard just now or what had been reported in the press. Such justifications include the work of constitutional reform has already been taken over by the Constitutional Development Task Force (the Task Force) led by Chief Secretary for Administration Donald TSANG; the interpretation of the Basic Law by the NPCSC has further overridden the Bureau, making the post of Secretary Stephen LAM "redundant". Other accusations include the poor performance of the Secretary in his work as a member of the Task Force, and he could only carry out duties such as delivering the Report of the Chief Executive to Beijing, making himself a "super courier" and the "super policy salesman of the Central Government", and so on. All these have been repeated to *ad nauseam*. As regards such accusations made by the Democratic Party, the Liberal Party opines that they are unnecessary, inappropriate and so we do not agree to them.

I wish to point out that, after the NPCSC giving its "endorsement" to the Report of the Chief Executive on Monday, there is still some scope to make improvement to the elections of the Chief Executive and the Legislative Council in 2007 and 2008 respectively. More detailed arrangements will be released by the Task Force next month in its Third Report. Then as the next step, the

Government will proceed to conduct extensive and in-depth consultations, rational discussions, and to seek consensus among different sectors before implementing them.

I note that many Members have strayed, in their speeches just now, from today's subject of "appropriation" to "constitutional development". I do not intend to do so. However, I wish to mention that on the work of implementation, the Liberal Party will also conduct its own consultation, and we also hope to reflect our views to the relevant department/division. However, this is not today's question, and I believe there will be a lot of such opportunities in future.

If the Constitutional Affairs Bureau does not have a principal official to co-ordinate the relevant work, it is doubtful whether it can take up the responsibility of implementing the further development of the two important elections. As such, how can someone say that Secretary Stephen LAM and his Bureau are "redundant"? Instead, I would say that the Secretary shall be taking up a very heavy responsibility in his work in this aspect.

I also understand that during the deliberations on the system of the three Secretaries of Departments and 11 Directors of Bureaux, there were attempts to explore with the Government whether the Constitutional Affairs Bureau and the Home Affairs Bureau could be merged to form one single Bureau. However, the discussion on constitutional development had not started at that time, and no urgency was felt, so the Government rejected the idea.

The crux of the matter is, I am afraid, not whether Secretary Stephen LAM has performed competently in his office, but the fact that the Democratic Party has been proposing to achieve the goal in one single step, that is, introducing universal suffrage for the elections of 2007 and 2008, which was not supported by the Central Authorities. So they have taken the opportunity to find fault with the Secretary. This is how we look at the issue, and this is exactly what has happened today. However, if different treatments are accorded to different incumbent officials, and if certain posts could be deleted for reasons related to their incumbent — if this trend should be allowed to continue, it will turn Hong Kong into a society governed by the rule of man, not by the rule of law.

In fact, the pro-democracy camp moved a similar resolution through Ms Emily LAU of the Frontier last year. I can recall very clearly that she proposed

the motion to reduce about 30% of the provision to the Constitutional Affairs Bureau because of her dissatisfaction with the Government's delay in commencing the review on constitutional reform. The difference now is, Mr CHEUNG Man-kwong seems to be proposing for a reduction in the expenditure of the Constitutional Affairs Bureau because he does not want the review to be taken forward any further. The two motions are cognate, but the justifications of the two allegations are completely contradictory. The Liberal Party thinks that such a move is meaningless and not constructive. Therefore, we will vote against this resolution.

**MS CYD HO** (in Cantonese): Madam Chairman, I speak in support of Mr CHEUNG Man-kwong's amendment. In fact, he is following closely the direction of the Central Authorities as decision making on constitutional reform has been vested with Beijing and, therefore, it may not be necessary to have such a Policy Bureau in Hong Kong. We would like to hear from Secretary Stephen LAM whether he has done his level best and made every effort to fight for the rights and interests of Hong Kong people. Mr Howard YOUNG has just said that an opposite number is needed for airing our opinions. However, in the Second Report just published by the Task Force, we do not see any reflection of the wishes of the people in a measure commensurate with the actual situation. The Report has failed in this aspect. It is, therefore, not a just and fair consultative report on the results of consultation. This failure is a dereliction of duty.

