

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 27 January 1999

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

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

THE HONOURABLE LEE KAI-MING, J.P.

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM

THE HONOURABLE SIN CHUNG-KAI

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

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, J.P.

THE HONOURABLE FUNG CHI-KIN

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

MEMBERS ABSENT:

THE HONOURABLE HO SAI-CHU, J.P.

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

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

DR THE HONOURABLE PHILIP WONG YU-HONG

PUBLIC OFFICERS ATTENDING:

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

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

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

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

MRS KATHERINE FOK LO SHIU-CHING, J.P.
SECRETARY FOR HEALTH AND WELFARE

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

MR KWONG KI-CHI, G.B.S., J.P.
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

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

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

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

MISS YVONNE CHOI YING-PIK, J.P.
SECRETARY FOR TRADE AND INDUSTRY

CLERKS IN ATTENDANCE:

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

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

PAPERS

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

Subsidiary Legislation	<i>L.N. No.</i>
Fisheries Protection (Amendment) Regulation 1999	15/99
Prevention of Bribery Ordinance (Amendment of Schedule) Order 1999.....	16/99
Electricity Ordinance (Cap. 406) (Commencement) Notice 1999.....	19/99
Electrical Products (Safety) Regulation (Cap. 406 Sub. Leg.) (Commencement) Notice 1999	20/99

Sessional Paper

- No. 86 — Report of changes to the approved
Estimates of Expenditure approved during the
second quarter of 1998-99
Public Finance Ordinance : Section 8

Reports

Report of the Bills Committee on Immigration (Amendment) (No. 2) Bill
1998

Report of the Select Committee to inquire into the circumstances leading
to the problems surrounding the commencement of the operation of the
new Hong Kong International Airport at Chek Lap Kok since 6 July 1998
and related issues

ADDRESS

PRESIDENT (in Cantonese): Address. The Honourable Mrs Selina CHOW will address the Council on the Report of Select Committee to inquire into the circumstances leading to the problems surrounding the commencement of the operation of the new Hong Kong International Airport at Chek Lap Kok since 6 July 1998 and related issues.

Report of the Select Committee to inquire into the circumstances leading to the problems surrounding the commencement of the operation of the new Hong Kong International Airport at Chek Lap Kok since 6 July 1998 and related issues

MRS SELINA CHOW (in Cantonese): Madam President, in my capacity as Chairman of the Select Committee, I submit the Committee's report to the Legislative Council on behalf of the Select Committee to inquire into the circumstances leading to the problems surrounding the commencement of the operation of the new Hong Kong International Airport at Chek Lap Kok since 6 July 1998 and related issues.

The chaos that took place when the new Hong Kong International Airport at Chek Lap Kok was commissioned on 6 July 1998 aroused grave public concern. The extensive coverage given to it by local and overseas media has even caused Hong Kong's image to be tarnished. Members of this Council were shocked by the incident and earnestly wanted to get at the causes of the chaos to allow the public to know the truth about what has happened.

This Council resolved on 29 July 1998 that this Select Committee be appointed to inquire into the circumstances leading to the problems surrounding the commencement of the operation of the new Hong Kong International Airport at Chek Lap Kok since 6 July 1998 and related issues. In the performance of its duties, the Select Committee was authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of the said Ordinance, empowering the Select Committee to summon witnesses before it to give evidence and produce documents.

On the same day, the Council President appointed me, Dr Raymond HO and 11 other Members to be the Chairman, Deputy Chairman and members respectively of the Select Committee.

Within the six months from 30 July 1998 to 24 January 1999, the Select Committee held 31 public hearings to receive evidence from 27 witnesses and scrutinized voluminous documents from 18 related organizations. In the same period, the Select Committee also held one public meeting and 60 closed meetings to review the progress of the inquiry, examine the evidence collected and draft the report. The Select Committee also visited the passenger terminal building of the new airport and Super Terminal One on 18 September 1998 to acquire a better understanding of the issue.

In conducting the inquiry, the Select Committee has followed the procedures stipulated in Rules 78 and 79 of the Legislative Council Rules of Procedure. It has also made reference to procedures and practices adopted by the committees of the former Legislative Council in conducting inquiries under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). In deciding on the inquiry procedures the Select Committee was mindful of the need to be fair and to be seen to be fair to all parties whose interests or reputation concerned may be affected by the proceedings.

When the Select Committee began the inquiry, it reckoned that the key question: Was the new airport ready to open on 6 July 1998?

Therefore the Select Committee first focused its inquiry on how and why 6 July 1998 was chosen as the opening date of the new airport. The findings of the Select Committee on this point are contained in paragraph A of Chapter 4 in Volume I of our report.

Next the Select Committee looked into the causes for the chaos that took place at the initial period following the commissioning of the new airport, including the two main issues of flight information display system (FIDS) and HACTL. The findings of our inquiry are in paragraphs B and C of Chapter 4 in Volume I of our report. As for other problems encountered on the opening day, for example, the baggage handling system, the findings are in Chapter 5 in Volume I of our report.

In addition, the Select Committee also inquired into three aspects, namely airport security, noise under the flight paths and the overall economic loss caused to Hong Kong. Such findings are in Chapter 6 in Volume I of our report.

After six months of in-depth investigation and having examined all the evidence concerned, the Select Committee has come to the following conclusions:

First, most of the problems that took place on the commissioning day on 6 July 1998 were clearly foreseeable.

Second, the new Airport was overall not ready for operation on that day. The problems with FIDS and HACTL, in particular, were not teething problems. They have sufficiently shown that the two critical items were not ready on that day.

Third, the four key bodies concerned, namely, the Airport Development Steering Committee, the Airport Authority Board, the Airport Authority Management, and HACTL and some of the key persons in the first three bodies should take varying degrees of responsibilities for the chaos on the commissioning day. The responsibilities of the relevant bodies and individual persons are in Chapter 7 in Volume I of our report.

In the course of deliberations on the responsibilities of the organizations and individuals involved, the Select Committee also considered whether to proceed further and recommend specific sanctions such as "reprimand", "discontinuation of appointment" or "financial penalties" on some of these individuals. The Legal Adviser also confirmed that this would be within the Select Committee's scope of inquiry.

Some members subscribed to that view because they considered that the community expects the Select Committee, having gone through a lengthy and painstaking inquiry to establish responsibilities, to speak out on what punishment those responsible deserved. Otherwise, the whole exercise would have been quite meaningless and without much force.

Other members were opposed to this step being taken. In their view, the task of the Select Committee is to inquire, to establish facts and

responsibilities. Where an organization or individual was at fault and to blame, the Select Committee has done its duty to point this out bluntly and plainly, without fear or favour. The criticism made in its report is itself a serious sanction. To go further would be unseemly and unfair. Moreover, the Select Committee's inquiry concentrated on the chaos on AOD and matters directly relevant to it. To suggest penalties on individuals would not be appropriate.

As the majority of members were of the latter view, the Select Committee resolved not to include sanctions in its report.

On the other hand, the Select Committee agreed that the inquiry in a public fiasco identifying what went wrong and who should be held responsible by nature focuses on the more "negative" aspects of a venture. Yet this is not an entirely negative exercise. The Select Committee hopes that, through this inquiry, Hong Kong is to benefit from the lessons that can be learned. Although the SAR may not be building another airport of comparable size for a long time, the Select Committee believes these lessons have meaning and application for all kinds of large scale projects in the future. The 15 lessons that the Select Committee thinks that the Administration should learn are in Chapter 8 in Volume I of our report.

After six months of careful investigation the work of the Select Committee is concluded today. We hope the findings of the enquiry will allow the public to know the truth. The work has been momentous but has been completed smoothly, thanks to the efforts of the members of the Select Committee and support from all quarters.

The Select Committee is grateful to all witnesses who have appeared before it and submitted papers to it and is also grateful to all of the organizations that have provided us the information and assistance during the inquiry.

The Select Committee would also like to thank the five-person consultancy team of the Hong Kong University headed by Prof Francis CHIN and two consultants from the International Air Transport Association, Captain Neil JONASSON and Mr William BOURKE for their expert advice on information systems and noise under the flight paths respectively.

Last but not least, the Select Committee wishes to convey heartfelt

gratitude and appreciation to the clerk of the Select Committee and her team for their cheerful hardwork under severe pressure. They burned the midnight oil over the past month to complete their tasks so that the Select Committee could submit its report to the Council in good time. Their devotion to duty is to be commended. The Select Committee also thanks the relevant divisions of the Legislative Council Secretariat for their active support in the conduct of the inquiry.

With these remarks, Madam President, I submit the report of the Select Committee to this Council.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. I would like to remind Members that question time normally does not exceed one and a half hours, with each question being allocated about 12 to 15 minutes. When asking supplementary questions, Members should be as concise as possible. They should not ask more than one question, and should not make statements. To do so would contravene Rule 26 of the Rules of Procedure.

Today we will continue to try out the electronic queuing system for speaking. After I have called upon a Member to ask a main question, other Members who wish to ask supplementary questions to this question need, in addition to raising their hands, indicate the wish by pressing the "Request-to-speak" buttons in front of their seats.

On the other hand, if a Member wishes to follow up and seek elucidation on an answer, or raise a point or order, please stand up to so indicate and wait for me to call before speaking.

I now invite Mr LAW Chi-kwong to ask the first question.

Woman and Child Health Centres

1. **MR LAW CHI-KWONG** (in Cantonese): *Madam President, the Government had indicated that the review of the services provided by woman health centres and maternal and child health centres (MCHCs) was expected to*

be completed by autumn last year. In this connection, will the Government inform this Council:

- (a) of the current progress of the review; when the findings of the review will be released;*
- (b) of the issues covered by the review; whether such issues include studying if the age limit of clients should be lowered, and if the scope of services should be expanded; if so, of the findings and recommendations in respect of these two issues; if not, the reasons for that; and*
- (c) whether it has any plan to combine the woman health centres and MCHCs into woman and child health centres; if not, the reasons for that?*

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

- (a) The Department of Health has primarily completed its review of the woman health service. As a further step, we are now looking into the details, such as appraising the feasibility of the recommendations, assessing the demands for service, preparing guidelines on service provision and identifying available resources.
- (b) The aim of this review is to draw up recommendations on the way forward for our woman health service through assessment of the demands for service, facilities in the Department of Health and the current trend of women health.

The review covers the usage rates of the existing three woman health centres, target groups of clients, their age groups, the nature and effectiveness of the service, and the feasibility of service expansion.

The outcome of the review has indicated that the following areas may be improved — expanding the capacity of the service, lowering the age limit of clients, modify or adjust the current mode

of operation with a view to improving the efficiency of services on high risk subjects, such as cervical cancer and breast cancer. We shall also consider the merging of the woman health service with the maternal and child health services.

In considering whether to accept the recommendations, we will take into account various factors such as cost-effectiveness, resource implications, the demographics of the female population, future demands and the trend of women health.

- (c) The review also covers the subject of merging the woman health centres with the MCHCs for better utilization of resources, without affecting the existing services offered by the MCHCs. Currently, the MCHCs also offer family planning services to women. Some of them have also introduced cervical cancer screening services. In considering the merge, we will consider continuity of services, resource allocation, provision of manpower and facilities.

MR LAW CHI-KWONG (in Cantonese): *Madam President, the Secretary said in part (a) of the main reply that the relevant review had primarily been completed. Will the Secretary inform this Council when will the review be completed? Why is there no announcement? The Secretary also said "As a further step, we are now looking into the details". Will the Secretary inform this Council how long will this further step be?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, we have reached some preliminary conclusions about the review of the woman health care service. Further study is needed regarding the feasibility of improving and extending the service. We do hope papers can soon be submitted to the Panel on Health Services for a detailed discussion.

MR LAW CHI-KWONG (in Cantonese): *Madam President, what does "soon" mean? Does it mean several days, several weeks, several months or several years?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam

President, I hope to be able to submit the papers within one month's time.

MISS CHRISTINE LOH: *Madam President, I would like to ask the Secretary to what extent does the review of the services provided by woman health centres and maternal and child centres help the Government to plan for overall better woman health in Hong Kong? In other words, whether that review only deals with some aspects of health service provision for women, while much more is still need to be done to give adequate attention to the overall health of women in Hong Kong?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, our present review covers only existing woman health service. The issue of overall woman health may have to be studied in a review of a larger scale. This time we are reviewing three woman health centres which are being operated on a pilot basis. Through a two-year long observation we are trying to find out which service requires additional resources and what service should be targetted for improvement. As for overall woman health, it was not among our topics for review this time.

PRESIDENT (in Cantonese): Miss LOH, which part of your supplementary question has not been answered by the Secretary? Please repeat that part.

MISS CHRISTINE LOH (in Cantonese): *The Secretary said the review did not include woman health at a macrolevel. Will the Secretary inform this Council whether there will be a review on overall woman health in future although there is none being conducted for the time being?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, we have no review on overall woman health for the time being but we hope to be able to do more in this area in future.

MR MICHAEL HO (in Cantonese): *Madam President, when the Secretary*

answered Mr LAW Chi-kwong's question, she said some preliminary conclusions have been reached. Does that mean there will not be any open discussions about the matter? Then, what more could we do once the papers are tabled before the Panel on Health Services? Has the Government made its decision on basic issues when the papers are tabled?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, as I said, we will submit to the Panel the relevant papers and report in detail the results of our review and what we aspire to do.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, I would like to ask a supplementary question in respect of part (b) of the main reply. The Government is inclined to merge woman health centres and MCHCs. However, the scope of the review is mainly connected with services provided by woman health centres, including the age factor. I wonder if the Government has considered reviewing the services of MCHCs. There has been social discussions about postpartum depression for women for some time. Will the Government consider providing service in this area?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, what Miss CHAN said is correct. Some counselling services are provided by MCHCs, such as prenatal and postnatal care, including treatment for postpartum depression. We hope to be able to provide comprehensive service within the same institute. The higher usage rate of MCHCs is a reasonable outcome to expect. So, we will be investigating the idea further.

MR ALBERT HO (in Cantonese): *Madam President, I would like the Secretary to clarify on three points concerning the scope of the review: first, will the Government consider working on a flexible time schedule so that working women can obtain service in the evening; second, as the present three centres are built in remote areas, will the Government consider extending its service by building additional woman health centres in densely-populated areas so that there are centres built according to the distribution of the population; and third, will the Government consider fee concessions for the grassroots, especially those on Comprehensive Social Security Assistance, as some services*

charge about \$300 per visit and examination for cervical cancer costs \$200 per time?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the opening hours of our centres is a topic within the scope of the review. We now have only three woman health centres. The location problem can be improved if our services could be extended to several tens of MCHCs throughout the territory, and by then both our services and location of the centres will better meet the demands of the people. The charging system is also within our review.

DR LEONG CHE-HUNG (in Cantonese): *Madam President, will the Government inform this Council whether the Hospital Authority provides similar services? If so, how would the Government co-ordinate the services? Moreover, many health checks for women, such as breast examination, require special equipment. It appears that at present only the Hospital Authority have such equipment available. How would this aspect be co-ordinated?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the Hospital Authority also provides similar services but the clients targetted are different. Where equipment is concerned, if we will extend our services, we may need to purchase additional instrument. Individual hospitals, such as the Kwong Wah Hospitals, and some private doctors also provide non-profit-making services. So, in fact, in Hong Kong, other organizations are providing similar services in addition to those provided by the Department of Health.

DR YEUNG SUM (in Cantonese): *Madam President, all along I have been concerned about the utilization rates of these centres. In the review is the Government satisfied with the utilization rates? If not, what are the means for improvements?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, according to the data collected, the utilization rates of the three woman health centres are different. Among the two which were put to use earliest, the centre at Lam Tin recorded the highest utilization rate, which is 90%, while that at Tuen Mun, 50%. We will also study the range of utilization rates, including factors opening hours and location.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Secretary said there were three woman health centres and several tens of MCHCs. Is the Government trying to delegate the work of the woman health centres to MCHCs, or is it trying to submit the services provided by MCHCs to the authority of the woman health centres?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the question of delegation or submission does not arise. We only think the successful merging of the services provided by the two institutions could enable better utilization of our resources and provide more flexibility as regards the location of our service centres to make it more convenient for our people.

PRESIDENT (in Cantonese): Second question.

Implementation of the Smoking (Public Health) (Amendment) Ordinance 1997

2. **MR FRED LI** (in Cantonese): *Madam President, in connection with the implementation of the Smoking (Public Health) (Amendment) Ordinance 1997, will the Government inform this Council:*

- (a) *of the measure that the Administration has adopted to enforce the provisions of the Ordinance since it came into operation;*
- (b) *whether the Administration has taken the initiative to inspect the no-smoking areas newly designated by the Ordinance; if so, of the places that the Administration has inspected and the number of*

inspections that have been made; if not, the reasons for that; and

- (c) *of the respective numbers of persons given warnings or prosecuted for contravening the provisions of the Ordinance?*

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

- (a) Since the Ordinance came into operation, we have adopted the following measures to facilitate its implementation:

Regarding the publicity of the Ordinance, the Health and Welfare Bureau has written to many parties concerned, such as banks, restaurants and the Tobacco Institute, informing them of the details of the Ordinance and requesting for their compliance. On the other hand, we have been working closely with the Hong Kong Council on Smoking and Health to publicize and promote the new legislation. Advertisements on TV and pamphlets have been produced to introduce the new legislation to the public. In addition, we have also written to relevant departments responsible for enforcement (for example, the police, the two municipal services departments, Customs, and so on), reminding them of the new legislation and requesting for their co-operation in the enforcement. This Bureau has also responded thoroughly to many public inquiries regarding the new legislation.

- (b) Since 1 July last year, all indoor areas open to the public in shopping malls, department stores, supermarkets and banks (except restaurants within shopping malls and department stores) have been designated as no smoking areas. The coverage of the new no smoking areas is so broad that it is impossible to rely solely on the regular inspections of the government departments. Managers or the management companies of these no smoking areas have the primary responsibility in ensuring compliance with the no smoking requirement. Prior to the commencement of the Ordinance, the Administration has written to parties concerned, explaining the

enforcement power given to them under the Ordinance. We have also stated clearly that the police would offer assistance and follow up the cases if managers came across unco-operative offenders. During their daily patrol, police officers will also pay attention to these no smoking areas, warning or prosecuting the offenders if necessary.

- (c) According to the information provided by the police, no prosecution has been instituted since the commencement of the Ordinance. Also, under the existing complaint recording system maintained by the police, specific statistics on complaints lodged in connection with this Ordinance have not been kept. However, we will discuss with the police to explore ways to improve its recording system so that such complaint figures can be reflected in the statistics.

MR FRED LI (in Cantonese): *Mr President, six months have passed since 1 July last year. In these six months, take for example China Hong Kong City where I have recently been to, I could still see many people smoking in a lot of shopping malls, but no one took any action. According to information supplied to me by the Government, the Administration has no case of prosecution has been recorded. Will the Government inform us whether warnings were given during these six months, even if no prosecution was made?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the police does not have the specific figures. However, the managers of department stores, supermarkets or shopping malls have the power to enforce the law and can issue warnings, but we do not have figures in this respect.

MISS CHOY SO-YUK (in Cantonese): *Madam President, some managers of shopping malls refrain from taking serious action to prohibit smoking for fear of troubles from the smokers. For this reason, the situation has not improved much in terms of smoking in public space, especially in shopping malls. What*

concrete measures does the Government have to improve the situation?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I agree that there are certain difficulties in enforcing this law in shopping malls. If smokers are very uncooperative, managers can call for the assistance of the police. However, what we can do and what we must do is to continue to enhance publicity and promotion, so that the people would realize the hazards to their health caused by smoking and that they cannot smoke in no smoking areas.

MR ANDREW CHENG (in Cantonese): *Madam President, one caretaker of a shopping mall told me that he once sought the assistance of the police in ensuring compliance with the no smoking requirement, but the police officer told him that he had not received the relevant instructions. As we can see, there are inadequate staff to carry out inspections, neither is law enforcement strict enough. As a result, no prosecution has been instituted so far. The Secretary for Security is also present. May I ask whether the police will step up inspection and prosecution in this respect? The prohibition of smoking in shopping malls clearly indicates that problems exist. What measures does the Government plan to adopt and how will it enhance its work?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, we will continue to keep in touch with the police. If some police officers do not know about this Ordinance, the Police Force will help us explain to them and remind them that they have to enforce this law. We will liaise closely with the departments responsible for enforcement, and enhancement of our communications in this aspect is also very important.

DR LEONG CHE-HUNG (in Cantonese): *Madam President, according to paragraph (c) of the Government's main reply, the police has so far no record of the relevant prosecutions or warnings. May I ask the Government whether this indicates that Hong Kong people really abide by the law, or that the law has not been enforced even though it has been enacted, or that some people are afraid to enforce the law as Miss CHOY So-yuk has said? If so, is the legislation in vain?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, according to some of our information, the people are often very co-operative and would immediately stop smoking or extinguish their cigarettes after being cautioned by managers. Under these circumstances, there will certainly be no warning or prosecution. However, it is very important to ask the people to continue to co-operate with the caretakers. This law is a necessity. I remember that Dr LEONG Che-hung has highly recommended it then. Actually, the enforcement of this law is more satisfactory in public transport, theatres, public space and elevators.

MR MICHAEL HO (in Cantonese): *Madam President, I would like to follow up Mr Andrew CHENG's earlier supplementary question. Will the Government inform this Council what the Hong Kong Police Force has done to inform police officers that this Ordinance is in force and that they should enforce the law in places like shopping malls and banks?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, as I said in the main reply, we have already informed the Police Force of the commencement date of the relevant legislation and the places where it should be enforced. As for how the Police Force passes on the information to the police officers of different ranks and how they enforce the law, I wish to give Mr HO a written answer. (Annex I)

MISS CHRISTINE LOH (in Cantonese): *Madam President, I also wish to ask a supplementary question on part (a) of the main answer. From that answer and from the Secretary's explanation just now, it seems that the Government is very passive in promoting the legislation, especially where the police is concerned. Basically, it has only written to them. May I ask whether there are any more effective ways to make the law enforcers understand what they have to do? Furthermore, may I ask the Secretary the amount that the Government has allocated for conducting the promotion? If the amount is too small, would that be enough?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): This

supplementary question consists of two parts. The first part is about how to improve our communications with the police so that they would know that they have to enforce this law. In this connection, apart from writing to them, we keep in touch with them all the time. As for the funds for promotion, we mainly allocate government funds to subsidize the planning of promotional strategies and the production of advertisements on TV by the Hong Kong Council on Smoking and Health. Each year, the Government will allocate a definite amount of money. However, I do not have information on the amount of funds allocated over the past few years on hand. Therefore, I will give a written answer. (Annex II)

MR LAW CHI-KWONG (in Cantonese): *Madam President, although the law stipulates that restaurants with more than 200 seats must designate no smoking areas starting from April 1998, many restaurants have not complied with the law. May I ask the Secretary whether there are figures showing the number of restaurants that have not complied with the relevant regulation?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, actually, the regulation mentioned by Mr LAW Chi-kwong has not yet come into force. It will only come into force in June this year. According to the regulation, restaurants with more than 200 seats must designate at least one third of them to be no smoking seats.

MISS CHAN YUEN-HAN (in Cantonese): *I would like the President to pass on the message to the Secretary that we and the Government*

PRESIDENT (in Cantonese): Miss CHAN, please ask your supplementary question directly. This is question time and there is no need for me to pass on any message to the Secretary for you.

MISS CHAN YUEN-HAN (in Cantonese): *Then I will ask my question. We see things differently from the Government. I am not sure if the police has met with difficulties in enforcement or if it is not trying its best. From what we see in many public places, the Government's publicity and promotion efforts do not seem to have much effect. I have an aversion for smoke because I am very*

sensitive to smoke myself. The law has been implemented for some time, but I find that the reality is very different from what the Government says on paper. Is this because the police enforces the law half-heartedly or because the police does not enforce it at all?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, as I said in paragraph (b) of my main answer, because the legislation covers so many areas, including shopping malls, squares, department stores, banks and supermarkets, it is neither possible nor practicable to rely solely on law enforcement by the police. To effectively enforce the law, several parties must co-operate: first, the caretakers of the property and the management of the establishments must work hand in hand. Second, the people themselves have to co-operate and exercise self-discipline. Since the Ordinance has been in force for only a little more than six months, the people need time to familiarize themselves with the law. Therefore, it is necessary to step up promotion in this respect. We will continue to work on this.

MR SIN CHUNG-KAI (in Cantonese): *Before going on beat patrols, the police will be briefed on the offences in the district. Are petrolling officers instructed by their superiors to pay attention to anyone smoking when they patrol the buildings and that they have to give warning to or prosecute the smokers? May I ask whether the superiors have instructed their subordinates to carry out law enforcement?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, today I do not have at hand information on the instructions that the staff of different ranks of the Police Force give to their subordinates. However, I can give a written answer. (Annex III)

MR SIN CHUNG-KAI (in Cantonese): *Does the Security Bureau has such information?*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, whenever a new legislation comes into operation, the Commissioner of Police will certainly issue instructions to his staff, asking them to enforce the new policy or new law. There is no question about that. However, different regions and divisions have different priorities in their work. While some divisions may concentrate on cracking down on vice establishments, other divisions may ask their police officers to concentrate on combating the sale of contraband cigarettes and counterfeit optical discs. Thus, they set different priorities. If Members are of the view that the police is not doing enough in enforcing the no smoking regulation and in inspecting shopping malls, I shall be happy to pass your views to the Commissioner of Police and ask him to strengthen his guidelines in this respect.

PRESIDENT (in Cantonese): Members, since we have spent more than 15 minutes on this question, we have to proceed to the third question.

Management of Police Officers with Psychological Problems

3. **MR GARY CHENG** (in Cantonese): *Madam President, last year, in reply to my question on police officers receiving psychological treatment, the Government said that the authorities concerned would direct a full review of the management of police officers who encounter psychological problems, and vigorously promote a healthy lifestyle for police officers through a variety of activities such as sports, recreation and health-related seminars. In this connection, will the Government inform this Council:*

- (a) *of the current progress of the review;*
- (b) *when the review is expected to be completed; and*
- (c) *of the criteria used in assessing the effectiveness of the various activities provided to relieve police officers of psychological pressure arising from law enforcement duties?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as regards part (a) and (b) of the question raised by the Honourable Gary CHENG, the review has been completed in 1998. The review is to ascertain the adequacy

of counselling services provided by the Police Force to police officers and to provide a system that encourages officers with psychological problems to seek assistance themselves so as to achieve the effect that precaution is better than cure.

A total of 19 recommendations have been drawn up from the review and are being gradually implemented. The major improvement measures include:

- (i) It is proposed to provide a series of training courses to officers of all ranks, which include "stress management", "get to know psychological problems", "ways to identify and handle officers with mental health problems" and "assessment of psychological situation". Through such training, officers would be more willing to seek assistance themselves when they encounter psychological problems. Senior police officers would also be better equipped to help subordinates with psychological problems. In addition, a Police Clinical Psychologist (PCP) will soon be posted at the Police Training School to conduct training and research matters.
- (ii) A Priority Assessment System was introduced to reinforce the present procedures for the identification, monitoring and management of police officers with mental health problems. Priority attention will be given to officers with four types of mental health problems, namely, severe mental disorder, suicidal behaviour, acute personal crisis and substance (drug or alcohol) dependency. Under this system, if the Formation Commander concerned and a PCP decide that an officer suffering from the above-mentioned mental health problems should be counselled, a PCP will interview the officer within 48 hours. The Formation Commander concerned, a PCP and a Hospital Authority psychiatrist will hold case conferences regularly if necessary to assess the officer's situation including his suitability to carry firearms and the need for further professional care. Besides, the Hospital Authority will accord priority to these cases.
- (iii) As the unique nature and demanding requirement of police

duties produce great pressure on police officers, it is proposed to strengthen the resources of the Psychological Services Group (PSG). Three additional PCPs with three additional clerical supporting staff have been recruited to provide a better service to police officers in need. A review on the workload of the PSG will be conducted next year to ascertain whether there is a need to recruit additional PCPs.

- (iv) The PSG will adopt a regional based structure to foster closer ties between the PSG and officers working in different regions. Four PCPs will be responsible for providing counselling services to officers working in different regions, viz. Kowloon Regions, New Territories Regions, Hong Kong Island and Marine Regions and the formations in Police Headquarters. Besides, apart from the main office in Hong Kong Island, a branch office will be established in Kowloon West within easy reach of the Mass Transit Railway in February 1999 to provide more convenient services to officers working in Kowloon and the New Territories.
- (c) The Police Force promotes healthy lifestyles among police officers through recreational activities, seminars and publicity campaigns. We encourage officers to lead a normal family life and to keep away from bad habits such as heavy drinking and gambling so that they are in a better position to handle pressure generated from their work. We can evaluate the effectiveness of these activities by collecting the feedback of the participants through various channels. For example, the number of applications received for an activity is an indicator of its popularity. In addition, participants of stress management training courses will be required to fill in an evaluation form after the courses to give their opinion on the training received.

In addition, we can make use of various indicators to evaluate the effectiveness of these activities, which include the number of officers having unmanageable debts, cases of officers committing suicide, seeking counselling or assistance, and observation on the

habits of police officers in their daily lives, for example, whether there has been an increasing number of officers engaged in drinking and smoking habit. Generally speaking, we believe that our activities have a positive effect on relieving the pressure of police officers.

MR GARY CHENG (in Cantonese): *Madam President, the Secretary's reply mainly revolves around healthy lifestyles or habits of police officers and tries to suit remedies to these cases. In fact, even if the Government's reply of last year is quoted, I still think it is inadequate. It appears that it has never crossed the mind of the authorities concerned that although psychological problems encountered by police officers may have originated from unhealthy lifestyles, it does not mean that all psychological problems do originate from unhealthy lifestyles. It seems that the main reply has not taken into account the psychological problems brought about by circumstantial pressure arising from law enforcement duties. Will the Secretary supplement this aspect?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, Mr CHENG said just now that, in the main reply, we assume that all problems have originated from unhealthy lifestyles. Then, have we identified other causes? Of course we know there are other causes. For example, a police officer may be inherently nervous, or has minor potential psychological problems, or does not have adequate counselling during on-the-job trainings which teach him how to cope with the pressure of work. Just to take these two points as examples, we are now asking applicants to report their medical histories, both psychological and physiological, upon recruitment so that we can bear that in mind when we make selection.

Besides, in order to assess whether an applicant is suitable to be a police officer, the Police Force has also made reference to the experience of New Zealand and added a psychological test in its recruitment exercise. The Police Force has also strengthened on-the-job trainings in other aspects. I have said earlier that the authorities concerned have arranged many training courses through welfare officers or training and staff relation officers so as to, on one hand, help police officers to face high-pressure work, and on the other hand, help senior management to be alert to the conditions of their subordinates and see if they may be under excessive tension or mental stress.

MR JAMES TO (in Cantonese): *Madam President, we have recently obtained some information which show that, in the first half of 98, the problem of heavy indebtedness among police officers seemed to be deteriorating, which was of course partly attributable to the financial turmoil and economic downturn. Will the Secretary tell us whether there are any special measures addressing this problem?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, in the first half of 98, the number of police officers who were unable to pay their debts, which totalled 107, has indeed increased by 30% as compared with the figure of the second half of 97. However, if compared with the figures of a few years ago, such as the 145 cases of the second half of 1994, it has seen a considerable drop. In order to improve the situation, the Police Force has adopted many measures. For example, newly recruited police officers are earnestly reminded that they must manage their finance prudently, take care that they should not lead extravagant lives and that they should not squander.

Training and staff relation officers of the Police Force often hold seminars reminding colleagues to lead a healthy life, as well as teaching them how to deal with debts. The Police Force has also enhanced publicity and issued guidelines to police officers of higher ranks engaged in management duties, asking them to be alert to the conditions of their subordinates and look out for unmanageable debts that their subordinates may have owed. Senior police officers would also keep an eye on certain indicators, for example, whether their subordinates often gamble, go to Macau, lead extravagant lives or frequently use credit cards. Besides, they would also be watchful of any frequent calls from finance company employees, strangers or family members to police officers at their offices, and whether police officers have received notification of outstanding tax, and so on. By doing so, they can know whether their subordinates encounter such problems and take the initiative to provide counselling or assistance.

MR CHAN WING-CHAN (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary says that the Police Force promotes healthy lifestyles among police officers and encourages them to keep away from bad habits such as alcoholism and gambling, in particular gambling. However, a number of*

cases happened recently in which police officers suicided because of debt problems. I would like to ask the Secretary that, besides adopting the above measures, are there any other good ways and means in place? Will the authorities concerned commend exemplary police officers who neither drink nor gamble? That is to say, will a rewards mechanism be set up to create a wholesome atmosphere in order to boost the morale of the Police Force?

SECRETARY FOR SECURITY (in Cantonese): Madam President, Mr CHAN mentioned cases of unmanageable debts or even suicide due to gambling. This is something we will not deny. Of course, with a Police Force of as many as 28 000 members, it is difficult not to have individuals picking up bad habits. However, it is impossible for the Police Force to issue guidelines or legislate to prohibit police officers from going to Macau or entering casinos. Nevertheless, over the years, the Police Force has carried out a lot of promotional and educational programmes to encourage police officers to lead healthier life. Many activities, such as poster design competitions and healthy living workshops, were also organized. As for Mr CHAN's proposal of promoting healthy lifestyles and commending police officers with outstanding performance, articles on these topics are actually often published in the Police Force's publication *Off-Beat*. According to the Force's observation (though the figure may not be very accurate), it is found that the present lifestyles of police officers are in fact much healthier than before. For example, more and more police officers are making use of lunch time to keep fit. Take the gymnasium in the Police Headquarters at Arsenal Street as an example, the users frequency last year reached as many as 37 000 user-times. On the other hand, the recreational activities organized by the Police Force are being received more and more enthusiastically by police officers and their family members. The Police Force will continue to work in this direction in promoting healthy lifestyles.

MR CHAN WING-CHAN (in Cantonese): *Madam President, there is still one part of my supplementary question that the Secretary has not yet answered. Is there a mechanism which regularly elects exemplary police officers who neither drink nor gamble — I think such officers do exist in the Police Force — and commends them so that they may bring about a wholesome atmosphere in the Force which is free from alcoholism and gambling?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as for police officers who do not drink, gamble, speak foul language and smoke, they not only "do exist", but actually exist in great numbers in the Police Force (*laughter*). As far as I know, the Police Force does not have a commendation programme at present, but Mr CHAN may have noticed, it often conducts publicity for exemplary police officers. For instance, there is a woman police officer who staunchly discharged her duty despite her ailing condition. She was promoted for her dedication and the matter aroused considerable public attention.

MR ALBERT HO (in Cantonese): *Madam President, I would like to ask the Secretary that, in the course of the review, has reference been made to the complaint cases filed with the Complaints Against Police Office (CAPO)? No matter whether the complaints were ultimately substantiated or not, how many of such cases involve police officers who have to be advised to receive psychological or psychiatric counselling afterwards, which can show that their mental states may be related to the complaints? Besides, has the review identified any police officers under counselling who are unfit to carry out frontline work in the long run, or at least in the short run for fear that they may be involved in disputes with the public or may even abuse their powers?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, with regard to Mr HO's supplementary question, firstly, I am not sure whether figures of the CAPO have been referred to during the review in order to identify how many police officers under investigation have encountered psychological problems. However, the review found that the causes leading to psychological problems or excessive stress are usually high work pressure, marital or interpersonal relationship, indebtedness or being the subject of criminal or disciplinary investigation and so on. As for the second part of Mr HO's supplementary question, could he repeat it once more please?

MR ALBERT HO (in Cantonese): *Madam President, the second part of the supplementary question is whether the review has arrived at any conclusion that certain police officers under psychiatric or psychological counselling should be suspended from doing frontline work in order to avoid situations such as the abuse of powers?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the answer is definitely positive. If, after counsellings or case conferences are held, a police officer is found to be unfit to carry firearms, the management of the Police Force will immediately make a decision. If the Police Force thinks that a particular officer should be transferred out of his frontline post and take up clerical work for a relief of pressure for a while, appropriate arrangements will be made.

PRESIDENT (in Cantonese): Honourable Members, although many Members are still waiting for their turn to raise supplementary questions, we have already spent over 17 minutes on this question and so now we must move on to the fourth question.

Tackling the Millennium Bug Problem

4. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, to ensure that Hong Kong's economy will not be seriously damaged due to the failure to solve the Year-2000 Compliance (Y2K) problem (commonly called the "Millennium Bug Problem") in various computer systems before 1 January next year, will the Government inform this Council whether it will consider additionally designating a working day between October and December this year as a public holiday, and co-ordinate various organizations in both public and private sectors (including financial institutions, enterprises and government departments) in the territory to conduct co-ordinated tests on their computers systems on that day?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Administration does not consider that the designation of an additional general holiday in the last quarter of 1999 for joint Y2K compliance testing of the various computer systems and internal systems in Hong Kong would be the best solution. As different sectors will have different rectification work plans and requirements, and the need for joint testing varies, we think it is more appropriate for different trades and sectors to decide for themselves and their business partners about the need for joint testing and what the best arrangement is.

Every government department and public body already has a Y2K compliance work plan in place. Testing is an integral part of the work plan, and includes, where applicable, testing with external interfaces. Individual departments or public bodies will arrange testing slots based on their operational requirements.

Similar measures have been taken by public bodies providing important services around the private sector. Given the wide variation in the process of rectification work to be carried out by individual sectors and enterprises, and their widely different requirements, we do not think it is practical to set aside an addition public holiday for all to carry out a joint testing. For example, some may involve overseas organizations but some may not. Having considered the possible economic consequences of an addition public holiday, we find it difficult to support the proposal.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the joint testing mentioned in the Secretary's main reply was just some testing involving business partners or small-scale self-testing. But government organizations and public bodies have the public as their clients. The programmes have been input into their huge computers over the weekend and the public holiday. They cannot be simulation-tested on a non-working day. Under the circumstances, will the Secretary inform this Council how a joint testing is possible without a work simulation testing on a normal working day? How can we do that?*

PRESIDENT (in Cantonese): Which one of the two Secretaries would like to answer?

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, it is of course necessary to use some real data for the testing, but the testing itself need not be done on a working day. For example, last year, the banking sector conducted some co-ordinated tests within the sector on a Sunday. The securities and futures sector conducted some co-ordinated tests on a weekend and on a Sunday, which are not working days.

PRESIDENT (in Cantonese): Miss CHOY, which point in the supplementary

question would you like to clarify about?

MISS CHOY SO-YUK (in Cantonese): *Madam President, I am not clarifying. The Secretary for Information Technology and Broadcasting has not answered my question. I was asking how it was possible to conduct simulation testing under real work conditions?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, I think I have answered the Honourable Member's question. I pointed out because real data are used for testing, the testing of course simulates the real situation.

MR BERNARD CHAN (in Cantonese): *Madam President, the testing mentioned in the Secretary for Information Technology and Broadcasting's reply was done purely on a commercial basis. Has the Government considered stepping up promotion to help people understand they will encounter the millennium bug problem in their daily business, and not just on the computer?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, in fact we have been doing a lot of promotion about the millennium bug issue, including broadcasting short government advertisements or filmstrips on the radio or TV. We have produced a series on the relationship between information technology and daily life activities with the Hong Kong Computer Society. Two of the series focusing on the millennium bug issue were broadcast in the last couple of weeks. Moreover, we have distributed pamphlets on ways to deal with the issue via trade commissions and organizations. The government homepage and the homepage of relevant organizations also provide explanations about the millennium bug, how to obtain assistance and to deal with some extra data and so on.

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

MR BERNARD CHAN (in Cantonese): *Madam President, the Secretary for Information Technology and Broadcasting did answer my question but I was emphasizing on the personal level of the matter whereas the Secretary seemed to focus on promotion in the commercial sector.*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, the promotional activities on TV, radio and newspaper I mentioned were in fact not targeted purely at the business sector alone.

MR MA FUNG-KWOK (in Cantonese): *Madam President, will the Government inform this Council whether, in tackling the millennium bug issue, it has adopted measures such as the system for "readiness status" for the new airport to ensure all public enterprises and financial institutions can provide full service in 2000?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, what we do is to try our best to complete, before the middle of this year, all rectification work on important computer systems and internal systems that provide essential services. Where necessary, we will require the relevant departments and organizations to prepare contingency plans. Moreover, a working group comprising members from the Information Technology and Broadcasting Bureau and other policy bureaux has been set up to co-ordinate the territory-wide contingency plan. In tackling the millennium bug issue, very often some messages which may not be entirely correct may have leaked out and circulated. Therefore, to avoid such messages from causing unnecessary understanding or panic, we feel that the release of messages is very important. Thus, the contingency plan under our consideration also includes the release of information.

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

MR MA FUNG-KWOK (in Cantonese): *Madam President, will the Government inform this Council whether a system such as the system for "readiness status" for the new airport is in place to assess the readiness of public organizations or private ones such as financial institutions which may affect the public?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): We will have some progress reports, which will be submitted to the Panel on Information Technology and Broadcasting for reference.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, I understand that the Government has prepared some softwares and hardwares for the Y2K issue but the information contained therein are in very thick volumes. Will the Government inform this Council whether the public can obtain those information and what are the criteria to be fulfilled before such information can be obtained?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, the simplest way is to obtain the information from the government homepage at <http://www.year2000.gov.hk> .

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, will the Government inform this Council whether there are promotions to allay the fear of the public so that they would not flock to the banks to withdraw money, causing confusion to the bank accounts of the banks in the following year?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, that is the reason why I said we need to release the progress of our work to the public. For example, the banks are reporting their progress to the Information Technology and Broadcasting Bureau as well as the Financial Services Bureau and the Monetary Authority. As at the end of 1998, rectification work was 85 % completed in the banking sector.

MR EDWARD HO (in Cantonese): *Madam President, there has been*

suggestions that the Secretary for Information Technology and Broadcasting and several Policy Secretaries in high positions should board a plane in December and get off in January, and this a sure way to guarantee that they would have the problem solved. Has the Secretary for Information Technology and Broadcasting any plans to do so?

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, I have answered similar questions on other occasions. I would attend parties almost every new year, so I have no intention of boarding a plane then, and I will continue the partying habit.

MR NG LEUNG-SING (in Cantonese): *Madam President, as similar questions were asked by a number of Members just now, I think the public is highly concerned about the services to be provided by financial institutions in the year 2000. To boost the confidence of the public, would the Government consider issuing assessment or confirmation certificates to those authorized institutions which have completed the Y2K tests, or announcing the names and progress of such institutions?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): As far as the banking sector is concerned, I understand the Monetary Authority has requested individual authorized institutions to obtain independent audit by a third party. As regards the work progress of individual institutions, I believe a decision can only be made after the Monetary Authority has made contacts with them.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, just now the Secretary for Education and Manpower rejected the proposal to designate a date for a public holiday between October and December. But in fact we all know no matter how we do the testing we cannot be 100% sure of what will happen by then. Many people in the trade are worried that something unforeseeable may occur. So, I think*

PRESIDENT (in Cantonese): Mr LEUNG, please state directly the

supplementary question you want to ask.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, just now the Secretary for Information Technology and Broadcasting said there would be progress reports. But I think the most important thing is that there should be contingency plans for the people especially those who do not know how to use the computer or access the government homepage to tackle changes that are unforeseeable.*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, we understand the worries and that is why we have started work on an overall contingency plan. I hope to be able to announce the relevant measures in the latter half of the year.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, countries such as New Zealand, England and some European countries are considering to designate 3 January as a public holiday, not for testing but in anticipation of possible problems emerging on the first day when business resumes. The United States may assign 3 January as a holiday so that normal activities will only resume on 4 January. Will the Secretary for Education and Manpower assign 3 January as a holiday?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the main question asks whether the Government will consider additionally designating a working day between October and December as a public holiday. If the year 2000 is involved, perhaps the Secretary for Information Technology and Broadcasting could answer inquiries relating to the year 2000.

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, our view is that the addition of one day of public holiday may not be the best solution. The reason is that even if a country starts its business earlier than Hong Kong and finds no problem it does not mean that Hong Kong would have no problems. On the other hand, if other countries have problems it does not mean Hong Kong will have similar problems as well. The problems found in Hong Kong may be

different from those found in other countries. Therefore, on the whole, what matters is the effectiveness of our rectification work and our contingency plans. If the only intention is to start work one day late and so add one day of public holiday, it may bring about the wrong impression to those concerned that when others have no problems, we will have none too.

MR SIN CHUNG-KAI (in Cantonese): *The Secretary for Information Technology and Broadcasting may not have heard my question clearly. I was asking whether out of the 17 public holidays would it be possible to assign one of them to fall on 3 January. As the Government has indicated there would not be an additional holiday, I asked whether 3 January would become one of the public holidays.*

PRESIDENT (in Cantonese): Mr SIN, I must remind you once again of two things: firstly, please stand up when you want to ask follow-up questions, and speak only when I ask you to; secondly, you should sit down after you have finished —do not sit down and then continue to speak. This would contravene the Rules of Procedure. Secretary for Information Technology and Broadcasting, is there anything you would like to add?

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, I do not think this is directly related to the Y2K issue.

PRESIDENT (in Cantonese): Fifth question.

Monitoring Influenza Cases

5. **MR LAU KONG-WAH** (in Cantonese): *Madam President, it is reported that Type A Influenza H3N2 virus is spreading rampantly in the northeast of the Mainland and it is forecast that the relevant influenza cases will spread to Hong Kong during the Lunar New Year period. In this connection, will the Government inform this Council:*

- (a) *of the mechanism currently in place for the authorities to monitor the influenza cases, and of the public and private medical institutions involved in the monitoring mechanism; how this monitoring mechanism compares to the one set up during the peak period of avian influenza infection for monitoring such cases; and whether it plans to set up a task force to monitor the spreading of this strain of influenza virus;*
- (b) *of the effect of this strain of influenza virus on the human body, and of the specific measures that the Administration will adopt to prevent relevant diseases from spreading in Hong Kong; and*
- (c) *whether it will consider stepping up its publicity efforts to advise members of the public on how to avoid being infected; if so, the details of that?*

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

- (a) Since 1962, a surveillance system on influenza has been set up in Hong Kong to monitor the trend of the spread of different types of influenza. At present, the sentinel surveillance system for influenza comprises 63 government out-patient clinics and 28 private medical practitioners. They report to the Department of Health on a weekly basis the number of patients that have influenza or influenza-like illness.

When compared to the surveillance system in operation during the peak period of avian influenza infection, the number of government out-patient clinics currently involved in the sentinel surveillance system for influenza remains the same but there are now 10 more private medical practitioners having joined the scheme.

The Hospital Authority set up a Taskforce in December 1997 for monitoring avian influenza. The Taskforce has now broadened its monitoring scope to cover all types of influenza. The Hospital Authority monitors closely the number of inpatients admitted to public hospitals with influenza and their conditions, and maintains a close liaison with the Department of Health on this matter.

In parallel, the Government Virus Unit of the Department of Health carries out laboratory investigations by using clinical specimens collected from patients with influenza to identify and monitor the number and types of prevailing influenza virus.

The existing surveillance system which monitors all types of influenza is functioning satisfactorily. We have been able to implement preventive measures promptly. There is no need to set up a special task force to monitor the spread of a particular influenza virus.

- (b) The Department of Health has confirmed with the health authorities of mainland China that the virus recently circulating in the northeast, northwest and northern area of the Mainland is Influenza type A3 (H3N2). This particular influenza virus, like other influenza viruses, will cause fever, cough and sore throat in the affected persons. Most patients will recover in a few days, but the elderly and patients with chronic heart and lung diseases may develop complications more easily and should take greater care to look after themselves.

This virus strain was prevalent in Hong Kong in February and March last year. A lot of people in Hong Kong should have acquired immunity against this virus strain. According to Department of Health's assessment, it is unlikely that this virus will spread rampantly in Hong Kong. We will maintain close contacts with the relevant mainland authorities and make use of the sentinel surveillance system to closely monitor the spread of influenza in Hong Kong.

- (c) In Hong Kong, February to March and June to July are usually the peak periods of influenza infection. The Government will

strengthen the publicity on influenza prevention before the peak periods arrive. Health education information on the prevention of influenza will be disseminated through newspapers, district newspapers and the electronic media. Members of the public can use the Department of Health's telephone hotlines to obtain more information on this subject from our health care staff. Other publicity measures will include holding district exhibitions and distribution of pamphlets at specific locations, such as travel agencies and immigration checkpoints, to enrich the travellers' knowledge about influenza and enhance their alertness toward the disease.

MR LAU KONG-WAH (in Cantonese): *Madam President, according to my careful observation, there is an increase in coughings and coarse voices in this Chamber and there is a tendency for them to "spread" as well. However, in part (b) of her main reply, the Secretary has referred to the disease and considered it was unlikely that the virus would spread rampantly in Hong Kong. I have no idea on what basis has the Secretary made such a remark. As a matter of fact, in the first month of 1999, three elderly persons have died of complications developed from influenza; yet of the six cases of complications handled by the Queen Elizabeth Hospital last year, only one patient died. I would like the Government to confirm these figures. In addition, could the Secretary inform this Council whether she considers the three deaths a warning signal; and that the Government has under-estimated the situation?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I should like to supplement some information. Hong Kong may as well enter a peak period of influenza infection soon, since we are now having a rather high incidence of the disease. Hence, I have to urge members of the community to take extra care. Nevertheless, it is now only January and the peak period will not arrive until February or March, by then the incidence may increase further. I could provide Honourable Members with some figures for comparison purposes. Among the outpatient cases handled by the Department of Health over the past three weeks, for every 1 000 patients treated, 4.2 have been discovered to have influenza symptoms in the first week; the corresponding figures of the second and third weeks were 5.5 and 7.7 respectively; by the forth week, the ratio has risen to 11.8 per 1 000 cases,

representing a rather rapid rate of increase. As for private outpatient services, similar rates of increase have also been recorded. In this connection, 45.5 out of every 1 000 cases handled have been discovered to have influenza symptoms in the first week, while the corresponding figures for the second, third and fourth weeks were 56, 62 and 102 respectively. From these sharp increases we could see that a large number of patients with influenza have visited public and private clinics for medical treatment.

As regards preventive measures, we have all along urged members of the public to build up their own resistance to the disease by maintaining a balanced diet, doing adequate physical exercises and taking enough rest; prevent the spread of germs by keeping good ventilation; take extra care in visiting overcrowded places and so on. However, whether or not the measures could be taken successfully would very much depend on the resolve of the individual concerned. While the publicity efforts will certainly be kept up, in particular in January and before June or July, we also hope that members of the public would also take special care in this connection.

MR LAU KONG-WAH (in Cantonese): *The Secretary has not answered the part of my question on whether the fact that three have died of influenza in the first month of 1999 would serve as a warning signal for danger?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): I am afraid I do not have any information regarding these cases. As regards the question of whether the three elderly patients were died of influenza or complications developed from influenza, the conclusion has yet to be drawn by the hospitals concerned after looking into the cases.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, since the Department of Health has in the past provided the senior citizens with free vaccination against influenza, I should like to ask the Secretary if the Government would consider providing the senior citizens with free vaccination this time; and if not, why not?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, it was in February and November last year that we provided the residents of homes for the elderly with free vaccinations. As regards the question of whether free vaccination will be provided for other senior citizens, we will refer the issue to the Advisory Committee on Vaccination Programmes for their careful consideration.

DR LEONG CHE-HUNG (in Cantonese): *Madam President, although Hong Kong has yet to enter the peak period of influenza, a number of public hospitals have already reportedly been "overflowed" with patients suffering from influenza last weekend. Could the Secretary inform this Council whether the Government would consider advising the outpatient clinics under the Department of Health to offer evening consultation sessions during public holidays, with a view to alleviating the additional influenza-related workload of the accident and emergency department of public hospitals?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, according to my understanding, the Department of Health is currently discussing with the Hospital Authority ways to enhance co-ordination efforts, with a view to referring patients who do not need casualty treatment to the clinics under the Department of Health for medical treatment. While the discussion is held partly in response to the recent increase in demand for emergency treatment, the question as to whether the majority of the patients seeking casualty medical services are suffering from influenza has yet to be confirmed by the hospitals concerned. In any case, as the Lunar New Year is approaching, we shall need to have in place some contingency plans.

MR MICHAEL HO (in Cantonese): *Madam President, the Secretary has mentioned the Advisory Committee on Vaccination Programmes in her reply just now. Then, whether it is for the Advisory Committee to take the initiative to advise the Government after observing the situation in Hong Kong, or it is for the Health and Welfare Bureau to refer a specific subject to the Advisory*

Committee and request for advice?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the terms of reference of the Advisory Committee on Vaccination Programmes is to be responsible for reviewing the existing Vaccination Programmes in the light of the trend of diseases development, technological development, and their impact on resources; as well as putting forward recommendations to the Department of Health. The Advisory Committee will act on its own initiative to advise the Government in consequence of changes in the local situation, it does not need to wait for the Government to specify any study areas. The membership of the Advisory Committee comprises representatives from the Department of Health, medical advisors from the universities, paediatrics specialists, microbiologists, private medical practitioners and so on.

MR LAW CHI-KWONG (in Cantonese): *Madam President, I would like to follow up the reply made by the Secretary. In regard to the existing influenza cases, could the Secretary inform this Council whether the Advisory Committee has taken the initiative to advise the Government to provide the public with vaccinations; or whether the recommendations made by the Advisory Committee in this respect has been rejected by the Government?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Regarding the free vaccinations for the aged referred to by the Honourable TAM Yiu-chung just now, this is the decision of the Advisory Committee on Vaccination Programmes after careful discussion; besides, the Advisory Committee has also considered that the mechanism is still appropriate for the present day.

MR LAW CHI-KWONG (in Cantonese): *Madam President, I did not ask about the action last year, my supplementary question was on whether the Advisory Committee has made any recommendation regarding the existing situation, because in answering the supplementary question raised by the Honourable TAM Yiu-chung just now, the Secretary has mentioned that she would consult the Advisory Committee later on; however, in her subsequent*

reply to the supplementary raised by the Honourable Michael HO, the Secretary has referred to the Advisory Committee as acting on its own initiative to offer advice. As such, I should like to know if the Advisory Committee has actively offered any recommendations in the current case; and if so, whether the Government has accepted the recommendations? The answer made by the Secretary just now has been a little bit unclear.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, in answering the supplementary on free vaccinations for the aged raised by Mr TAM Yiu-chung just now, I have mentioned that it was the decision of the Advisory Committee to provide the residents of homes for the elderly with free vaccinations. As regards other aspects, we have not received any recommendations from the Advisory Committee so far.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, both the Secretary and the Honourable LAU Kong-wah have referred to the Lunar New Year as the peak period of influenza, and we know that there will be a few days' public holidays during that period. Bearing in mind that patients (including those suffering from influenza) who seek medical treatment at the accident and emergency department of public hospitals during public holidays usually have to wait for four hours before they could receive any treatment, could the Secretary inform this Council of the arrangement for the forthcoming long public holiday? Besides, could the Secretary also inform this Council whether the Government have made any publicity in the network already in place; and whether it has made any preparations in this respect?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): I should like to thank the Honourable Member for raising this supplementary. In view of the forthcoming peak period of influenza incidentally occurring with the Lunar New Year holidays, it is necessary for both the Department of Health and the various hospitals to make adequate preparations. In other words, we need to make extra arrangements in regard to resources allocation, referral services or service enhancement.

MISS CHAN YUEN-HAN (in Cantonese): *The Secretary has not answered my supplementary on whether the public out-patient clinics and private hospitals would inform the public of any special arrangement made for the situation in which a long period of public holidays converges with the peak period of influenza (this has happened before). Already, the existing waiting time for*

medical treatment could be as long as four hours, what would happen during long public holidays?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): According to my understanding, the Department of Health is currently discussing with the Hospital Authority on ways to tackle the situation. We can all see a large number of patients suffering from influenza or other diseases are seeking treatment from hospitals, no doubt they will add to the workload of the hospitals concerned. As regards the forthcoming long holiday, it is necessary for us to have in place some contingency arrangements as well as to strengthen the existing services to cater for any possible needs.

PRESIDENT (in Cantonese): Sixth question.

Application for Visit Visas

6. **MR HOWARD YOUNG** (in Cantonese): *Madam President, will the Government inform this Council whether the Immigration Department has given advice to Hong Kong Special Administrative Region (SAR) passport holders, in response to their enquiries, on how to apply for visit visas to countries which have not set up consulates in Hong Kong; if so, of the advice the Immigration Department has given to these persons?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, rarely has the Immigration Department received inquiries from SAR passport holders on how to apply for visit visa to the countries which do not have consular posts in Hong Kong. In the few cases where the Immigration Department was approached, our officers confirmed with the inquirers whether a visa was indeed required for the intended visits, and, if so, advised them to consult a relevant airline or travel agency. While the visa application procedures of the countries concerned may change from time to time, many commercial operators maintain good access to up-to-date information.

MR HOWARD YOUNG (in Cantonese): *Madam President, if I remember it correctly, there appeared to be some precedents before the reunification in which the Immigration Department was asked to process visas for some countries. Of course, that was done under special circumstances because these seemed to be countries from the British Commonwealth. Will the*

Government of the SAR inform this Council whether it has looked into such practice or similar practices? Is this practice feasible? If the Immigration Department can do something similar, it may perhaps help to solve the problem.

SECRETARY FOR SECURITY (in Cantonese): Madam President, the Honourable Member was right. Before the reunification, the Immigration Department did provide visa services for those countries which did not have consular posts in Hong Kong. It also provided the issue of entry permits for Britain. After the reunification, the Immigration Department did not provide this service any more; nor did any country make such requests to the Immigration Department. If we did receive such requests, we must consider several factors: the demand for visa service to be provided in Hong Kong on behalf of these countries, the workload involved, the ability of the Immigration Department to cope given its existing resources, the existence of other better alternatives such as reflecting the wish of Hong Kong people to the Ministry of Foreign Affairs for consulates of such countries to be set up in Hong Kong to facilitate the people of Hong Kong to do business in or to travel to these countries.

MR HOWARD YOUNG (in Cantonese): *Madam President, I would like to raise another question, not a supplementary one.*

PRESIDENT (in Cantonese): You may ask the question since no other Members are queuing up.

MR HOWARD YOUNG (in Cantonese): *Madam President, I think what the Secretary said is feasible. That means we can encourage overseas countries to set up consular posts here and doing all other things as mentioned. Will the Government inform this Council whether the Immigration Department would log in or somehow record inquiries from the people so that after some time if it was found the inquiries about visa services were frequent enough the Government could start doing something? Has the Government done anything like this?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as I pointed out a while ago, there were just few cases in which the Immigration Department received inquiries from SAR passport holders on how to apply for

visit visa to the countries which do not have consular posts in Hong Kong. The fact is — I suppose Mr YOUNG knows this very well— that the tourism industry has prepared some pamphlets showing which countries require visas from visitors or for how long can visitors stay there visa-free. Generally speaking, if one wants to know whether a visit visa is needed for a particular country which has no consulate in Hong Kong, the quickest and most convenient way to find out is to approach the relevant airline or travel agent. But we may feedback the information to the Ministry of Foreign Affairs if needed. For example, when the Honourable HUI Cheung-ching told us Hong Kong people needed to go to Singapore to apply for visas from some Middle East countries which had no consulates in Hong Kong, we have informed the Ministry accordingly, and we would continue to act like like in future.