Madam Chairman, in our discussions on the Accountability System for Principal Officials in the past, one point had always been emphasized, which is the availability of any punishment. But the question has never been answered. How can the performance of an accountable Bureau Director be measured? And how can he be appropriately punished on the basis of his performance? I believe the amendment proposed by Mr CHEUNG Man-kwong reflects the wishes of the public. When we talked about accountability in the past, the Government would defend that the Bureau Directors were accountable not only to the Chief Executive, but also to the public. In spite of popular support for dual elections by universal suffrage in Hong Kong in 2007 and 2008, this important agenda on constitutional reform, however, was mentioned only lightly in the Second Report, a long way down the scale. So I believe the motion proposed by Mr CHEUNG Man-kwong does reflect the wishes of the people. Whether the subsequent voting by the Legislative Council shows the public's wishes or not, it only tells us one thing: Secretary Stephen LAM owes the constitutional system fairness and justice for what he has done.

Madam Chairman, when we talked about improving the electoral system in the past, several technical points were raised. But the Constitutional Affairs Bureau has never worked them out. The first point being raised was the vote-counting method under the proportional representation system. In 2000, Mr Gary CHENG was suspected of an offence which affected his political party in the election, putting the next preference on the list in a dilemma. After that incident, we had suggested to the Constitutional Affairs Bureau that it should consider, in case the Government insisted on the proportional representation system, the possibility of adopting other vote-counting methods to eliminate unfairness, so that the people can vote freely from an open list of candidates rather than a list of candidates the order of which is predetermined. Although this proposal is fair and beneficial to all parties concerned, the Constitutional Affairs Bureau did not bother to explore its feasibility. This is, among others, a dereliction of duty.

Madam Chairman, the second point being raised was about the failure in making good use of the information technology. Many people had asked whether prior applications could be made so that they could cast their votes overseas by computer and information technology on the polling day when they were away from Hong Kong on business trips or personal errands. Many people have presented their wishes, but the Constitutional Affairs Bureau has failed to follow up.

Thirdly, as we all know, various political parties and organizations have made much more effort in the voter registration exercise this year than the Government, and their endeavour was more fruitful. Since it is a self-reliant society and amid calls for austerity, I believe the Constitutional Affairs Bureau should cut expenses and streamline its establishment.

Madam Chairman, during our discussions on the Accountability System for Principal Officials, I voiced my strong agreement that those who work for the rights and interests of the people of Hong Kong merit higher remuneration. On the contrary, if a principal official has made deviations in the course of his work or in the formulation of policy which are detrimental to the rights and interests of Hong Kong people, we should not employ him even though his service is free. This time, we have to pay over \$3 million a year to Secretary Stephen LAM as a courier. I believe even though we had made the endorsement, the Audit Commission would put the blame on us. Therefore, Madam Chairman, I support Mr CHEUNG Man-kwong's amendment to cut the \$3.3 million-odd expenditure.



**MR ALBERT CHAN** (in Cantonese): Madam Chairman, as I said earlier in this Chamber, a Eunuch LAM came right after the departure of a Eunuch LO. The opinion polls saga of the University of Hong Kong ended up in Eunuch LO's resignation. His post has remained vacant for two years, but the operation of the Government and the Chief Executive's Office is not affected by it. The reputation of the Chief Executive's Office remains low due to a spate of blunders, so his existence or otherwise does not help the administration.

In his capacity as a Bureau Director, Secretary Stephen LAM's damage to Hong Kong as a result of his inability to properly discharge his duty in respect of constitutional reform and review is 10 times or even 100 times more than the damage caused by Andrew LO in the opinion polls saga. Andrew LO left the job because of the opinion polls saga, Eunuch LAM should follow his example and tender a resignation.

Let us examine what Secretary Stephen LAM has done for the constitutional system. His most obvious duty is to review the constitutional system of Hong Kong. But in looking back at Hong Kong's constitutional review, can you tell me what he has done? As regards the constitutional system review, he obviously has neither gained the trust of TUNG Chee-hwa nor that of the Central Authorities in Beijing. Instead of being led by Secretary Stephen LAM, the three-member Task Force formed by the SAR Government is under the leadership of Chief Secretary for Administrative Donald TSANG. Doubtful of Mr LAM's capability, the SAR Government also invited Secretary for Justice Elsie LEUNG to form the three-member Task Force to lead the review. Even after reading the Second Report and studying the final outcome of the review as well as a series of subsequent decisions in respect of the constitutional system, we still cannot find the role of Secretary Stephen LAM. As quite a number of Members have said, he is basically a messenger. Paying over \$3 million a year for a messenger absolutely does not answer the taxpayers' expectation, not to mention the principle of value for money.

As Secretary Stephen LAM has failed to discharge the basic duties of this position and win the trust of Hong Kong people, TUNG Chee-hwa and the Central Authorities, I cannot see why this post should continue to exist. What he has to do is to resign on his own. As what Antony LEUNG did because of the car purchase incident or because.....