MR HOWARD YOUNG (in Cantonese): *Madam President, I would like to follow up on the Secretary's reply. I agree that the relevant airline or travel agent should have the information. Will the Government inform this Council whether it has contacted organizations in the industry to find out whether they have received such inquiries and the frequencies of such inquiries? If the industry reports to the Government there are indeed inquiries about the issue of visas by several countries, will it help the future work of the Immigration Department, such as encouraging the setting up of consulates?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, in the past the Immigration Department did not take the initiative to ask which countries with no consular posts in Hong Kong are likely to be visited by Hong Kong people and then go on to make inquiries as regards the issue of visas. As I said, we may feedback the information to the Ministry of Foreign Affairs if it is found that many Hong Kong people would like to visit or do business in such countries and such facts are reflected to the Immigration Department. We would like to see whether the Ministry of Foreign Affairs can negotiate with such countries on the possibility of setting up consulates in Hong Kong in order to make it easier for Hong Kong people to visit the countries concerned.

WRITTEN ANSWERS TO QUESTIONS

Causes of Delays in Road Works

7. **DR LUI MING-WAH** (in Chinese): *As the road works undertaken by various government departments and public utility companies for laying underground pipelines and cables and so on, are often progressing slowly, thereby adversely affecting Hong Kong's cityscape and traffic movements, will the Government inform this Council whether it will consider inviting the Hong Kong Productivity Council to conduct investigations into the causes of delays in such works and make recommendations for improving the project arrangements?*

SECRETARY FOR WORKS (in Chinese): Madam President, there are currently 12 utility undertakings operating in Hong Kong, with underground installations ranging from slim optical fibres to large diameter gas and water pipes and drainage culverts. With so many different services installed in the limited space underneath our roads and footpaths, progress on utilities road opening works is frequently affected by the close proximity of adjacent utilities, uncharted old utilities and unforeseen underground obstructions.

In order to minimize delay, the Highways Department has established co-ordination forums at different levels, namely the Joint Utilities Policy Group at policy management level, the Utilities Technical Liaison Committee at technical management level, and the Road Opening Co-ordinating Committees at working level. The Highways Department has also implemented a computerized Utility Management System since October 1997 to enhance control and co-ordination of utility road opening works. With such effort, co-ordination among utility undertakings and phasing of works by different parties affecting the same stretch of road has improved.

At site level, the Highways Department assigns supervisory staff to conduct regular inspections on utility works. Once unattended sites or slow works progress are identified, the Highways Department will urge the responsible organizations to expedite progress. To further tighten the control, the Highways Department has imposed an additional standard condition in all Excavation Permits since 1998 to the effect that road opening sites must not be left unattended without a valid reason.

Notwithstanding the above, arrangements necessitated by practicability considerations might sometimes give the impression of repeated or prolonged

road works. For example, utility works in close vicinity of each other are not normally allowed to proceed simultaneously in order to limit their impact on each other. Very often, they have to be carried out one after another so as to maintain sufficient road widths for traffic and pedestrian movements. Hence, sometimes, for a particular location, utility works may appear to have been going on for a considerable period of time, but in fact this is because different utility undertakings have to carry out their own works sequentially due to the traffic constraint. In other circumstances utilities road opening sites may sometimes appear to be inactive in the eyes of the general public, even though they are in fact making progress. Situations which might give the impression of being an unattended idling site include the awaiting of test results of new services after installation, and the curing of fresh concrete after completion of road pavement reinstatement works. To avoid misunderstanding from the public that no work seems to be in progress on such sites, Highways Department has required utility undertakings to erect display boards on site to advise the public of the reasons for the apparent unattendance and the anticipated completion date.

We are fully aware of the problems created by the road opening works, and we do not consider it necessary to request Hong Kong Productivity Council to conduct a study at this time. Nevertheless, the Highways Department will continue to co-ordinate and closely monitor the implementation of utilities road opening works to minimize delay as far as possible.

Organ Donation

8. **DR LEONG CHE-HUNG:** *In the reply to a question on organ donation asked in the former Legislative Council on 30 January 1991, the then Secretary for Health and Welfare pledged that "the Administration has accepted the idea of an opting-out system as a long-term goal", and that "the immediate task is to draw up an action plan" including "legislation, allocation of resources, training of staff, administrative arrangements and, not least, a lengthy period of public education". In this connection, will the Government inform this Council whether it is still working towards such a goal; if so, whether the action plan that has been drawn up as promised; if not, the point in time and the reasons for backtracking from the goal?*

SECRETARY FOR HEALTH AND WELFARE: Madam President, it is the

Administration's established policy to encourage voluntary organ donation. In the past years, publicity and education campaigns have been launched with a view to achieving this goal. We consider that the nurture of a positive understanding and attitude towards organ donation through long-term publicity and education is the ultimate solution to the shortage of organ donors. If there is sufficient public support and participation, the number of organ donation cases will increase, regardless of which donation system we adopt.

In a motion debate held in the Legislative Council earlier this month, Members had a thorough discussion on the "Opt-in" and "Opt-out" system. The Secretary for Health and Welfare had expressed the view that it would not be an opportune time to introduce the "Opt-out" system when such a system has yet to receive general acceptance within the community. We had also expanded on the envisaged difficulties in enforcing the "Opt-out" system. The majority of the Members concurred with the Administration's stance on this subject.

Nonetheless, we will further advocate the importance of organ donation to the public by keeping up our publicity and educational efforts. The Hospital Authority and the Central Health Education Unit of the Department of Health, in collaboration with various non-government organizations, formulate annual action plans and organize various publicity and educational activities. For instance, the focus of this year is to encourage citizens who have signed the organ donation cards to inform their family members of their decision as early as possible, so as to ensure that their wish is fully understood and respected. The relevant parties will also put emphasis on teaching health care professionals the relevant knowledge, with a view to obtaining more suitable organs for donation through their assistance and support.

Seminars on Financing of Hong Kong Health Care Services

9. **MR MICHAEL HO** (in Chinese): *It is learnt that seminars on the findings of the consultancy study on financing of the Hong Kong health care services were held between the consultant concerned and the Hospital Authority (HA) before the submission of the consultancy report to the Government. In this connection, will the Government inform this Council whether:*

- (a) *it knows why only a small number of people within the profession have been invited to attend the seminars; and*
- (b) *it plans to hold public seminars after the publication of the consultancy report and invite the consultant to provide a briefing and to answer questions on the report at the seminars; if not, the reasons for that?*

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

- (a) The "seminar" referred to in the Question was held on 9 December 1998. According to the HA, this "seminar" was part of HA's "Food for Thought" Distinguished Speakers Programme, which is organized for HA's senior executives and medical professionals, as part of the staff training and development programme. Under the Distinguished Speakers Programme, personalities from different sector, including politicians, journalists and academics, are invited to speak on a variety of topics. The Health and Welfare Bureau has no involvement in this Programme, which is initiated and organized by HA.

Prof William HSIAO of the Harvard University of the United States is internationally renowned for his academic expertise in health care financing and reforms. He was therefore invited by HA to speak on this subject. The main theme of the "seminar" was to explore HA's role in improving Hong Kong's health care quality, not to discuss the contents of the Consultancy Report being prepared by Professor HSIAO for the Government.

- (b) The Consultancy Report will reflect the Consultants' views and recommendations in relation to the Hong Kong health care system. After the Consultancy Report is released, the Health and Welfare Bureau will attend meetings and seminars to, on behalf of the Consultants, listen to the community's views on the Report and, where required, to answer or clarify questions relating to the content of the Report. We are at present examining whether there is a need to arrange for the Consultants to return to Hong Kong upon release of their Report, so that they can directly introduce the Report to the public and answer inquiries.

Hearing Care Services Provided to Students

10. **DR TANG SIU-TONG** (in Chinese): *With regard to the hearing care services provided to students, will the Government inform this Council:*

- (a) *whether, apart from giving hearing tests to all Primary 1 students at present, it provides such tests for primary and secondary school students in the regular medical examination conducted every year; if it does, what the sense of hearing of students in Hong Kong is, as indicated in the results of those hearing tests in the past three years; if not, the reasons for not providing such tests and whether they are related to administrative, technical and financial difficulties; and*
- (b) *of the departments from which students can seek help if they are suspected to have hearing problems; the services provided by such departments on the hearing problems of those students; the total number of assistance-seeking cases received by those departments, and the respective numbers of students who have been provided with the necessary services and who have been confirmed to have hearing problems in the past three years?*

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

- (a) The Student Health Service is offered by the Department of Health to all primary and secondary school students in Hong Kong. Enrolled students suspected of having hearing problems during the annual general check-up will undergo hearing tests at a Student Health Service Centre. Students having initial signs of hearing problems or speech problems, with a medical history of ear inflammation or ear discharge problem, or with a family history of deafness are all referred to undergo hearing tests. In the past three years, the number of students who were found to have hearing impairment after undergoing tests at the Student Health Service Centre is as follows:

<i>Academic Year</i>	<i>Number of students found to have hearing impairment by Department of Health</i>	<i>Number of students treated by the Department of Health</i>	<i>Number of students referred to the Hospital Authority or the Education Department</i>
1995-96	1 828	1 353	475
1996-97	1 094	564	530
1997-98	1 294	739	555
Total	4 216	2 656	1 560

Referral cases include cases referred to the Special Education Services Centre of the Education Department for audiological assessment, hearing device fitting and supportive remedial service, or to the ear, nose and throat specialist clinics (ENT clinics) under the Hospital Authority for treatment. For the remaining students, they were given simple treatment such as clearing up of ear wax and administering antibiotics against ear inflammation at the Student Health Service Centres.

- (b) A student who suspects himself or parents who suspect their child to have hearing problems may seek help from the Education Department direct or by referral from his school for the necessary services. On receipt of the case, the Education Department will make arrangement for the student to undergo a hearing screening test or audiological assessment. Having diagnosed the problem, the Department will take the necessary follow-up actions, such as contacting the school for special classroom seating arrangement, providing hearing devices for the student, arranging advisory service or offering him a place in a special class or special school for hearing-impaired children. If the student is suffering from ear disease, the Department will refer him to an ENT clinic under the Hospital Authority. The number of assistance-seeking cases received by the Education Department (including those referred by the Student Health Service of the Department of Health), that of

hearing tests or assessments conducted and of students requiring follow-up services in the past three years are shown in the table below:

<i>Academic Year</i>	<i>Number of assistance-seeking cases</i>	<i>Number of students undergoing tests or assessments</i>	<i>Number of students requiring follow-up services</i>
1995-96	2 928	2 928	1 560
1996-97	2 800	2 800	1 551
1997-98	2 601	2 601	1 495
Total	8 329	8 329	4 606

Selection of Contractors for IT Projects

11. **MR SIN CHUNG-KAI** (in Chinese): *As the Government has indicated in its Information Technology (IT) Strategy "Digital 21" that over two thirds of all new IT projects in the Government would be outsourced, will the Government inform this Council, in the selection of contractors for such IT projects:*

- (a) *of the criteria that will be adopted;*
- (b) *how it ensures that both local and overseas registered companies will have fair opportunities to participate in those projects;*
- (c) *whether it will consider requiring the appointed contractors to adopt measures to promote the transfer from foreign countries of those information technologies which Hong Kong lacks; and*
- (d) *whether it will consider following the practice of other countries whereby a certain proportion of such IT projects will be open to tender by small and medium sized enterprises (SMEs) only?*

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

- (a) In the selection of contractors for outsourced IT projects, we shall adopt the principles and guidelines provided under Government's Stores and Procurement Regulations. Broadly speaking, the contractor must meet the technical specifications and the terms and conditions laid down in the tenders. The details of individual tenders differ and are set having regard to the practical requirements of individual projects. The more common specifications and terms and conditions relate to the technical and financial capability of the tenderers, timely delivery or completion, compatibility of proposed solutions with existing or planned purchases, after sale support, maintenance costs, and fair market prices, and so on.
- (b) Under the provisions of the Stores and Procurement Regulations and the World Trade Organization (WTO) Agreement on Government Procurement, companies registered locally or overseas compete on an equal footing. The Government will not give preferential treatment to individual companies on the basis of where the concerned company is domiciled. We publicize our tender notices widely through publication in the Government Gazette and posting on the web. Interested parties, both local and overseas ones, are invited to bid.
- (c) Depending on the requirements of individual tenders, we will consider requiring the appointed contractor to adopt measures to promote the transfer from overseas of those information technologies that Hong Kong lacks. For example, we can stipulate in the tender requirements that the contractor must take into consideration best practices elsewhere in drawing up recommended solutions. We can also require the contractors to arrange transfer to specific IT skills to the staff of the concerned government departments.

- (d) In conducting tender exercises for outsourced IT projects, the Government will not set aside a certain proportion of such IT projects to be open to tender by SMEs only. Hong Kong is a party to the WTO Agreement on Government Procurement. The Agreement prescribes a set of requirements regarding non-discriminatory treatment of goods and services to be procured, the qualification of suppliers, tender procedures, tender specifications and challenge procedures for procurements above a certain value. (For Government IT purchases this value is currently set under the Agreement as 130 000 Special Drawing Rights, equivalent to about \$1,474,000.) As such, we cannot restrict such tenders to bidding by companies of a certain size only.

Operation of the Language Fund

12. **MR ERIC LI** (in Chinese): *In respect of the operation of the Language Fund, will the Government inform this Council whether it knows:*

- (a) *the total number of projects which have been supported by provisions from the Language Fund granted since the establishment of the Fund; please give details of the parties receiving such provisions according to their organizational types (such as tertiary institutions, secondary schools, primary schools, professional bodies and business enterprises); and the total amount involved in funding these projects;*
- (b) *the number of projects classified by the nature of projects (such as academic research, teaching activities and the use of language) for each organizational type of projects in (a) above; and*
- (c) *the criteria used in deciding which applications should be given priority?*

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

- (a) The Language Fund has supported a total of 228 projects since its

establishment in 1994, amounting to \$269.69 million. The breakdown of recipient organizational types, number of projects and funding is as follows:

<i>Organizational Type</i>	<i>No. of Projects</i>	<i>Amount (\$ million)</i>
Tertiary Institutions (including projects awarded to departments and individual researchers)	61	71.81
Secondary Schools	48	3.93
Primary Schools	32	1.08
Kindergartens	2	0.03
Professional Bodies *1	49	43.82
Business Bodies	3	1.61
SCOLAR *2	4	63.74
Education Department *3	12	52.26
Others Government Department *4	17	31.68
Total	228	269.96

(SCOLAR: Standing Committee on Language Education and Research)

* Please see Annex

- (b) The number of projects classified by nature for each of the organizational types listed in (a) above is as follows:

<i>Nature of Projects *5</i>	<i>Teaching activities (including development of teaching materials)</i>		
<i>Organizational type</i>	<i>Research</i>		<i>Total</i>
Tertiary Institutions (including projects awarded to departments and individual researchers)	43	18	61
Secondary School	0	48	48
Primary School	0	32	32
Kindergarten	0	2	2
Professional Bodies	5	44	49
Business Bodies	1	2	3
SCOLAR	1	3	4
Education Department	3	9	12
Others Government Offices	1	16	17

Total	54	174	228
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(SCOLAR: Standing Committee on Language Education and Research)

* Please see Annex

- (c) The Standing Committee on Language Education and Research (SCOLAR) takes into account the language needs of the local community in deciding which applications should be given priority. In 1997 and 1998, priority was given to primary (including pre-primary) language education and secondary language education, in particular English language projects undertaken by or for schools which adopted Chinese as the Medium of Instruction. SCOLAR also invites tenders for priority research items to encourage corresponding research.

Annex

*Notes

- 1 : Professional Bodies such as Hong Kong Professional Teachers' Union for Popular Reading Award Schemes totalling \$1.36 million and English Speaking Day Camp (\$280,000) for secondary school students; Federation of Education Workers of Hong Kong for an advance Putonghua course (\$110,000) for in-service Putonghua teachers; Hong Kong Federation of Youth Groups for Putonghua exchange camps/programmes and English learning activities (totalling \$5.19 million); British Council English teaching and learning video packages and English self-learning packages totalling \$4.71 million for English teachers and students; Hong Kong Council of Early Childhood Education and Services' English teaching curriculum package for kindergarten teachers and story book reading programme (totalling \$1.51 million) for children, Chatteris Educational Foundation's placement of native English youths in secondary schools as well as in secondary schools adopting Chinese as the teaching medium (totalling \$14.95 million), and so on.
- 2 : The majority of projects under SCOLAR directly benefit primary and secondary schools. For example, an "English Corner" for each Chinese-medium (CMI) secondary school (\$9.6 million) and additional

school-based English programmes for CMI students (\$47 million) and so on.

- 3 : The funding allocated to the Education Department supports, amongst other programmes, the Chinese Extensive Reading Scheme in Primary Schools (\$11 million), expanding the Intensive English Language Programmes for Secondary 6 and Intensive English Course for Secondary 7 Students (\$17 million), Primary English Teachers' Oral Proficiency Courses (\$9.2 million) and so on.
- 4 : Other government departments include one project (\$13.08 million) from the Education and Manpower Bureau and 16 projects (totalling \$18.6 million) from the Radio Television Hong Kong (RTHK). In response to the Education Commission Report No. 6, the Education and Manpower Bureau set up the Standing Committee on Language Education and Research (SCOLAR) and the SCOLAR Support Unit. Grants for RTHK were used for production of TV and radio language programmes, out of which five programmes (totalling \$4.84 million) (for example, Correct Chinese Pronunciations, One Minute Chinese) concerning Chinese language, six projects (totalling \$6.89 million) promoted Putonghua (for example, Putonghua Communication, Putonghua Parent-child Drama) and five were for English programmes (totalling \$6.87 million) (for example, Basic English, Youth Weekly).
- 5 : As both research and teaching activities relate to "the use of language", there are no separate figures for "use of language" projects *per se*.

Recruitment of Qualified English Teachers

13. **MR CHEUNG MAN-KWONG** (in Chinese): *Since the 1998 school year, secondary schools adopting Chinese as the medium of instruction have been provided with a grant for recruiting two additional English teachers. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of schools which have recruited the required number of qualified English teachers and those which have not;*
- (b) *whether it is aware of any school which has recruited English*

teachers who do not meet the prescribed qualifications; if so, of the number of such schools and the reasons for it; and

- (c) *whether it knows if schools have encountered difficulties in implementing this scheme; if so, the details of them and the measures the Administration has in place to help schools overcome the difficulties?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, starting from the 1998-99 school year, all public sector secondary schools using Chinese as the Medium of Instruction have been allocated funding to employ an average of two additional English teachers. The additional teachers must be assigned to teach English classes. The actual number of additional posts varies from school to school in accordance with the number of classes in the school.

- (a) and (b)

According to information from the Education Department, all public sector secondary schools adopting Chinese as the Medium of Instruction (around 300 schools) have successfully filled all such additional teacher posts with teachers who meet the prescribed qualification requirements in accordance with relevant provisions in the Education Ordinance and the Code of Aid.

- (c) To date, we have not encountered major problems in implementing this scheme. The Education Department will continue to liaise with schools and will provide assistance as and when necessary.

Assessment of Charitable Bodies

14. **MISS CHRISTINE LOH:** *I have received reports that a number of social organizations had their charitable body status removed by the Administration. In this connection, will the Administration inform this Council:*

- (a) *whether it has changed the qualifying criteria for charitable bodies;*
- (b) *which and how government bureaux and departments are involved in the assessment of charitable bodies;*
- (c) *of those organizations that had their charitable body status removed in the last two years and the basis for removing such status;*
- (d) *of the number of charitable bodies currently being reassessed for their status; and*
- (e) *whether it has assessed how the reassessment will benefit the Administration and the community?*

SECRETARY FOR THE TREASURY: Madam President, section 88 of the Inland Revenue Ordinance (IRO) (Cap. 112) provides tax exemption for charitable institutions. The term "charitable institution" is, however, not separately defined in the IRO. In considering whether the organization can be accepted as a charitable institution for tax exemption purposes under the IRO, the Inland Revenue Department (IRD) has applied the meaning given to the term in English case law. Based on an authoritative court decision, purposes that may be accepted as charitable can be categorized as follows:

- (i) relief of poverty;
- (ii) advancement of education;
- (iii) advancement of religion; and
- (iv) other purposes of a charitable nature beneficial to the community not falling under any of the preceding categories.

The IRD has all along adopted the above criteria in determining whether an organization can be accepted as a charitable institution for tax exemption

purposes.

With regard to part (a) of the question, we have not changed the criteria for recognizing charitable institutions under section 88 of the IRO recently. However, since 1990, we have not been granting tax exemption status to overseas charities unless the charities concerned establish themselves in Hong Kong. We are presently reviewing the tax exemption status previously granted to overseas charities and will withdraw the exemption if the charities are not established in Hong Kong.

With regard to part (b) of the question, the IRD is responsible for recognizing charitable institutions or trusts for the purpose of granting exemption under the IRO. The IRD will examine, among other things, the governing instrument of the organization concerned. In particular, it will scrutinize the object clause, income clause and dissolution clause to ensure that all the objects of the organization are charitable and that there are adequate safeguards to prevent the channelling of funds for non-charitable purposes. To confirm that the objects of organizations are still charitable and their activities are compatible with their objects, the IRD will review the recognized charitable organizations in cycles of approximately four years.

With regard to part (c) of the question, during the financial years 1996-97 and 1997-98, tax exemption was withdrawn in 117 cases. Any removal of names from the list of approved charities due to the withdrawal of tax exemption granted is published in the Government Gazette at quarterly intervals. An updated list of all approved charities is gazetted annually.

Tax exemption will be withdrawn under various circumstances including:

- (i) the organization has not replied to the IRD's inquiries arising from the periodic review;
- (ii) the organization is carrying out an act which is not authorized by its governing instrument;
- (iii) the organization has ceased its activities or is dormant; or

- (iv) the organization has been dissolved or wound up.

With regard to part (d) of the question, as of now, the IRD is reassessing the status of 134 charitable organizations.

With regard to part (e) of the question, it is necessary to review the charities periodically so as to ensure that only those entities recognized as charitable organizations under the IRO should be granted tax exemption. Where it is considered that a recognized institution can no longer be regarded as a charitable institution for purposes of the IRO, the tax exemption previously granted will be withdrawn. Upon the withdrawal of tax exemption, the organization concerned will be subject to the provisions of the IRO in respect of its tax liability, if any.

Application of IT in Education

15. **MR YEUNG YIU-CHUNG** (in Chinese): *Regarding the promotion of the use of information technology (IT) in primary and secondary education, will the Government inform this Council whether:*

- (a) *it has assessed the quality of computer software currently used for teaching purposes and identified the areas in such software which require improvement; and*
- (b) *the Education Department (ED) has considered encouraging pilot schools to share with other schools their experience in the application of IT in education, as well as the contents of the improved curriculum and other information; if it has, the details of the consideration and whether the relevant information will be uploaded onto the Internet; if not, the reasons for that?*

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

- (a) The Quality Education Fund has provided funding to the Chinese University of Hong Kong for a project entitled "Pilot Scheme on Q-Mark Software for Hong Kong Quality Education" with a view to assisting teachers in selecting appropriate and quality teaching software. This one-year scheme was launched in August last year.

Its main tasks are to test, assess and advise on the educational software available in the market; and to provide relevant information to schools, teachers and students so as to help them purchase appropriate educational software.

In addition, the ED has set up an Information Technology Education Resource Centre (ITERC) last September. The centre has an educational software library to source and promote teaching software. Teachers may try out the software before purchase to ensure that it meets the requirements of the school. ITERC staff will invite teachers to give their views after trial of the software and collate such views for future reference by other teachers.

ITERC will closely monitor the results of various assessment exercises, and collect and analyse information on the requirements of schools and teachers for educational software. It will regularly organize seminars and experience-sharing sessions to brief teachers on the selection of quality educational software and to recommend appropriate software for use by local schools. It will also provide software developers and publishers with relevant information through various channels to ensure that the software they produce can meet the requirements of local schools.

- (b) The aim of the pilot school scheme is to identify the ideal approach and strategy in using IT to support teaching and learning and based on the experience gained from the scheme, to further promote the application of IT in education. In addition, we also hope to introduce to other schools the successful experiences of the pilot schools.

The ED encourages pilot schools with initial success to open up for visits by other schools and share among one other their experiences, in order to enhance the other schools' knowledge in the use of IT in teaching and learning. The ED will also closely liaise with the pilot schools and, through school visits and other means, collect and collate information on the design of teaching activities and the school-based IT teaching approaches of these schools. Such information and the successful experiences of these schools will be shared with other schools through the homepage of the ED on the

Internet, seminars, study classes, workshops, experience-sharing sessions and exhibitions, and so on.

Assessment of Non-Local Courses

16. **DR TANG SIU-TONG** (in Chinese): *In respect of the assessment of non-local courses for study in Hong Kong, will the Government inform this Council:*

- (a) *whether it knows:*
 - (i) *if the Hong Kong Council for Academic Accreditation (HKCAA) conducts assessment on such courses only upon the request of the Registrar of Non-local Courses;*
 - (ii) *the criteria adopted by the HKCAA in assessing such courses;*
 - (iii) *how the results of assessments are released by the HKCAA;*
 - (iv) *if the public can obtain information on the assessment results of such courses from the HKCAA; if so, of the relevant procedures and fees; if not, the reason for that; and*
- (b) *whether it will consider requiring the inclusion of the HKCAA's assessment results on such courses in their advertisement for recruiting students; if so, of the specific plans; if not, the reason for that?*

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

- (a) (i) Under the Non-local Higher and Professional Education

(Regulation) Ordinance (the Ordinance), all courses conducted in Hong Kong leading to the award of non-local higher academic qualifications (that is, sub-degree, degree, post-graduate or post-secondary qualifications) or non-local professional qualifications must apply for registration or exemption.

The Registrar of Non-local Higher and Professional Education Courses (the Registrar), that is, Director of Education, is responsible for the execution of the Ordinance. Upon the request of the Registrar, the HKCAA provides professional advice on whether an application fulfils the respective registration criteria stipulated in the Ordinance.

(ii) The registration criteria are as follows:

Courses leading to the award of higher academic qualifications:

- (1) the non-local institution must be a recognized institution in its home country;
- (2) effective measures must be in place to ensure that the standard of the course is maintained at a level comparable with the one leading to the same qualification conducted in its home country; and
- (3) the comparability in standard must be recognized by the institution, the academic communities and the relevant accreditation authorities of the country concerned.

Courses leading to the award of professional qualifications:

- (1) the non-local professional body must be a recognized body in its home country; and
- (2) the course is recognized by the professional body

itself.

- (iii) Having considered the application and the information concerned, the HKCAA will advise the Registrar on whether the course meets the registration criteria set out in the Ordinance. The advice is provided to the Registrar for reference and will not be made public.
 - (iv) A register of registered and exempted courses is kept in the Education Department's Non-local Courses Registry for free public inspection. The public may also look up for the list of registered and exempted courses on the Education Department's webpage, at [〈http://www.info.gov.hk/ed〉](http://www.info.gov.hk/ed).
- (b) Under the Ordinance, no person shall publish any advertisement on a course which is not registered or exempted. Advertisement in respect of any registered course must contain its registration number. Successful registration of a course means that its standard has fulfilled the requirement stipulated in the Ordinance.

Trading of Securities on the Internet

17. **MR SIN CHUNG-KAI:** *Trading of securities on the Internet is becoming common in developed countries. In this connection, will the Government inform this Council:*

- (a) *whether it knows of the initiatives that have been taken by the relevant authorities to promote the trading of securities on the Internet;*
- (b) *whether it knows of the measures that have been taken by such relevant authorities to ensure information security in respect of such trading activities; and*
- (c) *whether there are specific rules and regulations governing the trading of securities on the Internet and protecting the investors' rights; if not, whether it will consider formulating such rules and regulations?*

SECRETARY FOR FINANCIAL SERVICES: Madam President,

- (a) Currently, there are three Internet brokers operating in Hong Kong offering trading and information services to clients. Buying and selling orders from clients are transmitted via Internet to these brokers who will then execute these orders through the exchanges in the same way as orders received by other means. The Stock Exchange of Hong Kong (SEHK) is in the process of upgrading its Automated Order Matching and Execution System (AMS) which will enhance, among other things, the market access to the AMS through the introduction of electronic-based order routing facilities such as the Internet and telephone systems for investors. Upon completion of this project by mid 2000, it is expected that securities trading through Internet will likely become more popular.

The relevant regulator and market operators are well aware of the far-reaching impact brought about by technological advancement on the global financial markets, in particular by Internet trading. The Securities and Futures Commission (SFC), the SEHK and the Hong Kong Futures Exchange, with the co-sponsorship of the Better Hong Kong Foundation, conducted a study on the possible impact of Internet trading of securities in Hong Kong and opportunities rendered by this new development. A report titled "Internet Investment Services, Conclusions and Recommendations for Hong Kong" was published in November 1998. In essence, the report concluded that the emerging Internet trading would inevitably bring about structural changes to the existing mode of operations in the financial markets and called for pre-emptive and visionary development and regulatory measures. The SFC and the two exchanges are considering the recommendations of the report and their implications for the market.

From a broader perspective, the Administration will take the lead to promote and facilitate the adoption of electronic transactions in Hong Kong. These initiatives include introducing the Electronic Service Delivery scheme to provide public services to the community electronically through an open and common information infrastructure, setting up local public key infrastructure to provide a secure and trustworthy environment for

the conduct of electronic transactions and establishing a clear legal framework to provide certainty in electronic transactions.

- (b) The SFC is currently preparing Guidance Note on Internet Trading to clarify the SFC's regulatory approach in respect of securities trading through Internet on the basis of the existing legislation and to draw to the attention of registered persons special areas where regulatory concerns may arise. The Guidance Note, which is expected to be ready for issue in March this year, would encourage the legitimate use of the Internet as a medium of order routing by securities and futures clients to their dealers.

The Guidance Note will highlight, among other things, the importance of information security and the need to ensure that the computer systems employed by registered persons to facilitate communications and that transactions over the Internet have adequate operational integrity and are capable of addressing issues of security, reliability, capacity and contingency. These requirements will also be reflected in the licensing regime managed by the SFC, whereby an applicant for dealer's licence who intends to use Internet technology to facilitate the conduct of business must, as a fit and proper criterion, satisfy the SFC that he has adequately addressed the issue of security (for example, by the use of encryption).

In the longer term, the SFC is prepared to structure a regulatory regime for Internet trading in the context of the proposed Composite Securities and Futures Bill which will be introduced later this year.

In addition to legislation for specific sectors, the Government also considers that there is a need to establish a clear legal framework to provide a secure and trustworthy environment for the conduct of electronic transactions in general. This will help to strengthen the confidence of the public and encourage them to take part in electronic transactions. The Administration will introduce a bill into the Legislative Council within the first half of 1999 to establish this legal framework.

- (c) Although the recent rapid development of information technology, particularly the Internet, was not envisaged at the time of drafting of the current securities and futures laws, these legislation are nonetheless broad enough to enable the SFC to exercise its supervisory and enforcement functions on Internet-based trades. That notwithstanding, as mentioned in the answer to part (b) of the question, the SFC will prepare a Guidance Note on Internet trading and continue to work on the Composite Securities and Futures Bill to ensure that Internet-based securities and futures trades will be properly regulated in Hong Kong and that investor interests in this mode of trading will be adequately protected.

Traffic Accidents on Flyovers

18. **MR LAU KONG-WAH** (in Chinese): *On 7 January this year, a serious traffic accident involving a container truck and a van occurred on the Texaco Road Flyover in Tsuen Wan, resulting in five deaths and one injury. In this connection, will the Government inform this Council:*

- (a) *if it has assessed whether the design of the flyover concerned is in compliance with safety standards;*
- (b) *if it has assessed whether the flyover concerned and connecting road sections have clear and adequate signage to facilitate motorists in recognizing the directions of traffic;*
- (c) *of the number of existing dual-way two-lane flyovers in the territory, and how the number of traffic accidents on such type of flyovers in the past three years compares with the numbers of traffic accidents on other types of flyovers; and*
- (d) *if it has assessed whether the chances of casualties can be reduced in accidents if passengers in the rear seats of vans wear seat belts; if the chances can be reduced, whether the Administration will consider amending the relevant legislation to require passengers in the rear seats of vans to wear seat belts?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President,

- (a) The design of the flyover in question is in strict compliance with our current design standards.
- (b) The flyover is part of the single two-way carriageway starting from Tsuen Tsing Interchange to Texaco Road North. In accordance with the current design standards, the flyover has a system of double white lines in the middle together with chevron markings at both entries to separate the two lanes running in opposite directions. A site inspection made after the accident on 7 January 1999 revealed that the double white lines and chevron markings are clear and should be easily noticeable to drivers.
- (c) There are at present 51 two-lane, two-way flyovers in Hong Kong. As the Government does not maintain accident statistics by the types of flyovers, no comparison can be made between the accident rates of the two-lane, two-way flyovers and other type of flyovers.
- (d) To reduce occupant casualties in vehicles, compulsory wearing of seat belts was first introduced for drivers and front seat passengers of private cars in October 1983. Following the encouraging results of a significant drop in casualties, the requirement was extended to drivers and front seat passengers of taxis and light buses in July 1989 and then to goods vehicles in January 1990. With effect from 1 June 1996, compulsory fitting of seat belts was further extended to rear seats of private cars registered on or after that date. The installation of rear seat belts in private cars has been proved to be effective in reducing injuries to rear seat passengers. The number of rear seat passenger injury cases fell by 17% in the 12-month period immediately following the implementation of the rear seat belt legislation for private cars in June 1996.

The Transport Bureau started a review in September 1998 to consider extending the requirement to wear rear seat belts to other types of vehicles. We expect the review to be completed soon.

Curbing the Importation of Counterfeit Goods

19. **MR NG LEUNG-SING** (in Chinese): *It is learnt that the Customs and Excise Department (the Department) has recently stepped up its efforts in inspecting the belongings brought into the territory by travellers at various border control points with a view to curbing the importation of trade mark counterfeiting goods (commonly known as "counterfeit goods"). In this connection, will the Government inform this Council:*

- (a) *of the criteria adopted by the Department for determining whether the belongings brought into the territory by travellers are for personal use or commercial purposes;*
- (b) *of the quantity and estimated total value of suspected counterfeit goods seized by the Department during the past two months, as well as the respective numbers of persons prosecuted and convicted as a result of its enforcement actions; and*
- (c) *whether it will review the adequacy of existing legislation in curbing the importation of counterfeit goods; if it will not review, why not?*

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

- (a) The officers of the Department rely on their professional knowledge and experience, as well as the relevant evidence *in situ*, to determine whether any counterfeit goods possessed by travellers are for personal use or commercial purposes. The quantity of counterfeit goods possessed by travellers is not a major factor in deciding whether to press charges. The crucial factor is whether there is any *prima facie* evidence to show that the counterfeit goods brought by travellers are for commercial purposes. If there is sufficient evidence, we will prosecute the persons concerned in accordance with the Trade Descriptions Ordinance.
- (b) The enforcement statistics and quantity of counterfeit goods seized

by the Department in November and December 1998 are set out in the table below. Since these cases have not yet been heard by the court, the number of convicted cases is not available at present.

	1998	
	November	December
Number of cases involved	64	70
Number of persons arrested	60	61
Quantity of counterfeit goods seized (pcs)	248 483	112 340
Total value of goods seized	\$5.12 million	\$3.08 million

- (c) The existing legislation is fully in line with international requirements in the protection of trade marks. Our enforcement efforts also demonstrate the effectiveness of the existing regime. We will certainly keep the relevant legislation under review from time to time in order to ensure its continued effectiveness in curbing these illegal activities.

Expansion Factor for New Government Offices

20. **MISS EMILY LAU:** *It is learnt that there is a 10% allowance for expansion (expansion factor) in calculating the space requirement for new government offices. In this connection, will the Government inform this Council:*

- (a) *of the background and rationale for setting such expansion factor;*
- (b) *whether the percentage for such expansion factor should be revised in view of the 5% productivity gain as pledged in the Government's Enhanced Productivity Programme (EPP); and*
- (c) *whether it will consider revising downwards such percentage or abolishing such a practice?*

SECRETARY FOR THE TREASURY: Madam President, with regard to part (a) of the question, we include, for planning purpose, a 10% expansion factor when calculating the space requirements of government departments which have been identified to be moved into new government office buildings to be constructed. Experience shows that such an expansion factor is appropriate to meet the likely increase in space requirements by the departments concerned during the intervening years between planning and completion of the new office buildings as well as in the few immediate years following removal to the new premises. The actual allocation of office space to the departments concerned will be determined on their actual justified needs at the time of completion of the new government buildings.

With regard to part (b) of the question, the 5% productivity gain on baseline operating expenditure is to be achieved by 2002-03. Controlling Officers will consider how to deliver the 5% productivity gain having regard to the circumstances of the bureaux and departments under their charge. At this stage, it is too early to assess what impact the EPP may have on space requirements of government entities and it is possible that any impact may vary from department to department. We will monitor the situation closely in the light of implementation of the EPP and if justified, will adjust the 10% expansion factor as appropriate.

With regard to part (c) of the question, as explained above, it is too early to consider whether the expansion factor should be revised downwards or abolished.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

ADAPTATION OF LAWS BILL 1999

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1999

ELECTRICITY (AMENDMENT) BILL 1999

FIREARMS AND AMMUNITION (AMENDMENT) BILL 1999

CLERK (in Cantonese): Adaptation of Laws Bill 1999

Factories and Industrial Undertakings (Amendment)
Bill 1999

Electricity (Amendment) Bill 1999

Firearms and Ammunition (Amendment) Bill 1999.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

ADAPTATION OF LAWS BILL 1999

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I move the Second Reading of the Adaptation of Laws Bill 1999.

The purpose of this Bill to make essential adaptation to 17 Ordinances related to private organizations to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China.

Most of the proposed amendments are restricted to the changes in wording only. For instance, references to "the Colony" and "總督" are substituted by "Hong Kong" and "行政長官" respectively. Provisions contained in the Ordinances for the purpose of preserving the right of "Her Majesty the Queen, Her Heirs or Successors" are amended by substituting the right of "the Central People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws" in accordance with section 21 of Schedule 8 to the Interpretation and General Clauses Ordinance. All references made to "官方" in the Ordinances and provisions related to the grant or reversion of land are substituted by "政府".

The Bill also provides that, subject to Article 12 of the Hong Kong Bill of Rights, the adaptations when passed into law shall take effect retrospectively, as from the date of establishment of the Hong Kong Special Administrative Region.

I hope Members will support the passage of this Bill.

Madam President, with these remarks, I move the motion.

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

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

FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1999

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I move the Second Reading of the Factories and Industrial Undertakings (Amendment) Bill 1999.

The Bill provides for mandatory safety training for persons employed in the construction and container handling industries, and to expand the Commissioner for Labour's power to make regulations under section 7 of the Factories and Industrial Undertakings Ordinance.

Despite some improvement in our safety records in recent years, the industrial accident rates in Hong Kong have remained unsatisfactorily high, particularly the construction industry. In 1997, while the construction industry had an average annual accident rate which was 3.8 times higher than that of all the other industries, it also accounted for 41 out of the 58 fatal accidents. On the other hand, the container handling industry is likewise a high-risk sector where 10 workers were killed in workplace accidents in the three years of 1995 to 1997 alone.

We believe that basic induction safety training for workers will help to enhance their safety awareness at work, and consequently the prevention of accidents at the workplace. The contractors of public works programmes and Housing Authority projects have been required, since 1995 and 1996 respectively, to provide induction safety training to their site workers as part of their contract conditions. Since then, industrial accident rates in these two

programmes have fallen significantly.

In order to promote the provision of safety training for workers, we propose that the Factories and Industrial Undertakings Ordinance be amended to make safety training mandatory and that, as a first step, the requirement should apply to the construction and container handling industries. We propose that all persons employed on construction sites and container depots, except those engaged in office administration or activities unconnected with construction or container handling work, should be required to receive basic safety training. However, we also propose a grace period whereby the Bill will only take effect 14 months after its enactment. Safety training courses are currently provided by the Construction Industry Training Authority and the Vocational Training Council for construction and container handling workers. The certificates issued to graduates of their courses will be recognized by the Administration for the purpose of this new requirement.

After the grace period, proprietors and contractors of construction work and container handling operations can only employ workers who are holders of a valid certificate. The workers concerned will also be required to carry the certificate with them while at work. The maximum penalties on the proprietors/contractors and workers for breaching the law are \$50,000 and \$10,000 fines respectively. We believe that, at present, the construction and container handling industries employ 80 000 and 16 000 workers respectively. Therefore, the 14-month grace period should be sufficient to allow all workers to receive training and obtain certificates before the Ordinance takes effect.

Another proposal in the Bill is to expand the Commissioner for Labour's power of making regulations under section 7 of the Factories and Industrial Undertakings Ordinance. The proposal, if passed, will give the Commissioner for Labour sufficient powers to implement a safety management system in specified industrial undertakings. The system provides for the following:

- (a) the registration of Safety Auditors who will undertake audits of safety management systems required to be implemented by proprietors or contractors under the regulation; and
- (b) the specification of the quality and performance of Safety Auditors, Safety Review Officers and the persons or bodies running the Safety Auditor Training Schemes.

This provision will take effect immediately upon the passage of the Bill and we will subsequently table the relevant safety management regulations before this Council.

The provision for mandatory safety training is supported by the Hong Kong Construction Association, the Hong Kong Construction Industry Employees General Union, the four major container terminals, the Container Depot and Repair Association and the Container Transportation Employees General Union. We have also consulted the Labour Advisory Board and its Committee on Occupational Safety and Health on the proposal, both of them extend their support to the Bill. On 7 January 1999, we also gave a briefing to Members of the Panel on Manpower and the Panel has, in principle, indicated support for the proposals.

Thank you, Madam President.

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

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

ELECTRICITY (AMENDMENT) BILL 1999

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I move the Second Reading of the Electricity (Amendment) Bill 1999.

The purpose of the Bill is to provide for measures to be taken to ensure that works carried out near electricity supply lines do not cause electrical accidents, that is, incidents involving electricity that cause fire, explosion or that cause death or injury to a person, or interrupt the electricity supply.

The electricity supply lines concerned are the underground electricity cables and overhead electricity lines owned by electricity suppliers.

The Bill has four main provisions.

Firstly, it includes as one of the purposes of the Electricity Ordinance the provision of measures to ensure that activities performed in the vicinity of electricity supply lines owned by electricity suppliers do not prejudice safety or the electricity supply.

Second, it enables regulations to be made requiring that activities performed in the vicinity of electricity supply lines owned by electricity suppliers are performed without the risk of causing electrical accidents or interruptions to electricity supply.

Third, it provides that such regulations may, in respect of an offence, specify a penalty of a fine not exceeding \$200,000 or a term of imprisonment not exceeding 12 months or both and, in the case of a continuing offence, a daily penalty not exceeding \$10,000.

Fourth, it provides that such regulations may enable the Director of Electrical and Mechanical Services to exercise powers essential for him to be able to implement and administer the new requirements effectively. For example, the Director will be able to approve persons as competent to carry out cable locating work, to inspect works in the vicinity of electricity supply lines and to direct that contraventions of the regulations be remedied.

If enacted by the Legislative Council, the Bill will be followed by new regulations requiring that works should not be carried out near an underground electricity cable or overhead electricity line unless its position has been checked and steps taken to prevent the occurrence of an electrical accident or interruption to the electricity supply. Such steps must include engaging the services of a person competent in ascertaining the existence, alignment and other relevant particulars of electricity supply lines.

The regulation will provide that a person not taking all reasonable steps to ascertain the alignment or other relevant particulars of an electricity supply line will commit an offence and be liable on conviction to a maximum penalty of a fine of \$25,000 and imprisonment for six months.

The regulation will also provide that a person not taking all reasonable measures to ensure that his works do not occasion any electrical accident or interrupt the electricity supply will commit an offence and be liable on conviction to a maximum penalty of a fine of \$25,000 and imprisonment for six months. However, if the failure to take all reasonable measures results in an electrical accident or interruption to the electricity supply, the maximum penalty will be a fine of \$200,000 and imprisonment for 12 months and a daily penalty of \$10,000 for a continuing offence, which is the new maximum penalty proposed in the Bill.

Madam President, these proposals reflect the Government's concern at the frequent damage to electricity supply lines through careless works activity, particularly the careless use of an excavator, crane or hoist. Such damage can expose people in the vicinity to risk of an electric shock or burns and interrupt the electricity supply, causing much inconvenience to the public.

There were some 3 400 incidents of damage to underground electricity cables and overhead electricity lines over the past five years. These incidents resulted in four fatalities, 81 cases of personal injury and 1 884 interruptions to the electricity supply. The proposals that I have outlined aim to minimize the occurrence of such incidents in future. I hope Members will support the Amendment Bill.

Thank you, Madam President.

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

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

FIREARMS AND AMMUNITION (AMENDMENT) BILL 1999

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move the Second Reading of the Firearms and Ammunition (Amendment) Bill 1999.

The purpose of the Bill is to amend the Firearms and Ammunition Ordinance so as to safeguard public safety through tightening control over shooting clubs, licence holders, arms handlers, air guns and altered arms.

The Firearms and Ammunition Ordinance was enacted in 1981 to regulate the possession of and dealing in arms and ammunition. Shooting activities have become more popular over the last 10-odd years. While the number of shooting clubs has increased from 13 in 1988 to 20 in 1998, the number of licences and written exemptions issued for the possession of arms has also increased from 894 in 1988 to 1 702 in 1998.

As more and more people were taking part in shooting activities, we submitted a Bill to the then Legislative Council on 3 April 1996 in order to safeguard public safety. The Bill sought to tighten control over the possession and use of arms and ammunition. But then the Bill lapsed after the 1996-97 Legislative Session as the Council was too busy to scrutinize the Bill in time. The improvement measures we are proposing in this Bill are broadly the same as those contained in the lapsed Bill of 1996.

First of all, in order to make sure that the operation of shooting clubs can meet the safety standards, we feel there is a need to tighten control over shooting clubs. We propose that the "responsible officer" holding a licence for the possession of arms and ammunition on behalf of a shooting club will be required to be a person who is personally responsible for the management of the club. In addition, we propose to give the licensing authority, that is, the Commissioner of Police (the Commissioner), the power to lay down licensing conditions on the possession and use of arms and ammunition, as well as the running of the range, armoury or other facilities of the shooting club in order to protect the adequate safety of users.

We propose that a member of a shooting club will be required to complete a course approved by the Commissioner on handling of arms before he can use the club's arms and ammunition if he does not himself hold a possession licence for that particular type of arms and ammunition. At the same time, to ensure that all instructors will meet prescribed standards, only a licensee or his approved agent who is so authorized by the Commissioner can instruct others in the use of arms and ammunition.

At present, licensees can appoint agents at will to possess, use or handle arms and ammunition on his behalf. In order to prevent a person who is

ineligible to obtain a possession licence or whose licence has been revoked for certain reasons from possessing and handling arms and ammunition in the capacity of a licensee's agent, we propose that licensees be required to seek the prior approval of the Commissioner before he can appoint agents to exercise powers conferred by the licence.

Under the existing legislation, there is a lack of flexibility in the control over the possession of and dealing in arms and ammunition because the Commissioner is empowered to revoke but not to amend licences. Therefore, we propose to empower the Commissioner to amend licences. Furthermore, we also propose that the Commissioner be empowered to restrict the quantity of arms and ammunition covered in the possession licence, so as to reduce possible threat to public safety resulting from a large quantity of arms and ammunition being carried in public places or stored at the licensee's premises.

We are also concerned about the improper use of air guns. At present, under the Firearms and Ammunition Ordinance, low-powered air guns of a muzzle energy not greater than two joules are not defined as arms and hence are not regulated by the Ordinance. However, considering that the inappropriate use of such low energy air guns will also inflict unnecessary bodily injuries, we propose that discharging air guns to the danger or annoyance of any person should be made an offence under the Summary Offences Ordinance.

I believe that, through the implementation of the above measures, we will be able to further ensure the proper possession and use of arms and ammunition and will also make sure that all shooting clubs can meet certain safety standards, so that the public can take part in shooting activities more safely. We firmly believe that this Bill will only do good but no harm to the development of shooting activities in Hong Kong.

In fact, we consulted the views of shooting clubs, licensed arms dealers and associations in the television/film industry on the above proposals in 1996. A total of 19 submissions were received and most of them supported our proposals in principle. After this Bill is passed, we will further liaise with the shooting clubs and relevant associations to ensure that the new licensing system is practicable. There will be a one-year transitional period to allow the various parties concerned sufficient time to prepare for the new licensing system.

On 10 February 1996, we consulted the Panel on Security of the previous Legislative Council and, on 3 September 1998, we briefed the Panel on Security of this Council on the legislative proposals. Members are generally in support of the amendments.

In order to protect public safety, I hope that Members will support this Bill.

Thank you, Madam President.

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

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Marriage (Certificate of Absence of Marriage Record) Bill 1998.

Does any Member wish to speak?

MARRIAGE (CERTIFICATE OF ABSENCE OF MARRIAGE RECORD) BILL 1998

Resumption of debate on Second Reading which was moved on 11 November 1998

MR JAMES TO (in Cantonese): Madam President, the purpose of the Bill is to amend the provisions regarding the document commonly known as the "bachelor's certificate". Actually, the term "bachelor's certificate" is open to suspicion of sexual discrimination, so we should perhaps refer to the document as "single person's certificate", since "single" means "unmarried".

In regard to this amendment exercise, we have been seeking clarifications from the Government over quite a long period of time, since we disagree with the Government over a concept. I have inquired the Government several times of the reason for amendment. The reply provided by the Government so far, including the speeches and arguments made by government officials, as well as the government documents and so on, has been that due to the discrepancy between the English and Chinese versions, amendments have to be made to clarify the provisions, with a view to preventing the provisions from being mistaken and eliminating any unclear legal implications. Nevertheless, I consider this answer has to a certain extent implied that the Government is unwilling to admit its mistakes, though I do agree that there is indeed a discrepancy between the English and Chinese versions. It is because if we look back on the history of this piece of legislation, we could see that the English version has in fact been in use for many years while the Chinese version is its authenticated translation prepared for use after the reunification. For this reason, if there is any discrepancy between the Chinese and English versions, it is mainly because mistakes have been made during the production of the Chinese version. However, since it has already issued a large number of such certificates during the time when only the English version of the laws of Hong Kong was available, the Government must admit that strictly speaking the Chinese wording of such certificates had been inconsistent with that of the English version even before the Chinese version of the law was available.

Certainly, all these certificates may not necessarily be statutory certificates for some could be regarded as administrative certificates that may be issued by any administrative departments. I just hope that the Government would learn from this experience and be more careful when it draft laws in the future. On the other hand, I should also like to remind both myself and my

Honourable colleagues in this Council that it would be all the more better if we could identify problems with the Chinese versions of bills, since we could then raise them for amendment along with all the others.

No matter what, I just hope that the Government will not use the discrepancy between the Chinese and English versions as its sole excuse for amendment, since this is unacceptable to us on the one hand and unconvincing on the other. The real reason for amendment is that the certification system as a whole might have areas open to legal challenges. Having said that, I believe the challenge should not be serious and would rarely come up. Why? It is because our administrative departments have all made their best efforts to search and match the marriage records; as such, even if the search results cannot satisfy the so-called required legal procedures, the certificate concerned would still be a valid certificate issued by an administrative department. Hence I do not worry that the validity of the Certificate of Absence of Marriage Record would be challenged, thereby giving rise to many law suits or causing trouble to many families.

I so submit, Madam President.

PRESIDENT (in Cantonese): Secretary for Security, do you wish to reply?

SECRETARY FOR SECURITY (in Cantonese): Madam President, I wish to respond to the speech made by the Honourable James TO briefly. Our "diagnosis" of this issue, that is our viewpoint, is that we should improve the "wording" for there is a discrepancy between the English and Chinese versions. Of course, one of the reasons for improving the "wording" is to prevent the Certificates of Absence of Marriage Record issued by us from being challenged. I agree that when we draft legislation in future, be it drafted in English or Chinese, we must learn from this lesson and handle the matter more carefully. But I wish to stress that although there is a discrepancy between the wording of the English and Chinese versions, we have never been challenged by local people, mainlanders, foreigners or governmental organizations though so many certificates have been issued. Just as Mr James TO said, sometimes we can issue certificates without the necessary legislation. As long as the administrative work is done properly and with accurate record and high credibility, the certificates will still be accepted by overseas authorities even

though there is no legislation governing it. This is why I wish to stress that despite we have issued so many certificates, we have encountered no problem with local or overseas authorities as far as the acceptability of the certificate is concerned. But in any case, we will definitely learn from this lesson and take extra care when we draft legislation in future. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Marriage (Certificate of Absence of Marriage Record) Bill 1998 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Marriage (Certificate of Absence of Marriage Record) Bill 1998.

Council went into Committee.

Committee Stage

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

MARRIAGE (CERTIFICATE OF ABSENCE OF MARRIAGE RECORD) BILL 1998

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Marriage (Certificate of Absence of Marriage Record) Bill 1998.

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

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

MARRIAGE (CERTIFICATE OF ABSENCE OF MARRIAGE RECORD) BILL 1998

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

Marriage (Certificate of Absence of Marriage Record) Bill 1998

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 Marriage (Certificate of Absence of Marriage Record) Bill 1998 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Marriage (Certificate of Absence of Marriage Record) Bill 1998.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on

the Immigration (Amendment) (No. 2) Bill 1998.

Under Rule 21(4) of the Rules of Procedure, I have permitted Mr James TO, Chairman of the Bills Committee on Immigration (Amendment) (No. 2) Bill 1998, to address the Council on the Committee's Report.

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1998

Resumption of debate on Second Reading which was moved on 4 November 1998

MR JAMES TO (in Cantonese): Madam President, I submit this report as Chairman of the Bills Committee on Immigration (Amendment) (No. 2) Bill 1998 and I will address the Council on the main deliberations of the Committee.

The principal purpose of the Immigration (Amendment) (No. 2) Bill 1998 is to tighten the control over the employment of illegal workers on construction sites. While the existing legislation has specific sections dealing with the problem of illegal immigrants working on construction sites, there are no relevant provisions dealing with other categories of persons who are not lawfully employable taking employment on construction sites (especially holders of the so-called "Two-way Permits").

The Committee noted that the problem of Two-way Permit holders taking up employment on construction sites had been aggravating in recent years. The majority of members of the Committee support this Bill and agree that punitive provisions should be enacted on the employment of persons who are not lawfully employable on construction sites by adding subsections (4), (5), (6) and (7) to section 38A of the existing Immigration Ordinance, so that the construction site controller concerned can be prosecuted.

In the course of deliberating on this Bill, the Committee asked the Administration to give a detailed explanation about why the existing legislation

could not deal with the problem of unlawful employment of Two-way Permit holders on construction sites. The majority of Committee members accepted the arguments and information provided by the Administration in this connection.

One member of the Bills Committee expressed concern about the evidence required for prosecution under the proposed subsection (4) of section 38A. He took the view that the Administration had to prove an employer/employee relationship between the site controller and the illegal worker before prosecution could be made under the proposed subsection (4). In its discussions with the Bills Committee and in its letter to the Hong Kong Construction Association (HKCA) on 30 December 1998, the Administration made it clear that under the proposed subsection, there was no need for the Administration to prove an employer/employee relationship between the site controller and the illegal worker, or establish who the employer of the illegal worker was. The Government has also clarified that in terms of policy and the actual enforcement, the illegal worker will be prosecuted and sentenced first in accordance with section 41, before the construction site controller concerned will be prosecuted. In this connection, the Administration has confirmed that a breach of the conditions of stay under section 41 includes the taking up of employment during one's stay in Hong Kong as a visitor, regardless of whether the job is paid or not. The Committee members understood that the record of conviction under section 41 in another court would not be used as evidence for prosecution under the proposed subsection (4).

With regard to the definition of "construction site controller" under the existing section 38A, the Administration has explained that the purpose of the definition is to place the legal responsibility on the principal or main contractor, no matter whether he controls the construction site or not. The policy objective of this provision is to make the principal contractor more alert and exercise better control over subcontractors. The Committee also understood that to provide for the industry practice where the main contractor would contract out the whole construction site to a subcontractor, the subcontractor was also included in the scope of the relevant definition, so that he could also be prosecuted. With regard to the enforcement of the relevant provisions, the Administration has assured Committee members that in prosecuting the construction site controller, it will have to satisfy itself that the person charged was capable of taking all practicable steps to prevent any person from taking up employment on his construction site illegally. In this connection, the Bills

Committee understands that since the enactment of section 38A by the Administration, the construction industry has adopted a set of guidelines for preventing the employment of illegal workers on construction sites. At the request of the HKCA, the Administration will give advice on those guidelines.

The Bill also proposes that the existing punitive provisions in the principal Ordinance on false statements, forgery of documents and use and possession of forged documents be extended to travel pass and Asia Pacific Economic Co-operation (APEC) business travel card. The Committee agrees to this amendment. It has also noted the apparent inconsistency between the wording "to come to Hong Kong" in clause 2 of the Bill and the wording "to enter Hong Kong" in the relevant section of the principal Ordinance. The Administration has agreed to propose an amendment at the Committee stage to this amendment later.

With these remarks, Madam President, I call on Members to support this Bill.

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

MR RONALD ARCULLI: Madam President, I rise to speak on this debate to record the dissatisfaction and disappointment of one of my constituent organizations, the Hong Kong Construction Association (HKCA), on the Immigration (Amendment) (No. 2) Bill 1998.

I say "dissatisfaction" because, prior to the scrutiny of this Bill, I had accompanied officers of my constituent organization to see the Secretary for Security over their concern that, yet again, the construction industry was the target for discriminatory treatment by the Administration.

I say "discriminatory" because other sectors also employ Two-way Permit holders illegally, but they are not the subject of this amendment.

I say "disappointment" because, despite the clear reference to a two-way permit holder taking employment at a construction site, the Administration seems to take the view that there is no need to prove an employer/employee relationship before a contracting company can be found guilty of an offence.

Whether the Administration's view is correct, of course, remains to be seen. However, the HKCA, after its meeting with the Secretary for Security, understood that the employer/employee relationship had to be proven. And indeed, in a subsequent conversation between the Secretary for Security and I, her understanding at that time was likewise the same. Perhaps the Secretary for Security could comment on this understanding or misunderstanding later.