**CHAIRMAN** (in Cantonese): Mr Albert CHAN, today's question is about the reduction of one of the expenditure items, you cannot refer to too many individuals.....

**MR ALBERT CHAN** (in Cantonese): Madam Chairman, I understand. Because he refuses to resign, so I have to reduce.....

**CHAIRMAN** (in Cantonese): Mr CHAN, would you try your best to make your speech pertinent to the question, would you not?

**MR ALBERT CHAN** (in Cantonese): Yes, Madam Chairman, thank you for your lead. If Secretary Stephen LAM is willing to resign, our request for funding reduction may be withdrawn. So I think the focus of our discussion is to ask for his resignation. If he refuses to resign, the relevant reduction will be a natural step. Having said that, I am still grateful for the Chairman's advice.

Madam Chairman, as I have just said, the fact that the Central Authorities do not trust him is obvious. As we can see, the whole constitutional reform exercise is no longer handled by Hong Kong. The Beijing Government is basically leading the formulation of the constitutional system, leading the promotional and explanatory work to be carried out after the constitutional system has been decided. On the other hand, the Liaison Office of the Central People's Government in Hong Kong and the Hong Kong and Macao Affairs Office are responsible for the affiliation, organization, promotion and liaison at district level in Hong Kong. Plainly speaking, Secretary Stephen LAM has all along been "invisible".

Therefore, Madam Chairman, under such circumstances and given the Government's current fiscal deficit, I cannot see why we should continue to waste more than \$3 million a year, allowing a dispensable and totally invisible person to waste the public fund. Furthermore, it will make the public feel that the whole Accountability System is a complete failure. Madam Chairman, I fully support Mr CHEUNG Man-kwong's amendment on these grounds.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): If not, I now call upon the Secretary for Constitutional Affairs to speak.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, as many Members have referred to us in the Task Force and the constitutional development in the debate today, I hope that you can allow me to make several points in reply before dealing with Mr CHEUNG Man-kwong's amendment.

Madam Chairman, in the past three months, the Task Force managed to complete two reports. The First Report deals with the issues of legislative process in the Basic Law relating to constitutional development. Having considered the report and the views of the various social sectors, the Standing Committee of the National People's Congress (NPCSC) gave its interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law, clarifying the ambiguities relating to the legal process of amending the methods of the two elections concerned.

In the Second Report, the Task Force gives a nine-point summary of the issues of principle which form the factors that must be considered when taking forward any constitutional development in future. I must emphasize that these factors are founded on the relevant provisions and concepts of the Basic Law. We have not amended the Basic Law *per se*, nor have we imposed any additional conditions outside the Basic Law.

These factors represent the conclusions we have reached after gauging the views of different social sectors over the past three months. The views expressed to us by the Central Authorities during our visit to Beijing in February are included, but what is most important is that we have also incorporated the views and conclusions we have come up with after our meetings with different social sectors and organizations in the past two to three months. We have stressed time and again that the more any constitutional development proposal in future is able to comply with these nine factors, the more likely it will be for such proposal to command a consensus in society and obtain the agreement of the

three parties involved — the Legislative Council, the Chief Executive and the NPCSC.

In its handling of the issue over the past three months, the Task Force has been adhering closely to three principles.

The first principle is that we must fully and truthfully reflect the views of society to the Central Authorities. In the First Report and the Second Report, the views of society are incorporated in the form of annexes and truthfully relayed to the relevant divisions of the NPCSC for consideration. During every meeting with the relevant departments of the Central Authorities, we invariably gave a detailed account of Hong Kong people's aspirations in respect of constitutional development. In this regard, we have already discharged our duty.

The second principle is that we should strive for the early activation of the process and procedures of amending the methods for selecting the Chief Executive and forming the Legislative Council, so as to answer social aspirations to improving Hong Kong's existing political system. On the basis of the interpretation given by the NPCSC on 6 April, the Chief Executive submitted his report to the NPCSC on 15 April, in which he positively and actively answered society's aspirations, recommending that the methods for selecting the Chief Executive in 2007 and forming the Legislative Council in 2008 should be amended.

The third principle is that the Task Force should strive to ascertain how much room there is for amending the methods for selecting the Chief Executive and forming the Legislative Council. The decision made by the NPCSC on 26 April clarifies the scope within which the methods for electing the Chief Executive in 2007 and the Legislative Council in 2008 can be amended. It has been clarified that changes can be made to the future composition of both the Election Committee and the Legislative Council.

We understand that the decision of the NPCSC on 26 April is not congruent with the expectation of some people, political parties or groups. Those who wish to see the early implementation of universal suffrage will be especially disappointed. We can well appreciate how they feel.

However, despite disappointment, we must still respect the constitutional order and the political realities. The situation now is that the NPCSC has made

a decision on the two elections to be held in 2007 and 2008. We in the SAR Government have always emphasized that all amendments must have the support of the Legislative Council, the Chief Executive and the NPCSC before they can be implemented. The support of any one of them must not be missing.

Like the Principal Officials, all the Legislative Council Members in the Chamber are public personalities and political figures. When there are any differences in our positions, all of us, as responsible political leaders, must address the differences squarely and strive to narrow the gap. With respect to constitutional development, the society of Hong Kong, the different parties and groups inside the Legislative Council, the SAR Government and the Central Authorities all agree that universal suffrage should be the ultimate goal. The only difference lies in the pace and manner of achieving this ultimate goal. Although we in the SAR Government may not necessarily agree to the position of pro-democracy Members that there must be universal suffrage in 2007 and 2008, we have always respected their insistence on and commitment to democracy. I therefore hope that pro-democracy Members can likewise respect the fact that other political factions and colleagues in the Government may look at all these issues in a different way. All of us must cast aside our own egos and adopt a broadminded attitude, striving to reach a consensus under the current political situation.

In many different regions and places of the world, there are often some deep-seated political problems that cannot be solved so very easily. The current political situation in Hong Kong is exactly like this. There are different political factions and groups of Members. Those working for the Government and those in the legislature do play different roles, but there is only one road ahead for all of them: all must strive for a consensus in Hong Kong. It is only by doing so that we may break new grounds in the constitutional development of Hong Kong.

Madam Chairman, I very much hope that in the Third Report of the Task Force, we can set out the areas where amendments are possible. After consulting the organizations to which they belong or their constituents, Members may then present their own proposals to the Task Force, so that we can all join hands to explore what can be done with the two elections in the next stage of development.

Madam Chairman, I now wish to turn to Mr CHEUNG Man-kwong's amendment. On behalf of the Democratic Party, Mr CHEUNG Man-kwong proposes to reduce the expenditure estimate of the Constitutional Affairs Bureau in 2004-05 by some \$3.2 million, which is equal to the salaries of a Bureau Director in one year.

Last year, Ms Emily LAU also proposed a similar amendment. But the amendment this year is slightly better, in the sense that it does not touch upon the civil service colleagues in my Bureau, so no innocent people will be victimized. I say so because having decided to accept a political appointment, we are all fully prepared for this type of challenges.

The expenditure estimate of the Constitutional Affairs Bureau in 2004-05 is just about \$34 million. Of all the 11 Bureaux, the expenditure of my Bureau accounts for the smallest proportion in the overall expenditure of the Government, and its establishment is also the smallest. This is already an apt reflection of the "value for money" principle.

In the foregoing debate, quite a number of Members have mentioned the work of my Bureau in other areas. Mr CHEUNG Man-kwong said that all electoral affairs could in fact be handed over to the Electoral Affairs Commission and the Registration and Electoral Office. But this is not consistent with the normal work arrangement of the Government. Under the normal work arrangement of the Government, policy proposals must first be formulated by a Policy Bureau and then passed down to a department responsible for execution and implementation.

In the past one year and last few months, we were engaged in the implementation of the "\$10 per vote" subsidy scheme and the printing of party logos on ballot papers. These are proposals put forward by us in our capacity as the Constitutional Affairs Bureau, as a Policy Bureau. They were put forward some one year ago. After the principal legislation had been drawn up, we also presented the subsidiary legislation before the legislature for Members' scrutiny. We managed to obtain Members' support and the work of implementation is in progress. Therefore, the Electoral Affairs Commission alone cannot possibly take full charge of electoral affairs.

Mr Albert HO talked about the promotion of the Basic Law and people's understanding of it. My reply to him is simply this: It is stated in paragraph

5.23 of the Second Report that the knowledge of Hong Kong society of the Basic Law should be one of the factors to be considered in the course of our future constitutional development.

But understanding the Basic Law, like cases of understanding the local constitutions in other places, will be a process. This is a process of education which must take time before fruition. According to a government survey, in 2002, 80% of the respondents claimed that they had some understanding or knowledge of the Basic Law, and in late 2002, survey findings showed that the percentage had risen to 90%. But this is only some kind of initial understanding and knowledge. We will keep up our efforts in this respect to deepen such understanding and knowledge. I also believe that making more efforts in this respect will be helpful to our overall constitutional development in the future.