Madam President, I think it is time that Hong Kong looked at the entire system of illegal employment, but without singling out a single sector and simply making it a soft target. Even if our law enforcement agencies are having problems with it, it is still grossly unfair to shift the burden onto any particular industry.

I think I will be unable to support the Second Reading of this Bill for those reasons that I have stated.

MR LEE CHEUK-YAN (in Cantonese): I support this Bill on behalf of the Hong Kong Confederation of Trade Unions. I am sure that Members will remember that this is one of the measures to solve the unemployment problem. The construction industry is one of the industries with the highest unemployment rate. I hope that after this Bill is passed, the problem of illegal workers will be solved. However, I wish to remind the executive authorities to continue with its strict enforcement of the law after this amendment, otherwise, the amended Ordinance would be an empty ordinance. I hope that in a few months after the passage of this law, we will know whether it can effectively solve the problem of illegal workers who are Two-way Permit holders. Therefore, I hope that the Security Bureau will submit a report in three or six months on the state of prosecution and enforcement after the enactment of this Ordinance.

We have discussed the issue of discrimination raised by Mr Ronald ARCULLI in the Bills Committee. In my view, the crux of the problem is still the contracting system of this industry. I hope that the industry will abolish the contracting system one day, then the question of so-called discrimination will be resolved.

Thank you, Madam President.

MR JAMES TO (in Cantonese): Madam President, just now I was speaking in my capacity as the Chairman of the Bills Committee but now I am going to speak as an individual Member. Under the present circumstances where there is a high unemployment rate, the significance of the passage of this Bill will be particularly great. We earnestly hope that we can crack down on illegal employment by way of this legislation. From the relevant figures, we can see that the illegal employment of Two-way Permit holders has become rather serious over the past few years.

I would now like to respond to the speech made by Mr Ronald ARCULLI. According to the existing legislation, construction site contractors will be punished for employing illegal workers. If illegal immigrants are found to be working on construction sites, contractors of the construction sites will be punished. Therefore, a proper balance is already in place under the existing legislation. But why should main contractors be punished if Two-way Permit holders are found to be employed or to have worked on construction sites? I think there is logic for this in terms of both reasoning and actual implementation. This is because there is no reason for main contractors to allow Two-way Permit holders to enter construction sites. They must prevent Two-way Permit holders from entering construction sites by practical means, not only because the legislation will soon be passed. Even prior to the enactment of the legislation, construction sites are full of danger and traps. If people are allowed to enter construction sites indiscriminately, the insurance premium or the responsibilities to be taken in future will definitely increase drastically. Therefore, there is no reason why a construction site controller should not take all steps practicable to prevent unauthorized persons from entering construction sites.

I still fail to figure out under what circumstances it will make sense for a two-way permit holder to enter a construction site. I cannot utterly think of a reason for that. I did try to imagine such a scenario: Some Two-way Permit holders come to Hong Kong to stay with their husbands for a few months. As their husbands are working on construction sites, they need to enter the sites in order to bring their husbands lunches. If such a situation really exist, the construction sites can actually set up a registration system at the entrance to allow persons who have the genuine need to enter after registration. Upon the completion of the registration procedure, these persons will be allowed to enter or led into the sites by going round dangerous places to prevent them from

sustaining injuries. In my opinion, this is the only situation under which they can be led into the construction sites.

Now let me cite an extreme example. If under an urgent situation, a person must enter a construction site to attend an important matter, I think, after considering various circumstances, the construction site controller can enforce the existing requirements governing the prevention of illegal immigrants from entering construction sites by carrying out identity inspection at the main entrance of the construction site, like what he should do under the existing legislation. And after the new legislation has come into effect, the construction site controller should be able to prevent Two-way Permit holders from entering his construction site at the same time. And actually, he should have put in place a stringent system at the very beginning. Otherwise, he will even have failed to prevent illegal immigrants from entering his site. As such, I consider the provision contained in the new legislation to be in line with the existing legislation. From the logical point of view, the new legislation seems to have given construction site controllers a new responsibility. But actually, we are only trying to enforce a system which can simultaneously prevent illegal immigrants and Two-way Permit holders from entering construction sites, rather than imposing an extra responsibility of enforcement. I therefore hope that the relevant industry can succeed in deterring illegal immigrants from entering construction sites and continue to take precautions against the entry of Two-way Permit holders into construction sites, like what they are doing currently.

The last thing I would like to say is that I hope the Government can, under these circumstances, endeavour to crack down on people employing illegal workers instead of looking for scapegoats. Although we have given contractors or construction site controllers the relevant responsibility, the Government should, most importantly, focus as far as possible its target and resources on identifying those people who directly employ Two-way Permit holders in order to achieve a substantial deterring effect. This measure is applicable not only to construction sites, but also to other industries.

MISS CHAN YUEN-HAN (in Cantonese): The Hong Kong Federation of Trade Unions will support the amendment made by the Government in respect of the Ordinance. Rightly as pointed out by us in the past, trade unions of the construction industry have all along held the view that the problem of "illegal workers" working on construction sites has become so serious that it has

directly affected the employment opportunities of local construction workers. Actually, we have recently witnessed for ourselves the acute seriousness of the "illegal employment" problems in several construction sites. Therefore, we consider there is a need for the Government to make the amendment proposed today. Of course, we do understand that some Honourable colleagues in this Council are concerned that this will become a cause of worry to certain parties. But the Government is in fact going to set up a "construction site management" system, namely, the "safety card" system. And that is going to involve the requirement that all construction site workers must be Hong Kong permanent residents. Based on these reasons, I would to remind Honourable colleagues that the Government will also make a series of amendments in respect of the industrial safety issue late in future.

Madam President, the construction industry is among the hardest hit by the unemployment problem. Trade unions and employees of the construction industry have all been greatly troubled by the employment of "illegal workers" on construction sites. As for the Two-way Permit holders and those who have entered Hong Kong on other grounds working on construction sites as illegal workers, they are exposed to industrial accidents or health hazard as well. Therefore the amendment made by the Government can not only bring "illegal employment" under control more effectively, but also protect the safety of people who come here. It is indeed inappropriate for them to engage in illegal or high-risk employment in places where they are not familiar with. Therefore, we support the amendment made by the Government. Thank you.

SECRETARY FOR SECURITY (in Cantonese): Madam President, I am grateful for the support given to this Bill by Members and, in particular, the hard work undertaken by Members of the Bills Committee in scrutinizing this Bill. I shall be moving, at the Committee stage, amendments to clause 2 as suggested by the Bills Committee to improve the drafting.

I would like to briefly deal with several issues which were discussed in the Bills Committee and also mentioned by Members earlier in this debate.

The special provisions in the existing section 38A of the Immigration Ordinance were introduced in 1990 to tackle the specific problem of illegal employment on construction sites. The object was to overcome the practical difficulties in identifying the employer for prosecution, a problem which could

not be resolved under other provisions in the Immigration Ordinance, because the system of subcontracting prevalent in the construction industry had made it extremely difficult for us to pin down the employer. Section 38A has provided a solution by rendering the construction site controller liable when an illegal immigrant is found on his construction site.

Our experience in enforcing the provision is that although it has been used only relatively rarely, it has worked well and has produced a marked effect in reducing the employment of illegal immigrants on construction sites. However, section 38A as it stands applies only in respect of illegal immigrants. Statistics indicate a trend that illegal workers on construction sites comprise increasingly Two-way Permit holders. The Bill before this Council therefore seeks to include under its coverage other types of illegal workers such as Two-way Permit holders.

Clause 3 of the Bill provides that a person who is not lawfully employable has committed an offence under section 41 by taking up employment on a construction site, the construction site controller of that construction site commits an offence and is liable to a fine of \$350,000. The Bills Committee has discussed the question of whether a construction site controller should be liable only if an "illegal worker" took up employment in construction work on his construction site, but not if the "illegal worker" took up employment in other types of work on the site. The Administration has carefully considered this point, and has come to the view that the scope of application of the provision should not be qualified by "construction work".

A wide variety of work is required on a construction site, some of which may fall outside the definition of "construction work" in section 38A(1). Examples are cleaning of site, spraying water, directing traffic, removing debris, or keeping watch over stock materials, and so on. Our view is that the construction site controller ought to be in a position to take steps to prevent illegal employment on his site, irrespective of the specific type of work involved. Restricting application of the provision to "construction work" would create a loophole and seriously undermine the effectiveness of the proposed provision.

As regards the definition of "construction site controller", the Bills

Committee also requested the Administration to confirm its interpretation of the definition of "construction site controller", to ensure that there would be no discrepancy between the Chinese and English texts.

A construction site controller is defined under the existing section 38A to mean "a principal or main contractor and includes a subcontractor, owner, occupier or other person who has control or is in charge of the construction site". I can confirm that the definition was drafted so that the liability was placed on the principal or main contractor, irrespective of whether he was physically in control or in charge of a construction site. The purpose is to require extra vigilance on the part of principal contractors, and ensure that he will exercise good management control over his subcontractors. This is consistent with the meaning of the Chinese text. The definition also caters for cases where a main contractor has sublet the whole site to a subcontractor. Subcontractors are included in the definition so that they could be prosecuted. This definition has worked well. In practice, our experience is that the main contractor usually has control over, or is in charge of the construction site. Furthermore, in prosecuting a construction site controller, we will always satisfy ourselves that the person being charged was actually in a position to take the practicable steps to prevent the presence of illegal workers on the site.

As regards proof of employment status, the Honourable Ronald ARCULLI has brought to my notice the concern of the construction industry, and pointed out that I might have misled him and the representatives of the construction industry. He also expressed their dissatisfaction on this matter. I recalled that I had explained the provisions on employable status to Mr ARCULLI and the representatives of the construction industry when I met with them in September last year. As a few months have lapsed, so if I had really said something which has given Mr ARCULLI or the representatives of the construction industry a wrong impression, I would like to offer them my apologies.

However, I would like to point out that after the above-mentioned meeting, through continual scrutinization by the Bills Committee, oral and written questions raised by the construction industry and our replies to each and every one of those questions, we should have clarified all the doubts of those who are concerned about this matter. Since my written reply was issued, the construction industry had never requested for another meeting with me, and

they had also not made any other comments. This showed that they had fully understood the provisions on employment status in the Ordinance. I also hope that members of the construction industry would understand that the provisions on employment status in this Bill are not any different from that of the Ordinance enacted in 1990, for we would not be able to successfully prosecute other types of illegal workers other than illegal immigrants if we do not retain such arrangements. Moreover, we would not be able to meet the requests of the Honourable CHAN Yuen-han, the Honourable James TO and the Honourable LEE Cheuk-yan mentioned earlier in this debate on tightening prosecution against "illegal workers" on construction sites.

Let me emphasize it is always the Government's policy that, where there is sufficient evidence, we will prosecute the employer of illegal workers. Under section 17I of the Immigration Ordinance, any person who employs an employee who is not lawfully employable commits an offence. However, due to the unique conditions of construction sites, when an illegal worker is found on the construction site, very often we will not be unable to prove who is the employer. We, therefore, have to enact laws to put the liability on the construction site controller. This arrangement has already been in force since 1990, and so far no one in the construction industry has ever been unjustly prosecuted. I believe that members of the construction is fully aware of this fact.

The Bill now seeks to include under section 38A other types of illegal workers such as Two-way Permit holders. But as I have explained to the construction industry earlier, under the Bill, a construction site controller will not be liable simply because a Two-way Permit holder is found on his site. He will be liable only if the Two-way Permit holder takes up employment.

As a matter of policy, and in practice, we will prosecute the illegal worker and secure a conviction under section 41 of the Immigration Ordinance before we proceed to prosecute the construction site controller. In other words, before legal action is taken against the construction site controller, we will have proved beyond reasonable doubt that the illegal worker has breached a condition of stay by taking up employment on the construction site. We believe there is no need to separately prove an employer-employee relationship between the site controller and the illegal worker. The court may draw the irresistible inference from circumstantial evidence that the illegal worker has taken up employment on the construction site to determine that an offence

under the new section 38A has been committed.

I wish to emphasize again that the primary targets of enforcement remain the employers of illegal workers. As Mr James TO has mentioned, our primary targets are the employers of illegal workers, so if there is sufficient evidence to prosecute the employer under section 17I, section 38A will not be used against the construction site controllers. Section 38A is invoked only where section 17I falls short of its original purpose, or when there is ample evidence to prove that a construction site controller condones, encourages, or is involved in the employment of illegal workers.

Another subject which was raised during consultation was that the construction site controller may not have sufficient guidance as to what practicable steps he is required to take. The existing section 38A provides for a defence in proceedings for a construction site controller charged to prove that he took all practicable steps to prevent an illegal immigrant from being on his construction site. A similar defence is provided for in clause 3 of the Bill. Previous judgment on the existing section 38A held that "all practicable steps" meant feasible steps which were capable of being carried out within known means or known resources, though each case depends very much on its own facts.

I am pleased to note that the construction industry has prepared a code of practice to assist its members to comply with the new provision. The code offers useful suggestions on what practicable steps could be taken. This is a good start and is to be welcomed. However, it must be recognized that it is not possible to draw up an exhaustive list of steps that should be taken, and compliance with the code will not by itself constitute a defence in court. What "all practicable steps" involve in each case is ultimately a matter for the courts to decide, having regard to all the relevant circumstances of the particular case. In this connection, the Crime Prevention Bureau of the police also stands ready to offer advice on the necessary security measures for preventing illegal entry into construction sites and the steps that may be taken to prevent illegal employment.

Finally, let me assure Members that I would report to the Panel on Security on the latest development in relation to the implementation of the new legislation, after the amendments proposed in this Bill have been in force for some time to see whether it is satisfactory.

Madam President, the Immigration (Amendment) (No. 2) Bill 1998 seeks to plug the loophole under the current section 38A of the Immigration Ordinance, by bringing under its coverage illegal workers other than illegal immigrants. It is part of our much needed ammunition in the fight against illegal employment on construction sites.

Madam President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Immigration (Amendment) (No. 2) Bill 1998 be read the Second time. Will those in favour please raise their hands.

(Members raised their hands)

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

(Members raised their hands)

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

CLERK (in Cantonese): Immigration (Amendment) (No. 2) Bill 1998.

Council went into Committee.

Committee Stage

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

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1998

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Immigration (Amendment) (No. 2) Bill 1998.

CLERK (in Cantonese): Clauses 1, 3, 4 and 5.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that clause 2 be amended as set out in the paper circularized to Members.

I move that the clause be amended by deleting "come to" and substituting "enter" in paragraph (b)(ii) of the definition of "APEC business travel card" and paragraph (b) of the definition of "travel pass". The purpose of the amendment is to ensure the consistency of the terminologies used. Thank you, Madam Chairman.

Proposed amendment

Clause 2 (see Annex IV)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

IMMIGRATION (AMENDMENT) (NO. 2) BILL 1998

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

Immigration (Amendment) (No. 2) Bill 1998

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

PRESIDENT (in Cantonese): I now propose the question to you and that is : That the Immigration (Amendment) (No. 2) Bill 1998 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Immigration (Amendment) (No. 2) Bill 1998.

MOTION

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Pharmacy and Poisons Ordinance.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I move the motion under my name which has been printed on the Agenda. The motion seeks to amend the Poisons List Regulations and the Pharmacy and Poisons Regulations.

In Hong Kong, the Government regulates the sale and supply of pharmaceutical products and provides a registration and inspection system by means of 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. They are subsidiary legislation under the Ordinance. Different levels of control in the conditions of sale and keeping of records are imposed on different categories of pharmaceutical products. For protecting the health of the public, some pharmaceutical products must be sold in dispensaries or pharmacies under the supervision of registered pharmacists and in their presence. Proper records of the particulars of the sale should be kept for the sale of some pharmaceutical products. The record should include the date of sale, the names and addresses of the purchasers, the names and quantity of the medicines and the purpose of which they are required. Some must be additionally supported by prescriptions from

registered medical practitioners, registered dentists or registered veterinary surgeons.

The Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the First and Third Schedules to the Pharmacy and Poisons Regulations, in order to impose control on new medicines and upgrade the control on some existing ones.

Four new medicines, including the active ingredients of an anti-impotence drug, sildenafil, which has attracted a considerable amount of media attention, are proposed to be added to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing any of them must be sold in dispensaries or pharmacies under the supervision of registered pharmacists and in their presence and with the support of prescriptions.

In addition to the above, we propose to amend the Poisons List in the Poisons List Regulations to upgrade the control on four medicines and to clearly specify the control imposed on three other medicines. After the proposed amendments, pharmaceutical products containing any of these medicines will have to be sold in dispensaries or pharmacies under the supervision of registered pharmacists and in their presence.

The Amendment Regulations are proposed by the Pharmacy and Poisons Board. The Pharmacy and Poisons Board is a statutory authority established under section 3 of the Ordinance to regulate the registration and the control of pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the amendments necessary in view of the potency, toxicity and potential side-effects of the medicines concerned.

Madam President, I beg to move.

The Secretary for Health and Welfare moved the following motion:

"That the following Regulations, made by the Pharmacy and Poisons Board on 22 December 1998, be approved -

(a) the Pharmacy and Poisons (Amendment) (No. 2) Regulation 1998;

and

(b) the Poisons List (Amendment) (No. 2) Regulation 1998."

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

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 and Welfare, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR RONALD ARCULLI: Madam President, I move the motion standing in my name on the Agenda.

At the House Committee meeting held on 8 January 1999, Members agreed to form a Subcommittee to study the Ozone Layer Protection (Controlled Refrigerants) Regulation (Commencement) Notice 1998. The focus of the Subcommittee is not on the contents of the Regulation *per se*, but on the broader issue of the validity of subsidiary legislation tabled, but not gazetted, in the Council and the responsibility for the laying of subsidiary legislation. Following its interim report to the House Committee on 22 January 1999 about the general issue of non-tabling of subsidiary legislation, the House Committee decided that another Subcommittee should be set up to study the issue in greater detail before taking the said Commencement Notice forward. As no decision can now be made pending the study of the other Subcommittee and more time is required to examine the matter thoroughly, I appeal for Members' support to extend the scrutiny period of the Commencement Notice to 10 February 1999.

Madam President, I beg to move.

Mr Ronald ARCULLI moved the following motion:

"That in relation to the Ozone Layer Protection (Controlled Refrigerants) Regulation (Cap. 403 sub. leg.) (Commencement) Notice 1998, published as Legal Notice No. 391 of 1998, and laid on the table of the Legislative Council on 6 January 1999, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) for amending subsidiary legislation be extended under section 34(4) of that Ordinance to the meeting of 10 February 1999."

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

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 Mr Ronald ARCULLI, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

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

Today we will continue to try out the electronic queuing system for speaking in respect of debates on motion without legal effect. Members who wish to speak in a debate on a motion need, in addition to raising their hands, to indicate the wish by pressing the "Request-to-speak" buttons.

PRESIDENT (in Cantonese): First motion: South East Kowloon development.

SOUTH EAST KOWLOON DEVELOPMENT

MISS CHRISTINE LOH: Madam President, I am concerned about Hong Kong's planning process. How our city is developed ultimately determines our future living conditions.

The redevelopment plan of South East Kowloon will affect 840 hectares of land in total if we include the adjoining areas. Construction will take 17 years and the Government wants to put some 320 000 people (or 5% of Hong Kong's population) there. The current plan will destroy Kowloon Bay, the last substantial body of water in the harbour, thereby turning Victoria Harbour into a river.

This development is large by any standard. If it is to be done well, it must have a vision for how we can live more sustainably in the 21st century. However, if the Government continues to press ahead with the current plan, I am afraid we will lose that opportunity. We urgently need to revisit the whole plan. This Council has already expressed its concern by not voting funds for some initial work. I ask that we continue our vigilance.

Madam President, let me explain my motion. Firstly, the Government's plan involves reclaiming 300 hectares of water. That is about 50 Convention and Exhibition Centres or 280 football pitches. To obliterate Kowloon Bay will forever alter the way we know and love Victoria Harbour. It will destroy Hong Kong's identity. Do we really want to do this to ourselves?

And what do we get for deleting our stunningly beautiful harbour? The Government will give us back a 50 hectare new park. Is this some kind of a poor joke? Surely, the harbour is a heritage, a cultural as well as an economic asset. We should not be depleting it. Indeed, we should invest in this magnificent gift of nature by preserving it, by protecting it, and by cleaning up the water. No park designed by our Planning Department could come near our very splendid harbour.

Am I hearing rumours of protest from the Government? Officials have claimed that the Government "treasures Victoria Harbour in much the same way as advocates of harbour protection and never takes any decision on reclamation lightly."

And yet, the brief that the Government gave to its planning and engineering consultant was to be used, and I quote, " the maximum extent of reclamation which could be achieved without an unacceptable increase in currents".

Thus, just how much does the Government value the harbour? Does it even appreciate the value of this vital asset? Madam President, you know that I am far from being a lone voice in wanting to save the harbour from wanton destruction. Many people have signed petitions. Others have even prepared alternative schemes with substantially less reclamation. It is possible to reclaim a lot less of Kowloon Bay and still enable housing development to go ahead. I will return to this point in a moment.

My second gripe with the development plan is its failure to maximize the use of the waterfront. Madam President, look at most of our existing reclaimed areas. You simply cannot get to the water easily. Why can the government planners not design the waterfront for better economic and social use?

South East Kowloon will not be better. Not everyone may have spotted this. The waterfront promenade provided in the plan is a 2 km concrete strip that terminates at a refuse transfer station and a sewage treatment plant. That is lovely planning, is it not, Madam President? You can see from the plan that commercial buildings line the most prominent part of the reclaimed waterfront. You might well ask, "Why is this plan so people-unfriendly?"

Well, it was designed to be so. The approach taken in the engineering studies for the government plan was, and I quote, "Public access to harbour waters should not be encouraged." Madam President, what kind of a rubbish is this? The Government's clear preference is for maximum reclamation of Kowloon Bay, and to make sure the design does not provide too much public access to the water. To make sure that no one really wants to go there, the Government have chosen two of the most unpleasant things to put at the end of the promenade. I ask again, "Is this some kind of a joke?"

I have a third complaint. Transport planning is unsustainable for the area. Roads actually occupy 50% more land than the allocated space for

housing. Many major roads planned are both visually intrusive and will attract traffic into the area. Nearly 4 000 families will be exposed to excessive traffic noise, and air pollution is expected to be high. Indeed, air quality objectives will not be met in some areas.

Through careful planning, much of the transport needs could be met through efficient mass transit, trams, trolley buses or light rail, and large areas should be pedestrianized. It is not too late still to redraw the plan.

Despite the enormity of this project and the obvious public interest, the entire planning process was conducted behind closed doors with no consultation. The public clearly do not approve of the plan. The Government received over 900 objections. Apart from people living nearby, key professional bodies, green groups and water sports associations all objected to the development.

The Government is really not very interested in consultation. The final engineering and feasibility reports of this project were only finished this week — yes, this week — and still have not been published for discussion. Yet, the Government has been promoting the South East Kowloon development as if it was all ready to go.

This way of working is behind the times. The Government must start realizing that they are not always good arbiters of community needs and aspirations. A modern, participatory consultation process is the only way to go.

I understand many Members' concerns about the need for housing. Yet, we should examine the proposals more carefully to see if the Government's proposed plan will indeed optimize our housing needs.

The Government wants to cram 320 000 people into that area. Yes, I understand Hong Kong has a real population and therefore housing pressure. But are we not entitled to question whether stuffing this level of population there is the best option?

If the Government wishes to address urgent housing needs, why not expedite urban renewal in the older districts of Kowloon, such as the surrounding areas of Hung Hom, Ma Tau Kok and Kowloon City? Members

know well that the problem is that few urban renewal projects are financially viable. Furthermore, there are problems with rehousing. The Housing Authority does not allow rehousing of people made homeless by urban redevelopment. This Council has debated the issue of urban renewal many times over the years. It is pure frustration that Hong Kong has been unable to get it right so far.

Just how does the current plan for South East Kowloon provide solution space for the restructuring of the older urban areas? We do not know simply because we have little information. Surely, if the Government were to prioritize the Mass Transit Railway East Kowloon line with stations provided at Ma Tau Wai and To Kwa Wan, this would stimulate urban renewal to a very significant extent, and could provide a net gain of over 7 000 flats. Why is the Government not doing this?

To end, I understand that Members are concerned that any fundamental rethink of the whole plan will set back housing targets by another five to six years. This does not have to be the case. Phase I in the back areas could be developed first, since I am told that no new supporting infrastructure is needed there. The Government should revisit the other phases to ensure that it comes up with a much better idea. As part of that process, the Government must consult the public in a meaningful way.

Perhaps the Government can devise a special "saving-grace" process for South East Kowloon to take place within this year. This process would enable public participation and for alternative options to be worked out, while keeping to a reasonable time schedule. There seems to be no shortage of willing parties to offer constructive ideas since many have already shown their willingness.

Perhaps I could just touch on the amendments very briefly. As far as the Honourable James TO's amendment is concerned, I think it is highly undesirable that he has chopped out areas that deal with public consultation. As for the Honourable Jasper TSANG's amendment, I accept that if he wants to change the word from "withdraw" to "revise", I do not really have a problem with that. But as for the rest of his amendment, it has just changed my order of priorities around. But again, I do not want to quibble in the end.

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

Miss Christine LOH moved the following motion:

"That this Council urges the Government to withdraw the proposal for the development of South East Kowloon, which requires excessive reclamation and will irreversibly destroy an important part of Hong Kong's natural heritage but fails to maximize the use of the waterfront or provide an environmentally sustainable transport infrastructure; and in view of the fact that the proposal has been drawn up behind closed doors with no meaningful public consultation, this Council further urges the Government to undertake a thorough consultation process with a view to formulating a plan which is both visionary and sustainable and providing livable communities to meet the public's 21st century expectations; in the meantime, the Government should expedite the process of urban renewal in the northern part of the site in recognition of the urgent public housing needs and to provide the space required for resettling the residents displaced in the process of redeveloping some of the other older parts of Kowloon."

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

Mr James TO and Mr Jasper TSANG will move amendments to this motion. Their amendments have been printed on the Agenda. In accordance with the Rules of Procedure, the motion and the two amendments will now be debated together in a joint debate.

In accordance with the Rules of Procedure, I will call upon Mr James TO to speak first, to be followed by Mr Jasper TSANG; but no amendments are to be moved at this stage.

MR JAMES TO (in Cantonese): Madam President, the idea behind my proposing the amendment on behalf of the Democratic Party today is as follows.

To start with, I fully share the complaints lodged by Miss Christine LOH against the Government's current proposal in the speech she made in moving

the original motion. Therefore, I would like to explain why I do not agree to a complete "withdrawal" of the whole development and instead, I should change it into urging the Government to "revise" the relevant proposal. This is because as early as in 1992, the Hong Kong Government already started to examine developing the Kai Tak Airport into the "South East Kowloon Metro Area". In 1993, the "South East Kowloon Development Statement" was formulated and, in 1995, the "Feasibility Study for South East Kowloon Development" was conducted for the purpose of reviewing various recommendations. It has already taken the Government five years to conduct the whole feasibility study. If we withdraw the whole proposal of developing South East Kowloon at this stage and start the planning and designing work all over again, I do not know how many more years we will have to wait. The completion date of the relevant works is so remote that it seems not realizable at all.

In fact, this development plan is targeted not only at areas adjacent to the Kai Tak Airport. Districts surrounding the old airport, including Hung Hom, Ma Tau Wai, To Kwa Wan, Kowloon City, Wong Tai Sin, Diamond Hill and Kwun Tong will be affected by the development plan as well. Although the Government has not announced how many residents will be affected, we expect several hundred thousand residents will be affected according to our preliminary estimate. As the whole development plan will involve more than 100 000 newly constructed residential units, it will exert tremendous pressure on the demand for both public housing and private buildings if the development plan is delayed for an exceedingly long period because of a re-doing of the planning and designing work. It will also produce a negative impact on the urgent re-development of old districts and the feasibility of making improvements. As such, we hope to change the wording into "revise" instead of starting from the very beginning. This is something to do with the scope. Coincidentally, Mr Jasper TSANG also agrees with this point and hopes to change the wording into "revise".

Nevertheless, I hope to stress here that although we know how tight the schedule is, we will still adhere to some notions. For instance, we consider it necessary to uphold the sustainable development notion as put forward by Miss Christine LOH.

The next item I would like to discuss is about urban development. According to the South East Kowloon Development Plan currently proposed by

the Government, a total of 579 hectares of land can be used for development, with approximately 280 hectares coming from the old Kai Tak Airport site, while the remaining 299 hectares from land reclaimed from Kowloon Bay and Kwun Tong Typhoon Shelter. Development will first take place in the districts north of Kai Tak Airport and 44 hectares of land located near Kowloon City and Ma Tau Wai will be reserved for the construction of high-density private and public housing. To start with, the Democratic Party is of the view that the Government should reserve some of the land for rehousing tenants affected by the To Kwa Wan and Hung Hom redevelopment items so as to enable the West Kowloon redevelopment project to be carried out smoothly and give the tenants in the districts more reasonable rehousing. According to an opinion poll conducted recently, more than 85% of the respondents think that the Government should reserve land for rehousing the old district residents affected by the plan. As such, we urge the Government to implement the redevelopment plan expeditiously to provide the space required.