Madam Chairman, Ms Emily LAU is not in the Chamber now. She is always so keen on speaking for the Taiwanese authorities. I do not understand why, but since she is so keen, I may as well make several points in reply.

Ms Emily LAU talked about our work on Taiwan. Actually, in the past year or so, we did manage to make progress in some practical issues. For example, during the SARS outbreak last year, through our arrangement, some Taiwanese academics and medical experts were able to come to Hong Kong to liaise and have exchanges with our public health authorities and universities. In the past few months, when Hong Kong fishermen needed shelter and safety arrangements in times of typhoon, we managed to make the necessary arrangements by liaising with the Taiwanese organizations in Hong Kong. Besides, during the SARS outbreak last year again, when a Hong Kong tour group was stranded in Taiwan, a chartered flight was arranged to take them back to Hong Kong within a short time following our liaison and arrangement. We also liaise with various academic, business and press delegations from Taiwan and make arrangements to familiarize them with the economic and social conditions of Hong Kong and let them see the implementation of "one country, two systems". We have been maintaining contacts and exchanges with Mr CHANG Liang-jen from time to time.

Some Members have said that a number of Legislative Council Members are not permitted to enter the Mainland. In reply to this, I wish to make one most important point: Under "one country, two systems", decisions on the entry and exit arrangements of the Mainland shall be made by its own public security authorities.

Mr CHEUNG Man-kwong and some other Members have referred to the role of the Task Force and the distribution of responsibilities within it. In this regard, I wish to add several points.

The division of responsibilities among the three Task Force members is as follows: the Chief Secretary for Administration is the leader of the Task Force, with responsibilities for communicating with the relevant departments of the Central Authorities, listening to the views of Hong Kong people and acting as a bridge linking the Central Authorities and the SAR; the Secretary for Justice provides legal advice to the Task Force; and I, as Secretary for Constitutional Affairs, am responsible for the policies and practical work relating to constitutional development.

The establishment of the Task Force actually reflects the high degree of importance attached by the SAR Government to constitutional development and also the complementary roles of Principal Officials as a team.

Constitutional development involves a wide range of issues, notably the governance of the whole SAR. It will not be enough to deploy one single Principal Official to handle the matter, particular at this very stage. Therefore, a team led by the Chief Secretary for Administration with the support of two Principal Officials is indeed a very appropriate arrangement.

At the beginning of my speech, I mentioned the two reports we had completed in the past three months. A good part of what is said in these reports is founded on the studies conducted by the Constitutional Affairs Bureau in the past.

Madam Chairman, quite a number of Members have questioned me what I have done in respect of constitutional development in my capacity as Secretary for Constitutional Affairs. I wish to take this opportunity to discuss my fundamental attitude with Members.

Government colleagues belonging to my generation all joined the Government in the 1970s. In the 1980s, we already started to be engaged in the implementation of the Sino-British Joint Declaration and the preparations for the transition period. In the 1990s, I was once involved in the work of the Sino-British Joint Liaison Group, taking part in the handling of some sensitive and significant issues such as the establishment of the Court of Final Appeal, and



I was also engaged in making arrangements for various aspects of the reunification ceremony. Therefore, it can be said that my career over the past 10 to 20 years has been intricately connected with the implementation of the Basic Law and "one country, two systems".

Two years ago, I took up the appointment as Secretary for Constitutional Affairs. Since the very first day in my office, I have been aware that my work in the Constitutional Affairs Bureau, especially the work on constitutional development, will be extremely difficult and contentious, to the extent that it will be difficult to reach any consensus.

In spite of this, I have nonetheless clung to my own conviction, the conviction that I should strive for as much room as possible for Hong Kong and accordingly do as much as I can with constitutional development, with a view to developing Hong Kong's political system as much as possible and bringing it as close as possible to the ultimate goal of universal suffrage. I very much hope that through the joint efforts of Members and us, we can identify a clearer direction and a common path for all in Hong Kong.

Madam Chairman, it is precisely due to this fundamental attitude that when some Members criticize me or call me names, I can still react with an open heart, having no hard feeling at all. I can remember that when I was in primary school, schoolmates would give one another nicknames just because they were "buddies". Therefore, I will just regard Members as friends and schoolmates, people who will encourage and support one another. However, to Mr Albert CHAN, I must say that we are just peers, so there is no need to call me "maternal grandfather".

Ms Emily LAU has talked about "letting off some steam". Honestly, I can tell the Chairman that all of us, the Principal Officials, are always willing to come to this legislature to communicate with Members, to let them "let off some steam". As long as we can get things done for Hong Kong, we are prepared to come here every day.