On the other hand, the Democratic Party has all along stressed that the affected tenants should be given local rehousing. As the residents have established long-term community support networks in their own districts, it will be detrimental to community development if they are asked to move to relatively remote places. Community support networks are particularly important for some districts where there is an ageing population. Furthermore, the public housing redevelopment programme under the Housing Authority has also established a local rehousing policy. I therefore hope that the Government can treat these residents affected by private building redevelopment on an equal term.

I am not going to discuss the problems arising from reclamation in detail. A motion related to the Central Harbour Reclamation has been debated in this Council in July last year. Basically, all Members agreed that we should try our best to protect Victoria Harbour, and this point is indisputable. The only objection seemed to have come from the Government. Every time when the Government carries out reclamation at Victoria Harbour, many members of the public will ask: Is it going to be the last time? When will the Government carry out another reclamation again? With a reclaimed area covering as much as 300 hectares, the current South East Kowloon Development project is the largest reclamation project in Hong Kong's history. Many people have put forward their opinions, doubting whether it is necessary to do so. Basically, we have two principles: First, we hope the Government can act with prudence

or consider replacing the development project with another one unless there is sufficient justification; second, can the reclamation project be reduced to the smallest scale if the Government must carry it out?

If the Government manages to reduce the scope of reclamation without affecting housing supply, it will definitely involve the question of land use. The Democratic Party has the following recommendations: Firstly, according to the South East Kowloon Development, 15 hectares of land located between Kwun Tong and Kowloon Bay will be reserved for industrial purpose. We have strong reservations about this proposal for we are all aware that as a result of our economic condition over the past few years, many industrial buildings located in the area stretching from Kowloon Bay to Kwun Tong have been left vacant, with many factories converting into warehouses or offices silently. It is therefore basically unnecessary to reserve land in the South East Kowloon Development for industrial purposes. The Government can well make use of these readily available spaces to the demands of the so-called future industrial and commercial development.

One of the selling points of the whole development plan is to build a 50-hectare metro park, which is two times bigger than Victoria Park, at the centre of the development zone. It is in fact the Government's intention that the construction of this park can compensate for the lack of passive area in Kwun Tong and its neighbouring old districts. However, we think such a design is flawed in terms of planning. The metro park, which will be located in the centre, will be surrounded by two trunk roads (tentatively called T1 and T2 at the conceptual stage) and its bordering high-rise buildings. Upon the completion of the two trunk roads, exhaust gases emitted by a large volume of traffic flow will gather in the vicinity of the metro park. In addition, the dissipation of air pollutants in the district will be difficult as the park will be surrounded by blocks of high-rise buildings. As a result, air circulation will be extremely poor and this will produce an adverse impact on park users and residents living nearby.

Therefore, we have to ask: Why should the Government concentrate all the passive areas and green areas on one metro park? Actually, from the angle of community design, we can disperse the sitting-out facilities over various small communities. In doing so, we can reduce the scope of reclamation insofar as planning is concerned and make better use of resources.

As for transport, Mr LAU Chin-shek will later elaborate the transport supporting measures we put forward a long time ago.

Madam President, no other Member raised an amendment when I proposed my amendment. My main objective of proposing the amendment is to urge the Government to "revise" instead of completely "withdraw" the whole plan. But later when I saw Mr Jasper TSANG's amendment, I noticed he had added a proposal related to railway development. As a matter of fact, I did mention in my original amendment the notion of sustainable transport infrastructure, which is the same as what Mr TSANG has proposed. In considering the fact that his amendment has specified the word "railway", which is even more specific than the word "transport" used by me in my amendment and, in order to enable this Council to reach a consensus so as to dial up the pressure and influence on the Government as well as highlighting the focus of this debate, I would like to ask the President whether I am allowed to withdraw my amendment at this stage. In doing so, Members can join forces to vote for Mr Jasper TSANG's amendment.

PRESIDENT (in Cantonese): Mr James TO, you have the absolute right to withdraw your amendment at this stage.

MR JAMES TO (in Cantonese): With your leave, Madam President, I withdraw my amendment and urge Members to support Mr Jasper TSANG's amendment.

PRESIDENT (in Cantonese): Honourable Members, Mr James TO has the right to withdraw his amendment at this stage. But for the sake of fairness, I have to point out that the speech delivered by Mr James TO just now has exceeded seven minutes. Furthermore, the script that Members have on hand is no longer applicable. I will instruct the Secretariat to ensure the amended script will reach your hands as soon as possible.

Now only Mr Jasper TSANG will move an amendment to this motion,

which has been printed on the Agenda. I shall now ask Mr Jasper TSANG to speak and move his amendment.

MR JASPER TSANG (in Cantonese): I move that Miss Christine LOH's motion be amended, as set out on the Agenda.

I am very grateful to the Honourable James TO, not only because he is willing to withdraw his amendment but also because what he just said has actually covered most of the remarks I would like to make. I amend Miss Christine LOH's motion on behalf of the Democratic Alliance for the Betterment of Hong Kong (DAB) for a reason of the most enormous import, that is, we would not like to see the Government's proposal for the development of South East Kowloon withdrawn at this stage. When Miss LOH spoke, she said that she did not object to changing the word "withdraw" into "revise". Probably because we lacked communication beforehand, if Miss LOH had not insisted on using the word "withdraw", it might not be necessary for us to make this amendment. As Mr James TO has said, the proposal for the development of South East Kowloon has been brewing for quite some time and it is closely related to the livelihood of many families and people living in the area. The residents of the area have great expectations of this development and they would like to see its early realization. Therefore, if we ask the Government to withdraw the proposal at this stage, there will be more demerits than merits.

Madam President, the DAB actually agrees to most of the criticisms and remarks Miss LOH just made concerning the Government's development proposal, especially her view on the protection of the harbour's resources. But we think that so long as a consultation can really be made on the views of the parties concerned on the original proposal for development and suitable amendments made, it is unnecessary to withdraw the proposal. The Town Planning Board will hold a hearing very soon and invite bodies and people to express their different views. We hope that the Government will listen to their views conscientiously and formulate a more comprehensive proposal acceptable to the parties concerned.

Our amendment does not simply comprise a change in wordings as Miss LOH has alleged. Mr James TO has originally sought to delete a few sentences from the original motion. For instance, the parts concerning consultation, formulating a plan which is sustainable and meeting the public's 21st century expectations. We have really proposed some wordings to make the whole text more logical but we have especially touched upon the area to be reclaimed and the development of the railway network to highlight our views in these respects.

Madam President, the DAB also believes that the general public has reached a strong consensus to protect the harbour. As Mr James TO has said, whenever the Government proposes another reclamation project, many people and bodies will raise questions and oppositions. We also know that if we stop reclamation completely and really stop giving up even an inch of the harbour, many development programmes and infrastructural projects cannot be carried out or will be restricted by a very large extent; therefore, there are contradictions after all and we must strike a balance.

We have also noticed that the environmental impact may be reduced if a certain place rather than another is reclaimed. Take the proposal for the development of South East Kowloon as an example, the DAB agrees that the Kai Tak Nullah and the Kowloon Tong Typhoon Shelter should be reclaimed expeditiously for better utilization of the adjacent land without affecting the environment and improving the environment and hygiene condition in these areas. After the areas have been reclaimed, we need only reclaim a limited body of the water off To Kwa Wan before building a trunk road connecting East and West Kowloon. If large scale reclamation has to be made in Kowloon Bay, we do not think there is sufficient ground on which the Government can convince the public to support this proposal, therefore, we oppose this suggestion.

The Government has said that if a smaller area is to be reclaimed, the population growth there after reclamation may be slower than planned and it may not be adequate to support the construction of a railway line, thus the plan for the construction of a railway network in South East Kowloon may have to be abandoned. The Government has always made separate studies and decisions on land planning and transport especially in respect of the construction of a railway network. This has aroused public criticism on many plans made in the past. It seems that the Government is now making reclamation a condition for exchange. If people would like a railway to be

constructed, they have to support reclamation. This is even more unacceptable.

Actually, some 200 000 residents are living in the Kowloon City/Hung Hom region and they have suffered a lot from the lack of a mass transit system. Numerous vehicles pass by To Kwa Wan before crossing the Cross Harbour Tunnel at Hung Hom, and as many industrial centres are located in To Kwa Wan and Hung Hom, there are many goods vehicles during peak hours, causing serious traffic congestion. Any person who has been there would know this well. The DAB is of the view that even though there is no new development area in Kai Tak, the Government should still develop a mass transit system in the region as soon as possible to alleviate road traffic congestion. Assuming that the Government cancels all reclamation projects in Kowloon Bay, the proposed development of Kai Tak alone will allow some 100 000 people to live in the region. With urban renewal in To Kwa Wan and Hung Hom, the population in the region will grow and there will naturally be a greater need for a mass transit system. The remark that there will not be sufficient population to support the construction of a new railway is somewhat short-sighted.

Madam President, the DAB agrees with the request Miss LOH made in her motion that the process of urban renewal in To Kwa Wan and Hung Hom should be expedited. In fact, most buildings in the area are time-worn buildings over 20 years old and are in lack of proper repairs and maintenance. Moreover, as the Government lacked an overall urban construction plan in the past, land uses are more often than not mismatched; as a result, factories are found beside residential flats, and roads are often narrow.

As the scale of the manufacturing industry and other industries has contracted, there has been an oversupply of industrial land, and most of the vacant industrial land is located in Hung Hom. Calculating on the basis of coverage area, the vacancy rate of industrial buildings in Hung Hom was 18.8% in 1997, more than twice the 9.4% overall vacancy rate territory-wide. The vacancy rate of industrial buildings along Kowloon Bay and Kwun Tong is also gradually increasing.

The DAB has come to the view that the Government should carry out comprehensive renewal projects in the old Kai Tak Airport to improve the people's living environment and community facilities in line with the proposal for the development of South East Kowloon in order to create a new metropolis

that will span the century.

For the above reasons, Madam President, I move that Miss Christine LOH's motion be amended. Thank you, Madam President.

Mr Jasper TSANG moved the following amendment:

"To delete "withdraw" and substitute with "revise"; to delete "which requires excessive reclamation and will irreversibly destroy an important part of Hong Kong's natural heritage but fails to maximize the use of the waterfront or provide an environmentally sustainable transport infrastructure; and in view of the fact that the proposal has been drawn up behind closed doors with no meaningful public consultation, this Council further urges the Government to"; to delete "with a view to formulating" and substitute with "and formulate"; to delete "providing" and substitute with "seeks to provide"; to add "the area to be reclaimed under the plan should be reduced to protect the harbour's resources;" after "the public's 21st century expectations;"; to delete "in the meantime,"; to delete "expedite the process of" and substitute with "also carry out"; to add "expeditiously" after "urban renewal"; and to add "; at the same time, there must be a comprehensive railway development programme to ensure that the construction of the railway network synchronizes with the development of the area" after "the other older parts of Kowloon"."

PRESIDENT (in Cantonese): I now propose the question to you and that is : That the amendment moved by Mr Jasper TSANG be made to Miss Christine LOH's motion. We now proceed to a debate.

MR LAU CHIN-SHEK (in Cantonese): Madam President, I believe that all Hong Kong people welcome urban renewal and regional development. Certainly, this should be done on the premise that the development of the region can improve the living environment and quality of life of people in the region. In developing a region, we should try our best to reduce the scale of reclamation in order to protect our natural environment, and I believe that this is the common request of most people. Therefore, we have roughly reached a

consensus on today's debate and the question is how we can put this consensus into practice. I do not intend to discuss further about the reclamation issue. What makes me most dissatisfied is the Government's philosophy behind the implementation of its policy for regional development. Very often, they only consider the so-called "economic benefits" and completely neglect the rights of people living in the region to enjoy services.

In my opinion, the Government is a bit "apathetic" in making the proposal for the development of South East Kowloon as it has completely overlooked the needs of 400 000 people living in the Kowloon City district, especially the places around the urban centre. For many years, the district has lacked the service of mass transit carriers such as the Mass Transit Railway (MTR). When the Government conducted the Second Railway Development Study recently, it still insisted that railway development in the Kowloon City district is dependent on the scale of the South East Kowloon Reclamation. The Government has explained that the population living in the Kowloon City district is insufficient to support the construction of a new railway extension. Without South East Kowloon Reclamation, the construction of an MTR Kowloon City extension would not be cost effective. The Government is totally indifferent to the requests of people living in Kowloon City region. It has overlooked the traffic congestion problem in the middle part of Kowloon and it is short-sighted in respect of regional development. As the Honourable Jasper TSANG has said, the Government often waits until the population in a region is nearing explosion before it will slowly improve the problem of extremely poor transportation just like the case of new towns such as Tuen Mun in the past.

In my opinion, the railway development in the Kowloon City region must be detached from whether or not reclamation will be made, and the Government should not construct a railway only after carrying out a large-scale redevelopment project in the region, otherwise, it will only repeat its past mistakes in respect of transport development.

In fact, back in the early 1970s, the Government proposed the construction of a MTR line in East Kowloon (Kowloon City) and reserved land for it. The proposed alignment passed under the Kowloon-Canton Railway Kowloon Station and extended along Gilles Avenue to Ma Tau Wai Road. It was also proposed that an MTR station be built between Man Yue Street and Wuhu Street to serve the Ho Man Tin area. It is a pity that almost 30 years

have passed and the proposal is not yet implemented.

According to the 1996 By-census, almost 400 000 people were living in the Kowloon City district and the living density of the region ranked third among the 18 districts in Hong Kong (lower than that of the Kwun Tong and Wong Tai Sin). However, for many years, the Kowloon City district lacked a mass transit railway system and the external transportation for people living in the district was very inconvenient. People living in Kowloon City rely on buses as their means of external transport and this directly leads to the congestion at the Cross Harbour Tunnel in Hung Hom. After the opening of the Western Harbour Crossing, there has not been much amelioration in the congestion at the Cross Harbour Tunnel.

Back in early 1997, the MTR Corporation proposed the development of a East Kowloon and North Island extension and the construction of a East Kowloon line connecting Diamond Hill and the future Convention Station in Wan Chai crossing the harbour at Hung Hom (the fourth harbour crossing), and a North Island line from North Point to Tamar, connecting to the Hong Kong Station of the Tung Chung line. It was scheduled that train service along the extension would be provided in 2006. The MTR Corporation considered the East Kowloon extension financially viable and it was capable of constructing the extension without capital injection by the Government. However, the Government has not made a response two years down the line.

The Government is linking up the renewal and railway development in the Kowloon City district with the South East Kowloon Reclamation. Linking up the improvement of the quality of life of 400 000 Kowloon City residents with the scale of development of South East Kowloon is undoubtedly treating people living in the region as second-class residents. This development strategy is essentially putting the cart before the horse.

I urge the Government once again to deal with the development of South East Kowloon and the plan for railway development in the Kowloon City district separately. It should start constructing an MTR extension in Kowloon City immediately to provide mass transit services in the urban centre in order to relieve our transport problem. I reiterate that the Government must regard

people as the foundation of its administration. Regional development should not be targeted at an increase in land alone, but at improving the quality of life of people living in the region.

With these remarks, Madam President, I hope that the Government will conscientiously review its erroneous development strategy adopted long ago. Thank you.

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

MR EDWARD HO (in Cantonese): Mr Deputy, the proposal for the development of South East Kowloon involves the reclamation of 300 hectares of land, an even bigger area than the original site of the Kai Tak Airport and the Central Reclamation as debated in the Council earlier this Session. The four professional bodies I represent are extremely concerned about this reclamation project and they find the scale of the reclamation too big and that it should be scaled down. As far as I know, the Town Planning Board has received over 900 written oppositions from the public; therefore, I feel that most people do not support and even oppose reclamation on such a large scale.

The Victoria Harbour is our natural resources and a world-famous landmark. Indisputably, we must protect it. From another perspective, the South East Kowloon development is one of the large scale reclamation projects carried out in recent years. Plenty of land has been reclaimed from the sea and excessive reclamation certainly has adverse effects on the ecological environment. Besides, land reclamation over the years has made the fairways much narrower and further reclamation will constitute danger to marine traffic.

Insofar as town planning is concerned, the South East Kowloon development covers the establishment of a large scale development zone in the urban centre but I do not think this is sensible. Lately, in many places in Hong Kong such as Central and Causeway Bay where there is a constant packed flow of traffic and people, air pollution has become unacceptable. As

we all know, the higher the density of urban development, the quicker the deterioration of air quality. In the long run, the Government should develop other parts of Hong Kong, otherwise, it will always restrict development to the built-up area.

I definitely think that the road system is very important and I support the construction of infrastructure including railways. As regards the South East Kowloon development, the land required for the construction of various types of roads accounts for over 30% of the total surface area. As roads take up such a large portion of the land, the Government should adopt more environmentally-friendly methods in designing roads to attain the best results and minimize the impact on our environment. For example, it can restrict the construction of residential buildings in the future to narrow the scope of reclamation.

As for commercial land, the South East Kowloon development reserves through reclamation commercial land of a total floor area of almost 2.3 million sq m. Such an abundant supply is open to question. Besides, if commercial areas are still concentrated in the urban area, as we have discussed, traffic and environmental problems will emerge. I have said time and again during our previous debates that the Government should consider the feasibility of developing an important secondary commercial area in the northern New Territories especially when we already have Route 3 and are going to have such traffic facilities such as the West Rail in future. We can make a long-term plan for decentralizing the commercial areas to other places rather than the urban centre as land for commercial premises that create job opportunities can be dispersed from land for residential or other purposes.

In regard to housing, the Government definitely has to increase land supply at an appropriate time to relieve the housing shortage. As Hong Kong is now in an economic slump, the property market is weak and there are fewer property transactions, people may have an impression that there is no shortage of housing; but I cannot agree to this. In particular, in the past 18 months, far fewer new private residential flats have been developed. If we do not reserve land or continue to build housing, three to four years later, there will again be a serious housing shortage in Hong Kong, giving rise to adverse consequences then. Although I oppose reclamation, I think that the development of South East Kowloon should not slow down. Even if changes have to be made to the design, I still hope that the pace of development will not decrease, but even

increase instead.

I would like to say that a new development zone should be provided with adequate infrastructure. The Administration should increase the plot ratio to the ceiling permitted under the Building (Planning) Regulations to reduce the demand for land.

As for passive area, I do not think that it is worthwhile to reclaim land for the construction of a park. The idea of a park merits our support but a park surrounded by roads may not at all be desirable.

As far as I know, the Hong Kong Institute of Architects, the Hong Kong Institution of Engineers and the Hong Kong Institute of Surveyors are jointly drafting a proposal for the Government's reference. Under this proposal, a park will be built at the waterfront which will give our waterfront a special feature. Moreover, another new idea is the construction of a cruise terminal at the waterfront which is also a pretty good idea.

As time is running out, I would like to mention industrial areas last. In fact, old industrial areas should be redeveloped and new development in South East Kowloon should fall in line with the redevelopment of old areas.

Thank you, Mr Deputy.

MR NG LEUNG-SING (in Cantonese): Mr Deputy, there have been a lot of discussions and arguments in the community over the proposal made by the Government for the development of South East Kowloon. One of the highlights is that this development proposal involves reclamation at a scale of 300 hectares which makes the community very worried. Although the scope of reclamation under the new proposal is already smaller than that proposed in the South East Kowloon Development Statement Study but reclamation will unavoidably have irreversible adverse effects on the harbour view, natural ecological environment and the fairways. In my opinion, the scale of reclamation must be limited to indispensable works. For instance, reclamation for the construction of bridges, roads and supporting facilities such as pillars in line with the development of the transportation network in a region.

It is proposed that 113 hectares of land will be reserved as passive area including a large metropolis park covering some 50 hectares. Besides, 4 hectares of land are reserved as industrial land. People have reservation as to

whether this land allocation arrangement will achieve optimal utilization of land resources and minimize the scope of reclamation. In particular, the large metropolis park as conceived will be surrounded by buildings on three sides while the fourth will be blocked by an overpass, people will have doubts about its ventilating effect and its effect on our landscape. It is also open to question if it is worth our while to sacrifice the natural harbour in exchange for such a park.

Mr Deputy, I support making optimal utilization of the land resources in the region for the development of a sound transportation network including an East Kowloon railway line. If a smaller area can be reclaimed, and more reasonable land use planning can be made in line with the population growth in the region to make the construction of a railway system more cost effective, it will really benefit Hong Kong people.

Lastly, I believe that the Government should further enhance communication among the community and consultation in respect of this development project which has aroused strong social concern and arguments, so that views from various quarters of society can be reflected. It should try its best to seek a consensus in order to work out a proposal that is widely accepted by the community and conforms with the principles of environmental protection and sustainable development.

With these remarks, Mr Deputy, I support Mr Jasper TSANG's amendment.

MR HUI CHEUNG-CHING (in Cantonese): Mr Deputy, the Central and Wan Chai Reclamation has brought strong complaints and although there are signs indicating that the Government may scale down the scope of the reclamation, the Government intends to carry out an unnecessarily large reclamation project in South East Kowloon. The Government has always insisted that environmental protection is very important to the sustainable development of Hong Kong, but it is trying every possible means to narrow through reclamation the Victoria Harbour, the natural deep water harbour Hong Kong has always relied on for sustainable development since its inception. It is really disappointing that the Government has neglected the rights and needs of the public and the future generations to enjoy the Victoria Harbour.

Hong Kong is hilly with little flat ground and our population keeps growing. A government official has reminded the public that reclamation

really plays an important role in the course of the development of Hong Kong. But he has not told people that we are paying irremediable costs for reclaiming land from the Victoria Harbour. The fairways are getting narrower and it is more and more dangerous for navigation. The most important common space and economic assets of Hong Kong is being eclipsed. At present, only a smaller number of smaller rabbit fishes are still living at the shores of the Victoria Harbour. Should we be gratified by the great vitality of nature or be grieved by the Government's neglect of the natural ecology and landscape of the Victoria Harbour?

I am not completely against the South East Kowloon Reclamation. I support reclaiming the old airport runway with stagnant water on both sides. I also support the Government in developing South East Kowloon into a planned modern new town. However, is it necessary to carry out reclamation at the scale proposed by the Government to put the ideas into practice? I have reservations. Firstly, the 280 hectares of land at the old Kai Tak site is abundant. Secondly, I do not think it is essential for the Government to create land through reclamation. In the old airport and its adjacent areas including Kwun Tong and To Kwa Wan, old buildings abound and there are inadequate community facilities. Should the Government focus on developing the old areas and fully utilizing the available land resources? Thirdly, the Government has planned to put together 310 000 people in South East Kowloon. Does this tally with its strategy of dispersing commercial and residential land and sharing the infrastructural burden of individual regions?

I understand that the Government's urban renewal programme has always met much obstruction as it involves complicated problems such as extremely dispersed property titles, property acquisition and the compensation for and resettlement of tenants and commercial tenants. It often takes around 10 years for the Land Development Corporation to complete a renewal project and it fails to keep pace with the ageing and degeneration of buildings. However, this should not become the Government's pretext for sacrificing the Victoria Harbour. Actually, if the Government would rack its brain and pace up renewal of old areas or improve the traffic and community facilities in the New Territories and outlying islands, as well as developing a commercial hub along the railways and major roads, I believe that it will be able to attract people to live or work there and the development of various parts of Hong Kong will be more balanced.

Mr Deputy, I hope that the government departments concerned will heed good advice and put the idea of sustainable development into practice. Laying emphasis on the sustainable development of the Victoria Harbour is the same as laying a firm foundation for the sustainable development of our economy as a whole. I so submit. Thank you, Mr Deputy.

DR RAYMOND HO (in Cantonese): Mr Deputy, the South East Kowloon development project, also referred to as a project creating "a city inside a city", will cover a total land area of 579 hectares, comprising the entire old Kai Tai airport site and the Kowloon Bay reclamation area. The development site, larger than the combined land area of Yau Ma Tei, Tsim Sha Tsui and Mong Kok, will provide lands for the construction of housing units, transport infrastructure and sitting-out facilities. In Hong Kong, where there is a shortage of lands for urban development, we should really support such a project which aims to make the best use of the old Kai Tak airport site. And, at a time when we are experiencing an economic downturn, an early launching of the project will probably boost the sluggish economy and create large numbers of job opportunities.

According to the information supplied by the Government, the project will span a period of 17 years, at the end of which nearly 120 000 housing units accommodating 320 000 people will be constructed. This will no doubt help us greatly in easing the housing shortage in Hong Kong, but I still very much doubt whether we should house all these people on the development site. I hope that the Government can lower the population density planned for the development site and consider the possibility of increasing the ratio of public housing to private housing there. The reason is that we should in fact speed up the progress of urban renewal in the neighbouring old industrial areas such as Kwun Tong, Diamond Hill, Wong Tai Sin and San Po Kong and old residential areas such as Hung Hom and To Kwa Wan. Not only this, we should also increase the proportion of public housing in these redevelopment areas, so as to satisfy people's housing demands. And, in order to facilitate the rehousing of those affected by urban renewal in neighbouring old residential areas, we should reserve lands in the South East Kowloon development site for the purpose. In fact, urban renewal in old areas should also be a good solution. So, even though there are problems with land title and resumption, the Government should not always choose the easier way out, for example, by resorting to reclamation. We are not totally against reclamation, but we must

point out that while carrying out reclamation, we must duly consider the principle of sustainable development.

Besides, I hope that the Government can allow a certain degree of flexibility when formulating any schedule of housing construction. By this I mean the Government should be prepared to make adjustments to tie in with our economic development and actual needs. What is most important is that the formation works for all land lots planned for development must be completed on schedule. Then, the lands concerned should be put aside as reserve and put up for sale at suitable times, so as to ensure that the completion and sale of housing units will not fail to cope with housing demands, which are closely related to the cyclical fluctuations of the economy.

With respect to transport infrastructure, lands will be provided for the construction of two major trunk roads under the development plan. This will certainly help ease the traffic congestion in South East Kowloon, but we must also note that in such a large development site, which is going to accommodate so many people, there must be a more effective and environmentally friendly transport network to provide services to the local residents there. In this connection, a mass transit railway system should be the first choice. But according to the proposed plan, a final decision on the construction or otherwise of a railway network in the area will not be made until the results of the Second Railway Development Study are released in September this year. This really makes us doubt whether the existing plan has already considered the question of future transportation back-up. If it turns out that the residents of the area mainly rely on road transportation, not railway transportation, then, the development project will certainly affect the future development of the area, and, the quality of living of the residents there, in particular, may be affected as well. In addition, the residents there will most likely face many pollution problems resulting from the ever-increasing volume of road traffic. A good railway network should be an integral part of the development of South East Kowloon, and not, absolutely not, anything extra to be added later.

It is only understandable that following the removal of the airport to Chek Lap Kok, we should carry out reclamation works and overall planning in the neighbouring areas such as the Kai Tak Nullah and the Kwun Tong Typhoon Shelter. But we must proceed with the relevant planning work very cautiously, lest this may do irreparable environmental damage to the harbour, in particular the south-eastern part of it. And, we also need to consider the importance of protecting the harbour. In addition, we must assess the environmental impacts

of the whole project very carefully, so as to minimize them. Furthermore, the authorities concerned must make sure that all relevant planning is in full compliance with the principle of sustainable development. What is particularly worth mentioning is that the Government must put forward a clear proposal on handling the toxic sludge of the Kai Tak Nullah, and an extensive public consultation exercise must be conducted to ensure that the scheme finally adopted is acceptable to the public.

Moreover, the Government should also adopt other means to provide more lands for our ever-increasing population and economic development, some examples being urban renewal and the development of the New Territories which I have mentioned. Apart from improving the living conditions in old districts, urban renewal can also provide these districts with modern urban facilities. Besides, if we can make good use of the lands in the New Territories, such as Northern Lantau, we will also be able to reduce the pressures exerted by the over-concentration of population in the urban areas in terms of transport, the environment and community facilities.

Mr Deputy, I so submit. Thank you.

MR WONG YUNG-KAN (in Cantonese): Mr Deputy, since the release of the Outline Zoning Plan for the development of South East Kowloon by the Planning Department last year, numerous objections have been raised by the public and professional organizations. In the consultation process alone, the Town Planning Board has received over 900 submissions objecting to the plan, mostly on the grounds that the scale of reclamation is too large. The Democratic Alliance for the Betterment of Hong Kong (DAB) calls on the Government to listen to the people's views and revise its proposal for the development of South East Kowloon by reducing the area to be reclaimed.

My speech will focus on the scale of reclamation and land use. According to the Government's plan, the development of South East Kowloon will involve 579 hectares of land, half of which will come from reclamation. While the site of reclamation is outside the scope protected by the Protection of the Harbour Ordinance, the DAB is of the view that we should try our best to protect the harbour, which is a precious heritage of the people of Hong Kong. Therefore, no reclamation should be carried out within the harbour unless for a major public interest.

The DAB considers that the scale of the reclamation proposed by the Administration in the Kowloon Bay is too large. As the information shows, after the completion of the said reclamation plan, the middle point of the outermost part of the reclaimed area in Kowloon Bay will only be 1 150 m away from North Point. The coastline from Hung Hom to Kwun Tong will also be straightened, so that the last bay in the Victoria Harbour will vanish completely. As the DAB sees it, this plan will cause thorough and irreparable damage to the view of the Victoria Harbour, which has already been seriously impaired. The whole coastline will be lined with different kinds of commercial and residential buildings, and the Victoria Harbour will become an oppressive concrete gorge.