To sum up, Madam Chairman, my colleagues and I will continue to discharge our duties and take forward Hong Kong's political system as far as possible, with a view to bringing it as close as possible to the ultimate goal of universal suffrage.

Madam Chairman, I sincerely call upon Members to oppose Mr CHEUNG Man-kwong's amendment. Thank you, Madam Chairman.

**MR ALBERT CHAN** (in Cantonese): Madam Chairman, may I ask you to make a ruling? Secretary Stephen LAM has just said that he is my maternal grandfather, would that constitute an insult to my family members? Madam Chairman, could you make a ruling on this remark? Thank you.

**CHAIRMAN** (in Cantonese): Yes, I can. I think this is humour. That is not an insult at all.

**SECRETARY FOR JUSTICE** (in Cantonese): Madam Chairman, originally I did not intend to speak in this debate. For what we are discussing today are not the two decisions made by the Standing Committee of the National People's Congress (NPCSC). However, though some Members have not mentioned this expressly, what they have said give one an impression that the decisions made by the NPCSC are unconstitutional or unlawful. Therefore, I feel obliged to state in the proceedings of the Legislative Council that the Government does not subscribe to such view.

Article 7 of Annex I and Article III of Annex II to the Basic Law state that if there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007 and the method for the formation of the Legislative Council and its voting procedures on bills and motions subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the NPCSC for approval or for the record. On 6 April, the NPCSC made legal interpretations of these two provisions. One of the interpretations is that the Chief Executive shall make a report and ask the NPCSC to act on the authority of Articles 45 and 68 of the Basic Law.....

**CHAIRMAN** (in Cantonese): Mr LEUNG, why do you stand up? If it is a point of order, please say so; if not, please sit down.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, I would like to ask whether or not what the Secretary for Justice is saying has anything to do with the topic of our discussion today.

**CHAIRMAN** (in Cantonese): Please sit down. The Secretary for Justice is saying that precisely because some Members have said in their speeches earlier that the decision made by the NPCSC has bypassed the SAR Government, so the Secretary is responding to that remark.

Secretary, please continue.

**SECRETARY FOR JUSTICE** (in Cantonese): Madam Chairman, one of the interpretations is that if there is a need for amendment subsequent to the year 2007, then the Chief Executive shall submit a report to ask the NPCSC to act in the light of the actual situation and in accordance with the principle of gradual and orderly progress as stated in Articles 45 and 68 of the Basic Law, and to determine if such amendment is warranted. Once this is cleared, then things can proceed. When after these interpretations are made, they become part of Article 7 of Annex I and Article III of Annex II. Therefore, the Chief Executive is obliged to submit a report to the NPCSC and ask the NPCSC to determine whether or not there is any need to amend the two methods for selection and formation. So the decisions made by the NPCSC on 26 April are entirely in line with Article 7 of Annex I and Article III of Annex II subsequent to the interpretations.

There is a view that when the NPCSC makes such decisions, certain principles which should be adhered to has been mentioned, for example, the method of universal suffrage shall not be applied in 2007 and 2008 and when the method for forming the Legislative Council is to be amended, the ratio of seats from functional constituencies and geographical constituencies shall remain unchanged. These principles are also made on the authority of Article 7 of Annex I and Article III of Annex II. The reason is that when a determination is made, the interpretation made by the NPCSC states that all these shall be made in accordance with Articles 45 and 68 of the Basic Law, that is, in the light of the actual situation and in accordance with the principle of gradual and orderly progress. So when determining the need for amendment, the NPCSC would say that under such circumstances, there is a need for amendment.

In addition, such power is expressly provided for in Article 7 of Annex I and Article III of Annex II. It is because these two provisions have vested a role in the Central Authorities, that is, the NPCSC, that they shall play a role in modifying the methods for selection and formation. So it follows that they have the power to say under what circumstances they would agree to the methods proposed. That would be beneficial, for it would prevent the occurrence of a situation whereby Members of the Legislative Council have discussed a specific plan and after consent is given by the Chief Executive, then the NPCSC only disapproves of it or not giving its approval or if it refuses to accept it for record.