To prevent the Victoria Harbour from becoming an artificial concrete gorge, the DAB suggests that the Government should draw up a city skyline to protect the view on both sides of the Victoria Harbour. The idea of the city skyline is to set a height limit for buildings above the city, so that the height of buildings should not exceed that line. Specifically, the height of buildings in the urban areas of Kowloon should not block the view of the hill ranges north of the Kowloon Peninsula. With the removal of the airport, the height control of buildings under the airway in Kowloon has also come to an end. If no restriction is placed on the height of buildings, the newly constructed skyscrapers may destroy the view of the hill ranges north of the Kowloon Peninsula. The Government should also limit the height of buildings on Hong Kong Island so that they would not block the view of the Victoria Peak.

Apart from an overly extensive reclamation, the Administration has also wrongly designated over 15 hectares of land as industrial land. Officials of the Planning Department has explained that the piece of land is designated as industrial land because it is surrounded by two distributor routes and it cannot be used for other types of development. This explanation is unacceptable. In its construction of these two distributor routes, the Administration can place more emphasis on environmental protection. By reducing the impact of the two distributor routes on that piece of land, the Administration can re-plan it for other uses to maximize land use.

Besides, there is no need for the Administration to designate 19.51 hectares of land as commercial land. As pointed out by a surveyor's study, if

the various reclamation plans announced by the Government are carried out, the supply of offices in the core business district of Hong Kong might exceed demand in the next decade or so. Thus, if the Administration insists on designating large pieces of land for commercial use, it will only increase the vacancy rate of office buildings and be a waste of resources.

With regard to population density, the Hong Kong Government plans to house 320 000 people in the future South East Kowloon development area. Based on 3.3 persons per household, over 700 flats will be built per square hectare. The density will be similar to that of public housing estates. But since some areas have been designated as medium to low density areas, the density in some residential land might be far higher than that in public housing.

In the DAB's view, the population of the South East Kowloon development area should be reduced, while the Government could try its best to develop areas such as Green Island, Northwest New Territories, North Lantau and Northeast New Territories, as well as speed up urban renewal. The Hong Kong Government can consider converting existing old industrial areas in the urban areas, such as Tsuen Wan or Kwun Tong, to commercial and residential use, in order to cope with the housing demand due to population expansion and thus prevent excessive reclamation to obtain land for housing.

With these remarks, Mr Deputy, I support Mr Jasper TSANG's amendment.

MR LAW CHI-KWONG (in Cantonese): Mr Deputy, I want to express my views on several environmental protection issues discussed under this question. First, the construction of highways and air pollution.

According to the South East Kowloon Development, a total of 123 hectares of land will be allocated for housing construction to provide accommodation for 320 000 people, and another 162 hectares for the building of highways. The design feature of the development is to build high-rise buildings in the fringe area, while a park which is two times bigger than Victoria Park will be built in the centre. But as a result of this design, the park will be situated at a low level. A large amount of exhaust gases emitted by vehicles will therefore concentrate on the park and its neighbouring area, making it difficult for the gases to be dispersed by wind. Consequently, the

health of the 320 000 local residents will be put at risk.

The Democratic Party proposes that an electric mass transit railway system should be used as the mode of transport so as to reduce traffic flow as far as possible to prevent air quality from deteriorating and to provide our next generation with a healthy living environment. Of course, just as mentioned by many Members just now, it is most imperative for the Administration to reduce the scope of reclamation as far as possible. The greater the scope of reclamation, the poorer air circulation within the harbour area will become, making air pollution in urban areas even worse.

Another issue is obviously connected with noise pollution arising from the construction of highways. It is always better for residential areas to be built farther away from main roads. In this respect, the Administration has considered installing noise barriers in areas affected by noise pollution.

Another issue concerns potential danger and health hazards. In order to solve the red tide pollution problem in Tolo Harbour in early years, the Government decided to transmit sewage generated in Tai Po and Sha Tin through underground sewers to the waters off Kowloon Bay. As a result, the surrounding area outside Kai Tak Airport has been, for a long period of time, befouled with bad smell. Even people passing by can smell the stink there, and a large amount of toxic sludge has been deposited on the sea-bed over the years. In addition, the apron north of Kai Tak Airport is plagued by the problem of underground oil pollution. This is because over the past few decades when the airport was still in operation, leakage of different degrees caused by refuelling of aircraft and filling of oil tanks had subject the land to serious pollution. Although the Government is now carrying out a decontamination project, the Democratic Party still considers it necessary for the Government to ensure a complete elimination of public health hazards caused by underground oil pollution before it can consider planning the land for residential purposes. Furthermore, prior to the clearance work and when it is being carried out, the Government must make a full account to the public by providing all the information as well as explaining to them the potential risk.

In order to carry out reclamation, the Government must, first of all, dig

out sludge from the sea-bed before pouring in sand to fill up the sea, otherwise, the underground foundation will become unstable as a result of sludge disintegration. Just as I said earlier, over the past few decades, a large quantity of sludge containing heavy metals has been accumulated on the sea-bed off Kai Tak Airport. And this kind of dredging projects might cause more than a million cu m of toxic sludge to be dumped into the off-shore sludge pipes near Sha Chau. This will further aggravate the harm and impact made by the dredging project on the environment. Organisms living in nearby waters, particularly the Chinese white dolphins we frequently mentioned, will also be exposed to great harm. Although the Government has stated that the project will not have substantial impact on our harbour and water quality, we have great reservations about that. Moreover, the Government seems to have taken the importance of the whole issue too lightly for it has not yet come up with a concrete solution to solve the problems we just mentioned, such as traffic noise pollution, air pollution, foul smell and so on.

For these reasons, the Democratic Party urges the Government to, based on the so-called sustainable development notion as referred to by a number of Members just now, revise the South East Kowloon Development proposal. I so submit.

MR HOWARD YOUNG: Mr Deputy, the Honourable Edward HO has already spoken on the Liberal Party's stance towards today's motion and its amendment, and he spoke only on the aspect of whether we do need the land, what to do with it and how to deal with it. I wish to take the argument further from a different perspective, that is, from the tourism aspect.

The harbour is one of the assets of Hong Kong. It does not just belong to the people who live alongside or near the harbour. It belongs to the Hong Kong people as a whole. It is also a very enjoyable asset and is a magnet that attracts tourists to Hong Kong. There are not many tourism attractions around the world which can actually boast their harbours as tourist attractions. Some places do not even have a harbour. However, our harbour is seen on many of our promotion materials. It is seen on postcards and posters. I am sure that the Secretary responding to today's motion debate, who was also in charge of tourism in his previous incarnation, will understand what we mean, that the industry itself is very sceptical when it comes to doing anything that could alter

either the volume, the shape or the desirability of the harbour and the facilities around it.

I recall when Mr CLINTON, President of the United States, visited Hong Kong, originally he was going to end his trip with a cruise across the harbour, but it was changed for some reasons afterwards. Anyway, the cruise was originally on the itinerary and naturally, the harbour was regarded as one of the best attractions that Hong Kong can boast of.

Mr Deputy, to fill in part of the harbour bit by bit, or chunk by chunk and eventually ending up with a Victoria River, will do Hong Kong's scenery and tourism attraction no good. It also does harm to some tourism-related activities in the harbour itself. For instance, harbour cruise is one of the major attractions to tourists, and even pleasure boats being moored by a mariner is also an attraction in itself. And it is this sort of thing that we want to maintain.

Of course, the tourism industry is not against every single bit of reclamation. If you said that you wanted to build a cruise terminal and that you had to fill in part of the harbour and allow for infrastructural aspects right behind it in order to make it a totally attractive tourism asset, I think the industry would, under the circumstances, accept and even support such a project. However, with the magnitude of the currently planned South East Kowloon reclamation, especially when some planners from the tourism industry said that this should be the place for a cruise terminal, this project will not be acceptable to the industry. And actually, many other industries have vested interests in the harbour as well. This project, again, would not be acceptable to them, too.

I would like to also mention here that the reclamation of the harbour is not within the spirit of the Protection of the Harbour Ordinance. We have had many controversies in this Council about some old bills which were passed just prior to the handover. And even when the Provisional Legislative Council looked at this Ordinance, they were also unanimous that this was one of the ordinances that should survive the transition and be valid after 1997 as well.

Now, this Ordinance is still in effect. I hope that the Government will take note of it in dealing with this project.

With these words, I would like to not only support the original motion but also the amendment, although my colleague, the Honourable Mrs Miriam LAU, will probably speak more on the amendment which is to do with rail. I must add personally that when I first looked at it, I asked myself, "Is this another act of amending for the sake of amending?" It is because I feel that whether to have a comprehensive railway development plan is in itself worthy of a separate debate and probably, could also win the unanimous support from Members of this Council.

DR TANG SIU-TONG (in Cantonese): Mr Deputy, in recent years, the Government has been engaging in massive reclamation projects one after another. When the new phase of the reclamation project in Central and Wan Chai has yet to be finalized, the reclamation project in Tung Chung has already commenced. A few months ago, the South East Kowloon Development was hurriedly introduced. Despite the fact that the development of the city of Hong Kong began with removing the hills and reclaiming land from the sea, the present abuse of reclamation is disturbing.

The scope of the reclamation project in the South East Kowloon Development can rightly be described as "sensational". The part on reclamation involves 299 hectares, or as much as more than seven times of the area to be reclaimed under the Central and Wan Chai Reclamation Development. It is indeed apt to say that it is a "city within a city". For the project is like airlifting the Tsuen Wan satellite town in the 1980s and landing it at the very heart of Kowloon. But is there really a need to take on a reclamation project of such an immense scale? One cannot help but doubt. In the course of its consultation period, more than 100 objections were received, the major thrust of opposition was on the excessive scale of the project.

Mr Deputy, I am not totally against the South East Kowloon Development project, for I think there are some merits in it. These include making improvements on the older urban areas, boosting the housing supply, improving transport networks, creating employment and so on. The direction

merits support. But the question is: Is this 299-hectare piece of land really essential and why even the tiniest fraction of it cannot be compromised in any way?

According to the proposal, the original 280-hectare Kai Tak site will be used for residential development and it will house a total of 320 000 people. The 299 hectares of land reclaimed will be zoned as a commercial district, land for recreational use, community facilities and set aside for the construction of transport networks. If the Government is to insist on this proposal, then the following problems will have to be solved:

- (1) Why can a re-planning of the old commercial and industrial areas such as Kowloon City, To Kwa Wan and Hung Hom not be done? The commercial and industrial buildings in these districts have a very low occupancy rate. Through the re-deployment of the land resources, enough land for commercial purposes can be provided to the district. Why has commercial land to be provided through the destruction of the ecology of the Victoria Harbour by undertaking reclamation projects?
- (2) Why can a marine park with natural attractions not be built along the natural coastline of the bays in the harbour? Why do we have to further pollute water quality in the harbour and build a man-made theme park in the reclamation area after destroying the natural coastline of the Victoria Harbour? According to reports, the area of land to be used by the park is as much as 50 hectares, taking up one sixth of the total area of land to be reclaimed, amounting to three times that of the size of the Victoria Park. Is this something really essential?
- (3) Why can urban renewal not be speeded up, the plot ratio raised and land use changed as an initial step to find out a way which can both relieve the pressure on housing supply while reducing the negative impact on the environment? Why is a "second best" option taken, that is, to increase the area of land reclaimed from the sea?
- (4) What is most baffling is why can the 320 000 people not be diverted to other districts? There is a lot of land in the Northeast

New Territories, Western New Territories, the outlying islands and the Eastern district of Hong Kong Island which can be developed, and in these areas quite a number of infrastructure and transport networks are presently being developed. Why is it necessary to "cram" such an enormous population into the urban area which is already very densely populated? Is it really because of these 320 000 people that reclamation is needed? Or is it because of the reclamation that there is a need to put 320 000 people into it to sustain it?

- (5) Even though land has to be provided for transport networks, there is still room to reduce the area of land needed. As a similar transport infrastructure, the possibility of reducing the scale of the second phase of the Wan Chai reclamation project used to be ruled out categorically, but now a new feasibility study is being conducted. Can this be done to the South East Kowloon Development as well?

Recently, the Government has linked up the development of the South East Kowloon railway extension with the reclamation project. This is not a feasible proposal. For even if the scale of reclamation is reduced, the population of South East Kowloon after redevelopment is sufficient to support the development of a railway there.

Moreover, from the perspective of environmental protection, a 300-hectare reclamation does not only mean 300 hectares of sea will become dry land, it will also mean that a yet even larger area of seabed and its marine life habitat will be totally obliterated forever. The water quality in the Victoria Harbour will suffer an instant deterioration. All these cannot be remedied by a single Strategic Sewage Disposal Scheme alone. Is this a worthwhile, essential and affordable cost to be paid?

There have been reports these days that the Government will consider reducing the scale of the reclamation. If the Government is receptive to sensible advice, this is of course something we are happy to see. If it is not the case, then the Government owes this Council and the public a satisfactory and convincing explanation for this 300-hectare reclamation project that it proposes to undertake.

Mr Deputy, I so submit in support of the amendment.

MISS CHAN YUEN-HAN (in Cantonese): Mr Deputy, the South East Kowloon Development announced by the Government has been discussed in the meetings of this Council for a number of times. The views of many groups have also been heard in these meetings. A lot of views have been given on the reclamation issue.

Looking at the Government's plan, I think that the major aim of the Government is to reclaim a vast stretch of the harbour and to reclaim the beautiful bay in South East Kowloon to form a straight coastline. If we are to treat this invaluable piece of land at Kai Tak according to the plan, I think it will pose a major threat to the territory's future development. No serious thoughts have been given to the kind of planning we need for the next century: A city within a city, or as our Honourable colleagues have said in recent years, a plan of the century, but it may also well be one that will lead to an ecological disaster. This will make the future generations suffer. Mr Deputy, last week I sailed on a boat to see how the Government plans to carry out the reclamation works. I just shuddered to see parts of the beautiful Kowloon Bay having been filled and even pulled straight to look like a canal. To be frank, now we do not have many beautiful bays any more, and if the Government's plan is made to go ahead without any modifications, then Hong Kong will suffer a terrible loss. I am afraid the natural beauty and sea view of South East Kowloon will be gone forever.

Mr Deputy, I wish to stress that, in considering the planning and redevelopment of Kai Tak and its peripheral areas, the Government should consider the views put forward earlier in this Chamber and pay attention to the concept of sustainable development and other related ideas. Some people have already said that the Government should explore the potentials of other scenic spots in Hong Kong which can make good use of the existing advantages of Kowloon. Examples which we are all familiar and which readily come up to our mind include Lei Yue Mun, the ancient village in Cha Kwo Ling, the Kai Tak legend and the Hoi Sum Temple in Kowloon. They are all very important tourist attractions. But if we look at the Government's proposal, I am not sure if the Deputy President has read it as well, all these places I have just mentioned will vanish forever. There will not be a Hoi Sum Temple, nor will there be the beautiful Kai Tak area. And the scale of construction will eat into

the ancient village of Cha Kwo Ling and Lei Yue Mun.

The Government's concept totally lacks foresight and it is nothing but fragmentary. No consideration has been given to the needs of the future development of society, and the wishes of the people are totally disregarded. Let me cite an example. Recently, I went to Lei Yue Mun and joined a meeting held by the residents there. Why did they hold a meeting? It was because the Government said it would conduct a consultation exercise on the feasibility study of the routing of the Western Coast Road at Tseung Kwan O. Originally, the district board was consulted a few years ago and it was agreed at that time to extend a new highway bypassing the light house. But recently, the Government has put forward a D proposal to cut Lei Yue Mun by halves. I do not know if Mr Howard YOUNG and the tourist sector have heard of this and as colleagues I wish to tell all of you this. Those who care about this will know what has happened. I just felt a chill down my spine when I finished reading the proposal. There is no reason why beautiful scenery like this has to be destroyed. It is unjustified at times of economic difficulties, and it is likewise even if the economy is robust. If you are interested, you can ask Mr WONG Yung-kan to arrange a launch for you to go out to the sea and have a look. I sailed on his boat the other day. The proposal involves many places with beautiful scenery. The proposed road will go over the Devil's Peak above and extend down below and cut Lei Yue Mun into halves. There will not be a Lei Yue Mun any more, nor will its nearby places exist. Sometimes I cannot help but wonder whether the town planners have ever considered how to make the best use of Hong Kong as an island and to develop our tourist industry and to make great progress in future. Plans like this and the South East Kowloon Development give people the impression that they have never taken these into consideration. All that the Government cares are reclamations and building houses. So I think that this kind of planning is a glaring disregard of our environment. Our new Secretary for Planning, Environment and Lands should take a look at what the Government has done in these areas.

Mr Deputy, as for the planning of the development of the entire South East Kowloon, I agree that reclamation on a reasonable scale can be carried out to meet the needs of highway construction. But careful consideration must be made and the views of the interested parties heard before any action should be taken. This is very important. Reclamation should be kept to the minimum. As for transport networks, I agree to the Government's design. But, care must be taken to plan how each route would go. Do not resort to reclamation so

often. Make the best use of our potentials, especially the Kai Tak extension of the MTR which has been under discussion for such a long time. The extension will cover the entire Kowloon area with the objective of easing pressure on the traffic in the Kowloon City area. But we can see that the government proposal only seeks to begin the South East Kowloon extension in Hung Hom and making it go to places like Ho Man Tin, To Kwa Wan, Ma Tau Kok and the northern part of the Kai Tak airport, then linking up Diamond Hill. But how about Kowloon City? It seems that the Government has not heeded the advice made by various groups in the district when it conducted the planning.

Besides, we can see some reports in the papers lately in which the Government has been trying to make people believe in the idea that if there is no reclamation, there will be no way to build homes for more than 300 000 people. Then there will be no need for these railway links. I do not know if this is true or not, but everybody knows that South East Kowloon is an important area in our city. Many roads go past this district and it is very busy. There is no need for that place to rely on increases in population to build highways or railways. We can also see in the foreseeable future that the development of places like Tseung Kwan O and Sha Tin will rely on the development of South East Kowloon. I think the Government should not talk nonsense like this. Things like if houses are not built there, there will be no railways or highways. The Government should not say these any more. Mr Deputy, some of my friends in the Democratic Alliance for the Betterment of Hong Kong and I talked with the Government at the end of 1996 on the South East Kowloon Development. We made a proposal then on how we could make use of our leading edges such as the traditional scenic spots which I have just mentioned, like the Hoi Sum Temple, Cha Kwo Ling, Lei Yue Mun and even Kai Tak. These are all important places. And we also suggested to redevelop old industrial areas in Kwun Tong and San Po Kong. We were talking about the big issues of development. But when we asked the Government earlier, to our surprise, the reply we had was that it had not considered these places. I wonder how the Government can talk about sustainable development and the building of a city within a city when all these have never crossed the mind of the Government and it is only musing with a few eccentric thoughts like filling up the Kai Tak Nullah which we are not sure if that will become a replica of the Shing Mun River in Sha Tin. Mr Deputy, we really do not know what is going on in the mind of the Government. But we think the proposal should be revise. Therefore, we support our

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

MISS CHAN YUEN-HAN (in Cantonese): Thank you, Mr Deputy.

MRS MIRIAM LAU (in Cantonese): Mr Deputy, the South East Kowloon Development which is called the "city within a city" is, according to government conception, the biggest reclamation project after the new airport, for there will be 580 hectares of land added to the entire South East Kowloon development area. Of these 280 hectares come from the original site of the Kai Tak airport, and 299 hectares from reclamation works in Kowloon Bay, the Kai Tak Nullah and the Kwun Tong Typhoon Shelter. Housing for an estimated 320 000 people can be provided in the development.

To dovetail with the development of this "city within a city", the Government plans to build two major trunk roads. They are the Central Kowloon Route connecting the Hung Hom Bypass and the Western Coast Road which links up the Central Kowloon Route. These major road links are instrumental in easing the pressure of the east- and west-bound traffic of Kowloon. But as the roads are not sufficient in coping with the great volume of traffic, the Government plans to build a railway as a backbone for the public transport network.

The Interim Report of the Second Railway Development Study has pointed out a number of railway alignments which may be developed. One of these is the Eastern Kowloon line which passes South East Kowloon. But the consultancy report states that the construction of the East Kowloon line hinges on the reclamation project of South East Kowloon. If the reclamation is scaled down, making the planned population of 320 000 a non-reality, then the existing population in old urban areas like Kowloon City, San Po Kong and To Kwa Wan may not justify the building of the proposed East Kowloon line. The Government stated that should the reclamation works of the South East Kowloon Development be scaled down, the population would be reduced and hence could not support a railway. According to government estimates, a

population of half a million is needed to make the operation of a railway financially viable.

Although the Government denies that the consultancy report is defending the reclamation proposals, it is clear from the arguments put forward that the development of the East Kowloon line is linked up with the reclamation works. For according to government arguments, the prerequisite for the railway is a sufficiently large population, and that in turn depends on the reclamation works to be undertaken.

I strongly object to the pegging of railway developments with reclamation works, for the arguments on reclamations would only serve to postpone the completion of the railway development, and even puts it off indefinitely. Controversies centred around the Central-Wan Chai Reclamation have caused the Central-Wan Chai Bypass and the Eastern Corridor Link which should have been completed at the end of the 1990s to remain on the drawing board. I am afraid in the days to come, programmes like the section of Route 7 between Kennedy Town and Aberdeen will likewise be doomed as its construction would be delayed by the controversies centred around the Green Island reclamation. I am growing tired of these arguments and I would not like to see important transport infrastructure being sacrificed amid environmental protection contentions. The Government must find ways of minimizing or avoiding such contentions so that infrastructure projects can begin as soon as possible.

Why does the East Kowloon line necessarily have to be linked with reclamation works? From an engineering perspective and according to the conception of the Mass Transit Railway, the East Kowloon line will only need to pass the existing stretch of land, including the old Kai Tak airport site, that is, the location of the northern apron, and there is no need to pass any reclaimed land. Therefore, the alignment of the East Kowloon line would not be affected by any reclamation or otherwise. The remaining considerations are financial, that is, whether there is sufficient patronage to justify the operation of the East Kowloon line.

I think nobody will go for the preservation of the Kai Tak Nullah. The area of land reclaimed from it plus the old Kai Tak site are expected to be able

to accommodate a population of 200 000. At a first glance, this figure is quite a long way from the population of 320 000 which the Government says would support the East Kowloon line. But there are still no grounds to justify reclamations in Kowloon Bay if we need to have an additional population of more than 120 000. As a matter of fact, the population of To Kwa Wan, Kowloon City and San Po Kong already reaches 220 000. And it will keep on increasing. When the airport is relocated to Chek Lap Kok, the restrictions on the height of the buildings in these districts has been lifted and the Government is studying into the possibility of expanding the plot ratio for property development in these areas. Such a study will be completed in 2000. Therefore, there are enormous development potentials for South East Kowloon. It can definitely take in more population.

The Government is still unable to free itself from the fetters of its past planning principles and it still insists on having the construction of infrastructure driven by population growth. If on the contrary, population growth is allowed to be driven by infrastructure, then the urban renewal around Kowloon City would certainly be propelled by the East Kowloon line. Coupled with the relaxation of restriction on the height of buildings, the entire population of South East Kowloon would increase by leaps and bounds. If we add up the figures, that is, the 200 000 people or so accommodated in the land of the existing Kai Tak Nullah and the Kai Tak site, plus the existing 220 000 people from the South East Kowloon area, there will be a total of 420 000. When this population is added to the development potentials, this is good enough to support the construction of the East Kowloon line without undertaking the reclamation works in Kowloon Bay.

On the other hand, the Interim Report of the Second Railway Development Study has pointed out that the East Kowloon line proposed in the First Railway Development Study only connects Diamond Hill with Hung Hom. But there is a need for the Government to consider how to link up the East Kowloon line with the fourth harbour crossing or other railway networks. Should the Government consider linking up the East Kowloon line with the Ma On Shan rail link, and to have it linked with other railway networks through the fourth harbour crossing, even if the population of South East Kowloon itself is unable to meet the planning target of 500 000 after urban renewal in that area, there should not be any worries as to the patronage of the East Kowloon line for it can attract passengers from the Eastern New Territories. Thus the financial viability of the East Kowloon line should not be a cause for worry.

Mr Deputy, the East Kowloon line should not just be built, it must be built as soon as possible. For with the increase of population in the Tseung Kwan O area, it is expected that after the year 2005 or 2006 there will be mounting pressure from the Tseung Kwan O Extension on the MTR cross-harbour line from Yau Tong to Quarry Bay. And the West Rail would bring pressure on the Nathan Road Corridor of the Tsuen Wan line. The saturation of railways would compel passengers to turn to other forms of transport, thereby creating more traffic jams. To ease the pressure on the entire railway system and to reduce traffic congestion, the East Kowloon line connecting the fourth harbour crossing must be built as soon as possible.

I earnestly hope that the Government can listen to sensible advice and deal with the reclamation issue in a pragmatic manner so that the South East Kowloon Development can commence as soon as possible and that the related transport infrastructure can be completed expeditiously.

Mr Deputy, I so submit.

MISS CHOY SO-YUK (in Cantonese): Mr Deputy, in September last year the Government introduced the South East Kowloon Development which involved massive reclamation works. Since that time, more than 900 written objections have been received. Among those who oppose include certainly the environmental protection groups which have always been opposed to the reckless reclamation by the Government. There are also property owners who are concerned with the view of their properties or the leisure facilities, recreation and sports groups, fung shui masters, and even architects, engineers and property developers who risk losing the chance of taking part in government development plans and join the ranks of the opposition. No matter whether these people are doing this out of their own convictions and rights, or because of the long-term benefits of Hong Kong society as a whole, they all have a common goal in protecting the Victoria Harbour. It is unfortunate that the reclamation proposals put forth by the Government have gone against the fundamental idea of protecting the Victoria Harbour which is a cardinal principle of right and wrong. If the proposals are given a green light despite all the oppositions, it is feared that there will appear an all-loss scenario where no credits will be given to efforts paid and condemnation will arise from all parties.

The Victoria Harbour is a century-old heritage of Hong Kong, the first

and foremost part making Hong Kong a harbour as it is, the lifeline to Hong Kong's development in the past, present, and in the future. It is unfortunate that on the one hand the Government claims that it is studying the way forward for sustainable development of the territory into the 21st century, but on the other churning out a series of reclamation programmes which are all but doubtful with regard to fulfilling the principle of sustainable development even before the completion of the report on the study. The Central-Wan Chai Reclamation development has aroused vociferous disapproval a long time ago. Now the more massive South East Kowloon Development the impact of which hits far more profoundly into the 21st century is in the pipeline. No attempt has ever been made to explain to the public the environmental impact assessment report of the proposed reclamation, including that on the danger posed to the public from the soil beneath the Kai Tak runway which has been subject to years of pollution from aeroplane fuels. I am extremely disturbed to see that certain government officials seem to be interested only in getting the job done and for these people, the concept of sustainable development seems to be none of their concern.

If this long-term target of sustainable development is left aside for a moment, even from a utilitarian or economic perspective, the South East Kowloon reclamations will only serve to further destroy this natural endowment of the Victoria Harbour and hamper the territory's economic growth. When the people of Hong Kong and the commercial and industrial sectors are all financially dried up for the moment, hope is placed with the Victoria Harbour earnestly to pour a shower of wealth onto the parched ground of the economy, especially the tourist, shipping and trade industries. More importantly, there is a lot of land in Northeast and Northwest New Territories which can be developed into residential areas and commercial centres. Is there really a need to cram 320 000 people into South East Kowloon near which districts like Kwun Tong, Kowloon Bay and To Kwa Wan which are already packed with people?

In addition, issues like the feasibility and specific plans of the South East Kowloon railway development have never been clearly explained to the public. The first phase of the development is expected to be completed in as short as four years in that district. It is doubtful that the transport infrastructure will be able to cope with the 130 000 people expected to live there, not to say the

population of 320 000 for the entire district. Should South East Kowloon be unable to accommodate such a massive population, and if railway development cannot cope with the growth in population, then problems like traffic congestion and pollution so caused will incur unpredictable economic losses. Moreover, excessive development in South East Kowloon, in particular, the emergence of huge commercial centres along the waterfront, may undermine the potentials of certain new towns in the New Territories in developing into secondary commercial centres.

Mr Deputy, South East Kowloon is filled with sprawling old urban areas, dilapidated and crowded. What the Government should do is not to relocate more people into the district, hence putting more pressure on the infrastructure. It should aim at redirecting, rebuilding and redeploying land resources in the older urban areas. The bays off Hung Hom and Kwun Tong are beautiful. The Government must not fill up these bays and make the sewage pumping station and the marine refuse collecting depot face Lei Yue Mun which is, after all, a tourist attraction. Water quality in the bays must be improved as soon as possible, so that they can be turned into a mooring place for boats used in marine recreational and sports activities. The Victoria Harbour should be returned to the people of Hong Kong.

Mr Deputy, we may all have this feeling: When we look down from the Victoria Peak, the Victoria Harbour lying below is not much more than a big gutter before our eyes, its coastline twisted and distorted beyond recognition through repeated reclamations. If government officials can stand higher up and look farther away, they will know why so many people from all walks of life are so strongly opposed to reclamation in the Victoria Harbour. They will find in addition to the Victoria Harbour below, there is a vast expanse of land to the north of the harbour unfolding before their eyes, full of potentials for development. I expect the new Secretary to abandon old ways and practices in the Bureau and lend a listening ear to public opinion and revamp the whole planning of the South East Kowloon Development.

Mr Deputy, I so submit.

PROF NG CHING-FAI (in Cantonese): Mr Deputy, I have strong reservations on the proposal to develop South East Kowloon put forward by the Government.