That I am raising this point is because, constitutionally speaking, I do not wish to see such a record be found in this Council, that is, when some Members have opined that the decisions are not lawful and that the Government of the Hong Kong Special Administrative Region (SAR) has not offered any explanations in connection with this view. This is the main point of my speech. Would the Chairman put this in the Official Record of Proceedings of this Council? As for the work of the Task Force on Constitutional Development, my colleague, that is, the Secretary for Constitutional Affairs, has already made a detailed explanation earlier and so I do not think I should say any more on that. I only wish to mention in passing that when the NPCSC made these two decisions, it also gave an explanation as to why such decisions were made and pointed out that these two decisions could prevent the Basic Law from being misunderstood and the emergence of disputes and dissension in society, hence affecting the rational discussions on constitutional development. These two decisions are regarded as conducive to the reaching of a consensus on discussions made under the Basic Law on constitutional development. The NPCSC also remarked that after the two interpretations were made, the SAR would then be ready to start discussing specific plans and so progressing towards another milestone in the territory's road to democracy. Thank you, Madam Chairman.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Chairman, the Democratic Party's proposal to delete the post of the Secretary for Constitutional Affairs does not arise from Secretary Stephen LAM's performance. In fact, Members may recall that in the design stage of the Accountability System for Principal Officials, we already questioned the need for the Constitutional Affairs Bureau to exist as a separate Policy Bureau. At that time, we also proposed an amendment to the effect that the Constitutional Affairs Bureau be put under the

Chief Secretary for Administration. After the Constitutional Affairs Bureau had been set up and its operation commenced, we did calmly study whether there would be functions for the Bureau to perform or the Bureau would be there only to idle away its time.

Part of my speech today has alluded to the several responsibilities actually set out by the Constitutional Affairs Bureau, responsibilities that the Bureau considers to be most important, in order to examine whether there are functions for the Bureau to perform. As I already said, insofar as constitutional affairs are concerned, a substantial part of electoral affairs has actually been passed onto the independent Electoral Affairs Office. As for the constitutional review, TUNG Chee-hwa has already designed a three-member team headed by the Chief Secretary for Administration. Besides, with regard to the promotion of the Basic Law, I think this area of work can be handed over to the Education and Manpower Bureau or the Home Affairs Bureau. Moreover, on responsibilities related to Taiwan, we have heard many criticisms today and despite rebuttals by the Secretary in every possible way, the fact remains that he has indeed performed badly in respect of Taiwan affairs and his work is simply not up to scratch. Such being the case, and as proven by facts, this post has failed to perform the functions required of it and should therefore be deleted.

When we decided to propose this amendment, the Central Government had not yet adopted a negative attitude towards the future constitutional development and democratic elections by universal suffrage. So, our decision to propose its deletion was made not because the Central Authorities had ruled out democratic elections by universal suffrage. No, its deletion was not proposed for this reason. However, when the Central Authorities ruled out democratic elections by universal suffrage in 2007 and 2008, we gained more profound insight into one thing and that is, when "a high degree of autonomy" is gone without a trace and when Hong Kong is overwhelmingly run by those in Beijing, the Secretary's performance is indeed disappointing. This has fortified our justifications and reasons for the deletion of this post, for we have seen people stooping to curry favour, distorting facts, confusing right and wrong, and fawning on their superiors but bullying their subordinates. In this process, nothing has been done to respect the wish of the people, to defend our autonomy and to resolutely uphold "two systems". When someone had failed to perform his duties, he did not step down on his own initiative. Seeing all this happen has made us feel greatly disappointed and this has consolidated our reasons for proposing the deletion of this post today.

We believe any official is expected to perform up to standard insofar as his roles and responsibilities are concerned. But now, there is not even any role and responsibility to speak of, let alone standard. Furthermore, we also expect him to meet certain moral standards and to be persevering when it comes to the right and wrong. If he fails to be persevering on cardinal questions of right and wrong, not only has he failed to perform his role, and worse still, he will be "doing evil deeds". Since this post is there to "do evil deeds", it should well be deleted. Thank you, Madam Chairman.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Man-kwong rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr CHEUNG Man-kwong has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Dr David LI abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, three were in favour of the amendment, 22 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 14 were in favour of the amendment and 12 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 amendment was negatived.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 144 stand part of the Schedule.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

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

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the Schedule stand part of the Bill. According to Rule 68(4) of the Rules of Procedure, this question is neither amendable nor debatable.

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

(Members raised their hands)

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

(No hands raised)

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



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

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

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

(Members raised their hands)

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

(Members raised their hands)

**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 Bills**

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

### **APPROPRIATION BILL 2004**

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the

Appropriation Bill 2004

has passed through Committee without 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 Appropriation Bill 2004 be read the Third time and do pass. According to Rule 70 of the Rules of Procedure, this question shall be voted on without amendment or debate.

**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.

(Members raised their hands)

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

**CLERK** (in Cantonese): Appropriation Bill 2004.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) Regulation 2004 and the Poisons List (Amendment) Regulation 2004.

## **PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I move the motion as printed on the Agenda, that the Pharmacy and Poisons (Amendment) Regulation 2004 and the Poisons List (Amendment) Regulation 2004 be approved.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, a registered dentist or a registered veterinary surgeon.

The Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the Schedules to the Pharmacy and Poisons Regulations, for the purpose of imposing control on the sale of one new pharmaceutical product. Specifically, the Pharmacy and Poisons Board (the Board) proposes to add "Teriparatide and its salts" to Part I of the Poisons List, and the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing such substances must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

The two Amendment Regulations are made by the Board, which is a statutory authority established under section 3 of the Ordinance to regulate the registration and control of pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The proposed amendments were made in view of the potency, toxicity and potential side-effects of the medicines concerned.

Madam President, I beg to move. Thank you, Madam President.

**The Secretary for Health, Welfare and Food moved the following motion:**

"RESOLVED that -

- (a) the Pharmacy and Poisons (Amendment) Regulation 2004; and

(b) the Poisons List (Amendment) Regulation 2004,

made by the Pharmacy and Poisons Board on 8 March 2004, be approved."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' BILLS**

### **Second Reading of Members' Bills**

#### **Resumption of Second Reading Debate on Members' Bills**

**PRESIDENT** (in Cantonese): Members' Bill. We will resume the Second Reading debate on the Standard Chartered Bank (Hong Kong) Limited (Merger) Bill.

**STANDARD CHARTERED BANK (HONG KONG) LIMITED (MERGER) BILL****Resumption of debate on Second Reading which was moved on 24 March 2004**

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

(No Member indicated a wish to speak)

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, the Government welcomes the Standard Chartered Bank (Hong Kong) Limited (Merger) Bill (the Bill) proposed by Dr David LI. The Government has all along supported the consolidation of the banking sector of Hong Kong. Not only can this enhance our competitiveness and improve the quality of our banking services, but also promote the stability of the long-term development of the banking system. We consider that the merger cited in the Bill conforms to the above policy, and is conducive to maintaining Hong Kong's status as an international financial centre.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Dr David LI to reply.

**DR DAVID LI**: Madam President, I should like to begin by thanking all Members of the Legislative Council for their assistance and time with regard to this Bill. I believe the reorganization effected by this Bill is another step on the road to strengthening Hong Kong's banking sector. The management of the Standard Chartered Bank, both here in Hong Kong and in London, have also requested me to express their gratitude to this Council for their assistance.

Under this Bill, the assets and liabilities of the Hong Kong Branch of the Standard Chartered Bank, Manhattan Card Company Limited, Standard Chartered Finance Limited, Standard Chartered International Trade Products Limited and Standard Chartered Capital Corporation Limited will be transferred to a new, wholly-owned subsidiary within the Standard Chartered Bank — the

Standard Chartered Group. The new subsidiary has been incorporated in Hong Kong, with its name being "Standard Chartered Bank (Hong Kong) Limited" (渣打銀行(香港)有限公司).

Standard Chartered Bank is authorized to issue bank notes in Hong Kong. It intends to seek authorization of the Standard Chartered Bank (Hong Kong) Limited as a note-issuing bank in place of the Standard Chartered Bank. If authorization is given, the current plan is for this to take effect on the same day as an appointed day under the Bill.

Once again, I should like to restate my gratitude and that of the Bank concerned for Members' support of this Bill. I am confident that this reorganization will enhance Hong Kong's role as an international financial centre and contribute to the strength and vitality of our city. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Standard Chartered Bank (Hong Kong) Limited (Merger) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**CLERK** (in Cantonese): Standard Chartered Bank (Hong Kong) Limited (Merger) Bill.

Council went into Committee.

### **Committee Stage**

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

### **STANDARD CHARTERED BANK (HONG KONG) LIMITED (MERGER) BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Standard Chartered Bank (Hong Kong) Limited (Merger) Bill.

**CLERK** (in Cantonese): Clauses 1 to 20.

**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 respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

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

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That this be the preamble to the Bill.

**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 respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

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

Council then resumed.

### **Third Reading of Members' Bills**

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

### **STANDARD CHARTERED BANK (HONG KONG) LIMITED (MERGER) BILL**

**DR DAVID LI**: Madam President, the

Standard Chartered Bank (Hong Kong) Limited (Merger) Bill

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



**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Standard Chartered Bank (Hong Kong) Limited (Merger) Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**CLERK** (in Cantonese): Standard Chartered Bank (Hong Kong) Limited (Merger) Bill.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 5 May 2004.

*Adjourned accordingly at twenty minutes past Eight o'clock.*