First, from the drawing up of development plans to the proposal of implementation programmes, suggestions on the land use and scale of reclamation works of the South East Kowloon Development have never been subject to public consultation of sufficient breadth and depth. There have been very few cases where useful and constructive ideas from the public are taken. What the South East Kowloon Development seeks to open up is the last piece of land and bay of this huge size found in the urban area. The coverage and comprehensibility of the programme are of enormous relevance to our economy and environment. Any pitfall would cause irrevocable damage to the future of Hong Kong. And so the Government must consult the public on this huge development plan. I hope consultation can be done with sincerity, rather than half-heartedly. The subjects of consultation should be the various professional bodies, town planning groups, environmental protection groups, social worker groups, district organizations and the public at large. Collective wisdom should be pulled and the original plan revised. I hope that the Government would not turn a deaf ear to that and will no longer act in disregard of public opinion. To be honest, the Sewage Services Trading Fund and the Strategic Sewage Disposal Scheme launched by the Government previously all lacked consultation and request for review was flatly turned down. We all know the kind of results obtained by such kind of adamant attitude and disregard of public opinion. The Strategic Sewage Disposal Scheme is only a scheme which involves a dozen or so billion dollars, but the South East Kowloon Development is much greater in terms of costs and impact. I hope that the Government can really begin a comprehensive consultancy study and draw up a plan which complies with the policy of sustainable development, while at the same time produce an impression of a responsible government which can gain public confidence.

Second, the plan proposed by the Government has aroused yet another round of public worries about the harbour resources of Hong Kong. Many Honourable colleagues have said just now that the area to be reclaimed is as big as 300 hectares. When the reclamation scheme is finished, our harbour will not be a harbour any more. The delicate bends of our coastline will be straightened, and the Victoria Harbour will be a sewer indeed. Gone will be the natural charm of our harbour. A much more serious problem is that with repeated reclamations the sludge at the seabed grows thicker and thicker, the draught of ships is constantly reducing, making this deep water port increasingly difficult for ocean-going ships to navigate and moor. If such a

massive reclamation as proposed by the Government is implemented, this deep water port which is the cause of Hong Kong's fame and fortune will disappear from the face of the earth. The historical value of this seaport (which has been referred to earlier), the pleasure activities on its waters, and the fame of being a world-class fairway will also be gone. We have said many times in this Council that reclamation is an engineering endeavour which cannot be reversed, an act which is irrevocable. What we will be doing is to draw on the assets of our future generations seriously and ruthlessly, until it is depleted and spent with. Then what kind of development can be sustained?

Mr Deputy, the question we want to ask most urgently is: Is a 300-hectare reclamation essential?

The answer we can deduce from the Government's plan is: to set land aside for commercial and industrial uses. Many professionals have pointed out that this is not a sufficient justification for the undertaking of such a huge reclamation project. I think government officials will also know that reclamations are not the only way to increase land supply. Some Honourable colleagues have just mentioned that there is still a lot of land in the New Territories which is not fully used. To satisfy the demands of a growing population on housing, urban renewal or redevelopment of public housing estates can be conducted north of South East Kowloon. Moreover, the Government should review its existing policy on industrial buildings since a majority of the industrial buildings in Kwun Tong and Kowloon Bay are presently left vacant or have changed their uses as a result of the northward relocation of industries. These buildings may very well be turned into commercial buildings, offices or flats for residential purposes. In so doing, the so-called South East Kowloon Development which is a packed and heavily polluted piece of land infested with traffic congestion, and paid at a cost of destroying a natural harbour to reclaim land from the sea, can be replaced.

Mr Deputy, I wish to talk about the concept of sustainable development in the South East Kowloon Development. After the reunification, the Government of the Hong Kong Special Administrative Region launched a study on Sustainable Development in Hong Kong for the 21st century. The primary objectives of this study are to draw up a series of methods whereby the authorities can effectively assess and monitor various standards associated with sustainable development in the future. At present, many members of the public are aware of the importance of sustainable development. Environmental protection groups and Members of the Legislative Council are

particularly concerned about this new development concept of sustainable development and how it can be accepted by the policy makers. Regrettably, this South East Kowloon Development proposed by the Government cannot embody the values of sustainable development. From this it can be seen that many government officials are talking about one thing and doing another. Studies remain studies, while administration is a different matter. I hope that the Government, especially the Planning Department, can seriously draw up another South East Kowloon Development imbued with the spirit of sustainable development for the 21st century, so as to meet the needs of Hong Kong people in the next century for a quality living environment.

Mr Deputy, on the wording of today's motion, I cannot agree with Miss Christine LOH's suggestion of urging the Government to withdraw the proposal for the development of South East Kowloon. After the relocation of the airport, there is a pressing need for South East Kowloon to be redeveloped. Many Honourable colleagues have already dwelled on this point. Since the Government has spent so many resources to study this proposed development, we should not brush the matter off lightly by simply asking the Government to withdraw it. The proper way is to make use of the existing research findings and add in these novel ideas of sustainable development and conduct an extensive public consultation with a view to revising the plan.

With these remarks, Mr Deputy, I support Mr Jasper TSANG's amendment.

MR ANDREW WONG (in Cantonese): Mr Deputy, I must say a few words because I may be asked to explain on the voting decision I shall make later.

Just now I asked Miss Christine LOH how she was going to vote, whether she was going to vote against it or what. She said she would quietly I think I had better let her explain it herself. But in any case, I am very happy today because a consensus has been reached by among Honourable colleagues of the Legislative Council in this Chamber on the issue of South East Kowloon Development. The message is loud and clear. And I share the other Members' views.

However, sad to say, although everything in Miss LOH's motion is correct, there are certain mistakes. For example, words like "to withdraw" have been used wrongly. For under such circumstances, when the words "to withdraw" have already been used, if someone wants to propose an amendment,

it would be natural to change the wording to "revise" or "amend", then the motion will certainly look much better and sound more responsible. But there are criticisms that the motion has not undergone extensive public consultation. However, should a thorough consultation be carried out, it may use up more time and may make delays. Despite this, I find Miss LOH's remarks quite the same with other Honourable Members, for from the outset she had made it clear that she agreed that "to revise" was better than "to withdraw" and that it was unfortunate that nothing could be done since two amendments had been proposed.

In this Chamber there used to be some people who would propose amendments, especially regarding those motions without legal effect, because they did not like them. We would say that these people were taking a free ride and we would permit them to put up their show. But today it is really a "hijacking" rather than getting a ride. It might well be Miss LOH has inadvertently used a few words which may not sound that appropriate, but if she could seek a consensus graciously or talk to me beforehand, then this motion could have been improved much better. This is my personal view. My opinion is that since views are the same, why are there amendments? I wish to explain that I shall vote against the amendments. It will make no difference if Mr James TO has withdrawn his amendment or not, I will vote against his amendment as well as that proposed by Mr Jasper TSANG.

Thank you, Mr Deputy.

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

(No Member indicated a wish to speak)

MR DEPUTY (in Cantonese): Miss Christine LOH, you may now speak on Mr Jasper TSANG's amendment. You have five minutes.

MISS CHRISTINE LOH (in Cantonese): Mr Deputy, it seems that my use of the word "withdraw" has created a lot of problems. Mr Andrew WONG asked a moment ago if my motion had been stolen. That does not matter, and

there is no cause for me to argue about such matters. Then why did I use the word "withdraw"? You may know very well that I really care very much for our harbour. I may have acted impulsively at times. But, Mr Deputy, I think the proposal can be withdrawn. In fact, whether it is withdrawn or revised, it will not make too much a difference. What I want to mention in passing is that just now Mr Jasper TSANG said here (now he has gone out) that we might lack communication. He said that had we had more communication, the problem would have been solved and the need for amendment obviated. I hope I can have more chances to drink coffee with him and if he does not mind, he can phone me as well. I will be more active in persuading other colleagues. But I will first do a good job with my motion.

I wish to talk about how we can provide remedy to this issue. We are worried that should the Government withdraw this proposal, everything will have to start from scratch. Then a few more years will have to be used. That is something we cannot afford to bear. Demand on housing is also very keen. Can we think of a compromise then? Mr Deputy, if the Government really withdraws its proposal, and even if the pace can be quickened, that will still take two or three years. But if the proposal is not withdrawn, after amendments are made here and there, can we draw up a new plan which is both visionary and comprehensive? That I really doubt. Therefore, I have sought to propose a motion to see if any new plan can be found, or if there is any revolutionary option which can win approval from all of us.

Mr Deputy, I hope within the year 1999, we can first of all, use a new model to go in line with it. This is what I called saving grace just now. It can be said to be a mid-way plan. I think Mr SIU may take it as an administrative measure. As I have mentioned in my speech just now, many feasibility studies are being carried out at present. The last one of these will be completed within this week. I hope the Secretary can later undertake that this kind of research reports will be released as soon as possible. This will enable this Council and the public to read very carefully the meaning behind the entire plan. The Government may as well give us one month to study the report carefully, for there are the Chinese New Year Holidays in between. And after we have read it, when March comes, if the Government wishes to take the items in the first phase to apply for funding in the Finance Committee

of the Legislative Council, and if after we have read the report carefully we feel that these items can be carried out now and will not affect or bind us in any way to the second phase up to the fourth phase of the project, then this may well be a possible short-term compromise.

Secondly, could the Secretary consider at the same time to ask all departments, bureaux and professional bodies to conduct some more large scale and in-depth discussions, for there are people who have really come up with other proposals. Mr Howard YOUNG, for example, asked just now whether a cruise terminal can be built there. If this can be permitted, I can also speak in another capacity, that is, as a member of the Society for Protection of the Harbour and put forward another proposal. We have a similar idea and in fact there are lots of other brilliant ideas from the public. The only question is how the Government is going to make use of this year to collect these views and come up with a blueprint for us to discuss. For example, just now I heard an Honourable Member ask what we should do with the site when the nullah was filled up. Does a park require that vast area of land that the entire stretch of the sea has to be filled up? If it does not, then after re-designing the project, there may not be a need to reclaim such a large stretch of the sea to make way for a park, or we may still have some green areas for leisure and enjoyment.

Just now many Honourable Members have said that the present land for industrial use is no longer suitable, then can these uses be changed? What can these areas be used for? So, a lot of changes can be made. Mr Deputy, please do not forget, the project is going to take us more than a decade. There is no need for us to worry about spending a year or so to think up a better plan will waste so much of our time that this will affect the pace of housing construction.

I am very grateful for the many Honourable Members who spoke today on this topic. Lastly, I would like to say a few words on the remarks made by Mr Howard YOUNG. Just now he mentioned the Protection of the Harbour Ordinance. He also said that the Kowloon Bay project has not followed the spirit of the Protection of the Harbour Ordinance. Unfortunately, I must say, the Kowloon Bay project is outside the ambit of the Protection of the Harbour Ordinance. But I can tell you, I have proposed an amendment to the Law Draftsman and that is to put Green Island and Kowloon Bay under the ambit of the Protection of the Harbour Ordinance. I will be delighted to report to you on any progress made in the future.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr Deputy, let me first thank the Honourable Miss Christine LOH for moving this motion, the Honourable James TO and the Honourable Jasper TSANG for their amendments, and other Honourable Members for putting forward their opinions.

The Victoria Harbour reclamation project proposed by the Government has aroused heated debates both inside and outside the Legislative Council, and these debates can all show the concern and expectations of the public with respect to our harbour. During the debate which went on for nearly two hours just now, Honourable Members expressed very extensive views about the South East Kowloon Development Project proposed by the Government. Some Members queried the planning objective of the Government, expressing the worry that the project might do irreparable damage to our only, and most precious, natural heritage. In the debate, Members also related people's concern over the environmental impact, transport problems and other questions which the project might cause.

Very obviously, the criticisms and advice of Members are an expression of their intense love for the Victoria Harbour. Actually, the value of the Victoria Harbour to Hong Kong is beyond any doubt. The Victoria Harbour has witnessed the social and economic vicissitudes of Hong Kong over the past century or so. In the early post-war period, when entrepot trade was the economic lifeline of Hong Kong, the marine transport and port facilities provided by the Victoria Harbour served as the principal means of living of many in Hong Kong. Then, as the economic restructuring of Hong Kong brought forward an industrial and commercial boom, the demands for development sites started to become very keen. As a result, the port facilities in the Victoria Harbour were gradually replaced by commercial and residential buildings. The changing appearance of the Victoria Harbour is indeed an apt reflection of the flexibility and resilience of Hong Kong people. One can say that the development and achievements of Hong Kong are closely related to the Victoria Harbour.

Having listened to Members' remarks, I have the feeling that Members' concern, as shown during the debate today, actually far exceeds the reclamation and development in South East Kowloon, nor is their concern limited to the

provision of housing and transport facilities to the residents there. Rather, in this debate today, they have shown that they all treasure the Victoria Harbour, that they are dedicated to the protection of this valuable natural heritage, that they wish to give their suggestions on the development of Hong Kong in the 21st century, and that they want to contribute to the town planning for our future generations. Mr Deputy, the Government can fully appreciate how Members treasure the harbour, and we also share their love, expectations and hopes with respect to it.

Even before I assumed office as Secretary for Planning, Environment and Lands, some friends of mine already raised their concern over the Victoria Harbour with me. Like Honourable Members, these friends of mine all share one common hope about the Victoria Harbour. Let me quote the views of one of them. He said, "The Victoria Harbour is a symbol of the Hong Kong spirit, a crown on the head of Hong Kong. We are now charged with a historic mission — to develop the lands on both sides of this harbour into a super world-class city. We do have all the conditions required to make the Victoria Harbour more spectacular and more outstanding in its development, to make it able to rival other world famous harbours, such as Darling Harbour of Australia and San Francisco Bay of the United States."

Is it really true that while conducting studies on its various development projects, the Government has simply ignored the significance of the Victoria Harbour to Hong Kong? No, that is not true. The significance of the Victoria Harbour was already underlined as early as 1982 in a consultancy report entitled Study on Harbour Reclamations and Urban Growth (SHRUG). Let me just quote the relevant view of this report: "..... the extraordinary setting of the urban development surrounding Victoria Harbour is an intrinsic characteristic of the urban pattern recognized world-wide. In considering the future role of these areas such aspects, if overlooked, will result in the loss of qualities which lie at the heart of Hong Kong's diverse and stimulating character and of its past success." This important principle was also considered by the Government when it formulated the Metro Plan in 1991 and the South East Kowloon Development Statement in 1994. When the Government decided to develop South East Kowloon, its most important concern was to solve a number of problems specific to this particular area:

- how best to utilize the development potentials of the old airport site following the removal of the airport, so as to bring maximum

benefits to the whole community while satisfying the housing demands in the area;

- how to capitalize on this development opportunity as a means of speeding up and triggering off the massive urban renewal of some neighbouring old districts such as Ngau Tau Kok, Ma Tau Wai, Hung Hom and Kowloon Bay;
- how to solve the age-old environmental problems caused by the Kai Tak Nullah; and
- how to improve the traffic between South Kowloon and West Kowloon, in particular to cope with the development of West Kowloon and East Kowloon.

In the course of planning, the Government has also taken the following important objectives into account:

- a creatively designed coastline for the Victoria Harbour;
- the provision of lively and variegated entertainment/catering facilities in the new promenade development for both local residents and tourists;
- the creation of an environment which can lure people to visit the promenade, where they can enjoy to the full all the pleasures offered by their harbour; and
- a town planning scheme characterized by more trees and plants, but less concrete.

Actually, government departments all share one common objective; they all hope that the South East Kowloon Development Project can provide a quality living environment in Hong Kong, where, in addition to housing facilities, people can have more room for various activities, a green neighbourhood, good education, and satisfactory cultural/recreational facilities. It is also hoped that in the development site, the distance from home to work can be minimized. The people there can of course continue to own and use their private means of transport, but the mass transit system to be constructed will certainly provide them with a more environmentally friendly and attractive

alternative characterized by higher efficiency and more comfort in travel. As far as the transport system is concerned, the Government is actually going along the direction of a mass transit system as advocated by Members.

Well, the Government has already set down all these ideals and objectives for the South East Kowloon Development Project, but why have Members and the public still reacted so strongly to the blueprint of the project? There may be two reasons. First, in the course of drawing up the relevant land use plans, the Government may have failed to initiate thorough discussions in the community and make the various sectors feel that they are able to give adequate input. Second, the Government may have failed to state clearly the objectives and rationale behind the whole plan, with the result that people cannot thus see how the objective of "a city inside a city" is to be realized in the blueprint.

Mr Deputy, the problem now is this: How are Members and the Government going to deal with this matter? First, I must state the position of the Government clearly. The Government has the duty to draw up a plan for the development of South East Kowloon, but it will not seek to implement the proposed project forcibly. Right now, through the Town Planning Board, we are handling the different opinions, recommendations and objections submitted by members of the public. And, when it comes to the Legislative Council, we must not forget that we do share many common viewpoints. I do not think that any Member will oppose the development of the old airport site and its runway, nor do I think that Members will object to the reclamation of the Kai Tak Nullah. For Kowloon Bay, I am sure that most Members will support the idea of constructing a railway system for the area, and I think they will also agree that new east-west and north-south expressways should be built. What seems to require further discussions now actually relates to the arrangements, the best arrangements, for the population, transport and town planning of East Kowloon. For example, what should be the scope of the Kowloon Bay reclamation project? Besides the proposed "Metro Park", are there any better alternatives? Can we in fact preserve the bay and allow it to continue to function as such? How can we further reduce the environmental impact of road construction? Are there any better ways to construct and maintain rainstorm drains? And, how can the development of East Kowloon fulfil the principle of sustainable development?

These questions are very significant ones, and we must discuss them and work out relevant solutions. But I am afraid that we will not be able to answer

all these questions simply by holding a motion debate like this. I think one possible way out is that following the debate today, the representatives of the Government and Honourable Members should continue their discussions in an appropriate Panel of the Legislative Council, such as the one chaired by the Honourable Edward HO. That way, we can make joint efforts to work out a mutually acceptable direction for the scope of the Kowloon Bay reclamation project and the land use zonings associated with it. In the past, through the same method, we managed to solve a lot of design problems relating to many large scale infrastructure projects like the new airport and the Northwestern Railway. So, I have reasons to believe that this time around, given their shared sincerity of purpose, the Government and Honourable Members will again be able to work out a mutually acceptable scheme for the development of South East Kowloon and the Victoria Harbour. In the meantime, the Town Planning Board will continue to follow the established procedure and handle all the submissions and objections it receives in relation to the project.

As it is worded, the motion urges the Government to "withdraw" the project, but I must say that such a request is somewhat unrealistic. The old airport site must be developed, and the proposed railway and trunk routes for South East Kowloon are also urgently required. So, our common objective should be to work out a development project for South East Kowloon, one which is acceptable to Honourable Members and the community at large. My colleagues and I will join hands with Honourable Members in our attempt to materialize the development of South East Kowloon.

Thank you, Mr Deputy.

THE PRESIDENT resumed the chair.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Jasper TSANG be made to Miss Christine LOH's motion.

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): Does any Member wish to claim a division?

(No Member responded)

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 amendment passed.

PRESIDENT (in Cantonese): Miss Christine LOH, you may now reply and you have up to five minutes and 39 seconds out of your original 15 minutes.

MISS CHRISTINE LOH: Madam President, I know that my motion has been amended and I would also support it. When I listened to the Secretary, I felt that my motion was right. I am very pleased that he is conciliatory. I am very pleased that he wants to give this Council an opportunity, perhaps through the Panel on Planning, Lands and Works, to have further discussion. I am very pleased with that and I welcome that.

However, I was shocked to hear some of the explanations. The Secretary asked a question, "Was there something wrong with the plan? Was it because there was not enough discussion?". Well, actually there was not any discussion. How could anybody understand what the Government wanted until the plan came out? How could we discuss the plan when the final feasibility studies were not ready until this week? I do not know whether the Secretary understands the whole process. I appreciate that he has only been sitting in that seat for five days and one cannot expect him to have read

everything, but perhaps today, he can take into account that the final feasibility studies have not been published.

Secondly, he also mentioned that perhaps people did not understand the criteria (目標) under which the Government planned South East Kowloon development. Well, what are these criteria? As I read out in my speech, these were quoted from government documents. Firstly, they want to minimize the number of people going to the waterfront. Surely, is this one of the criteria? Secondly, they want to maximize reclamation, provided that it is not going to create more waves in the harbour. Is this the kind of criteria that the Government has set? Yes, please tell us all the criteria, and if those are the criteria, I think it is right that the Government should withdraw the plan.

Anyway, the Government is not going to withdraw the plan and my fellow Councillors are not prepared to go for a stronger statement. I will go along with that, as that is part of the political life. But please, when we come back and look at these plans, scrutinize them very carefully. And let us not be frightened as to whether we are going to spend more time or whether it is unacceptable to have any more delays. This is a very important issue. This plan is a bad plan, and that is why people are complaining. It is not that people have not come to talk to us and it is not just whether the criteria were good or not, this is simply a bad plan.

Thus, what is the Government going to do with it? Is it going to revise it so that it truly is a visionary plan? It truly is something that adds to our economic life, our social life and our cultural life. But where is that plan? The plan that we have today is so far from that perspective, so far that I cannot see it and it is possible just to tinker around the edges. I think we are talking about something that is quite substantial, and I ask my colleagues once again, when the plan comes back, please spend time. Do not just accept something tinkering and think that this Council has won or we have influenced the executive authorities.

If we are going to perform our duty, let us look at this plan in detail. Let us take our time. At least let us make sure that we are willing to spend the rest of 1999 looking at it. It is very important. It will not be finished until 15 or 17 years later. My political life will be finished by then, and probably everybody in this room will no longer be in politics. But for sure, we want to leave a visionary plan for South East Kowloon for us and for our future

generations.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Miss Christine LOH, as amended by Mr Jasper TSANG, be passed.

Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the amended motion passed.

PRESIDENT (in Cantonese): Second motion: Anti-monopolization.

ANTI-MONOPOLIZATION

MR LEE WING-TAT (in Cantonese): Madam President, I would like to express on behalf of the Democratic Party our views on the enactment of a fair competition law. I will talk on five main points. First of all, the enactment of a fair competition law has the support of the public and the academia.

This is already the third time that a motion debate is moved in this Council on the enactment of a fair competition law. The first time was initiated by Dr the Honourable LAW Cheung-kwok on 29 May 1996 and the second by the Honourable Fred LI on 15 January 1997. Both motions were passed.

The Consumer Council (CC) conducted a detailed study on five industries including the banking, supermarket, fuel gas, telecommunications, real estate and broadcasting between 1994 and 1996 and pointed out the potential unfair market structure and practices in these industries. In November 1996, the CC released another comprehensive report on a fair competition policy in connection with its past study and suggested that Hong Kong should enact a comprehensive fair competition law and establish a Competition Authority.

MR GARY CHENG (in Cantonese): Madam President, a point of order. There is no public officer present in the Chamber.

PRESIDENT (in Cantonese): Clerk, please Oh, there are public officers entering the Chamber now. Please continue, Mr LEE Wing-tat.

MR LEE WING-TAT (in Cantonese): Madam President, shall I start from the very beginning?

PRESIDENT (in Cantonese): I do not think so. They will continue to listen.

MR LEE WING-TAT (in Cantonese): Well then, I shall continue.

In their book entitled *Competition Policy and Regulation of Business*, two professors from the Hong Kong University of Science and Technology, Prof Leonard CHENG and Prof WU Changqi, present a different view on the letter of the fair competition law from that proposed by the CC. For example, they support the banning through legislation of all horizontal restraints and the abuse of market power by dominating companies, but they opine that vertical arrangements should not be totally banned; they should be considered on a case by case basis. They are in support of enacting a fair competition law, though. Allow me to quote from their book, "We support the suggestion of the Consumer Council that a fair competition law should be enacted to enable the highest degree of competition in the market so as to attain the greatest economic

effect." (Paragraph 40 on page 260)

The public, the academia or professional bodies support the enactment of a fair competition law. But the Government gives no heed to their views and arbitrarily vetoed the proposal, replacing it with the establishment of the "Competition Policy Advisory Group" which has no real power.

Madam President, my second point is that the Government's grounds for vetoing the legislation are weak. At that time, the Government did point out the main demerits of legislation, but to me, those arguments were far-fetched. I hope that in her reply today, the Secretary for Trade and Industry will not oppose my motion on the same old grounds. At that time, the then Secretary for Trade and Industry gave the following reasons. First, the Government opined that behaviour which might seem to obstruct, restrict or distort competition were not necessarily unreasonable and to ban such practices by law might well be over-corrective. This argument can hardly hold water as a fair competition law is the best tool to handle these specious problems. Generally speaking, the Competition Authority, on receipt of a complaint from an enterprise or a consumer, will first decide whether or not to conduct an investigation; and if it decides to go ahead, it will judge whether a violation of the fair competition law is really involved only after an in-depth investigation. But the present situation is that the Government takes no heed and has its hands folded in the face of some behaviour that cannot be distinguished right away whether it is against fair competition. In the end, the public and enterprises have no way to lodge a complaint and can swallow it in silence, sometimes regrettably leaving the matter unsettled.

Second, the Government considered that legislation would create uncertainties. As the legislation would treat everyone across the board consistently, it would not be able to take into consideration the particular needs of certain industries, thus leaving the entrepreneurs at a loss as to what to do. All along, one of the principal factors for the economic success of Hong Kong has been our excellent foundation in the rule of law, but now the government officials have resorted to making public statements to achieve policy objectives, just like the recent incidents in which they exerted pressure on the oil companies or liquefied petroleum gas companies. Is it that the Government considers such a way of ruling by man superior to legislation?

Third, the Government considered that the enforcement of an anti-monopolization law required the support of experts and a large scale organization. In fact, even if the Policy Bureaux of the Government or the

Competition Policy Advisory Group is intent on addressing anti-competitive acts seriously, they also need expertise in the relevant fields. Unfortunately, government departments at present are not equipped with a team of economists specialized in enterprise regulation and organization. Hence it is no more than empty talk of the Government even if it wants to implement a competitive policy.

Fourth, the Government thought that banning certain commercial activities altogether would be detrimental to the free and open trade policy which had long been in practice in Hong Kong and would undermine its competitiveness ultimately. I think that this is a lame argument. The Government regarded the fair competition law as a scourge. But we can see that some free economies such as the United States, Canada and the European Union have all enacted a fair competition law. Also, our neighbouring countries in Asia such as Japan, South Korea and even our motherland, China, have also enacted similar laws to restrict unfair competition practices, including horizontal price-fixing, vertical retail price maintenance as well as price discrimination.

To say that a fair competition law would undermine the competitiveness and harm the commercial sector, would it not imply that our motherland has impaired the commercial sector much in the same way as other economies such as the United States, Canada and the European Union have done similarly? In fact, the making of a fair competition law is meant to set down a set of rules of the game which require the participants to compete in a level playing field rather than to intervene in the game. Its function is like the referee in a ball game and it plays the same role as that of the legislation for strengthening the market mechanism, just like the legislation for the protection of intellectual property rights.

On basis of the four points mentioned above, the Government concluded that the disadvantages of the enactment of a fair competition law outweighed the advantages. This was hardly convincing at all.

Who will be the biggest beneficiaries from the Government's veto on the enactment of a fair competition law? In a market structure where there is no fair competition, the only beneficiaries are those consortia which can fix the prices or the cartels that can join hands to manipulate the market. Under such a situation, enterprises and the public alike have become the victims. They

have to pay exorbitant prices, tolerate inefficient services or put up with monotonous products in the absence of alternatives. Therefore the Government's veto on the enactment of a fair competition law has once again proved that it makes the protection of the interests of big consortia its priority mission over that of the general public.

Madam President, my third point is that unfair competitive acts will harm both the general public and the enterprises. Madam President, the unfair competition practices existing in the various trades and sectors are indeed very serious and I hope that the Government will stop deceiving itself and others. Monopolization and anti-competitive practices are generally found in such industries as banking, energy, freight services and telecommunications. For example, price-fixing by the trade association across the industry, agreements made among enterprises to reduce competition and also the abuse of advantages by monopolistic consortia all obstruct, restrict or distort market competition.

Unfair competitive acts not only infringe consumers' but also enterprises' interests. I will demonstrate this with the following examples. All along, the profits of banks are protected by the interest rate agreement and the savings deposit rate set by the agreement has become the base for adjustment of the prime rate. Late last year, despite a global reduction in interest rates and in the United States, banks in Hong Kong were reluctant to lower the prime rate because they wanted to compensate their loss in profits brought by the financial crisis. As a result of this, close to a million property buyers and more than 200 000 enterprises had to suffer high interests. The Government not only allows such kind of price-fixing by cartels but also legalize it, vesting the banking association with the power of setting the highest rate of interest by means of the Hong Kong Association of Banks Ordinance.

Another case of unfair competition jeopardizing the interests of Hong Kong enterprises is the handling charges of the local ports. At present, the container ports are run by four operators and the 20-odd major shipping companies have formed five or six shipping cartels, hence forming oligopolies in these two markets. Given such a market structure, the handling charges of the ports are not determined by market competition. As a result, all consignors in Hong Kong including the manufacturers, exporters and purchasers have to suffer the highest freight handling charges in the world.

The fourth point I wish to make is the lack of measures that can tackle

anti-competitive acts. With a lack of effective, legal means and also the absence of an independent body to deal with anti-competitive acts, government officials have to resort to using open statements. For instance, the Secretary for Economic Services, Mr Stephen IP, has worked very hard recently and frequently met with reporters and appeared on the television to call on oil companies to lower their prices. Even the Chief Executive has also commented publicly that the interest rates and oil prices are far too high, hoping that the commercial sector would be "smart enough to heed their instructions". Such acts by government officials, including the Chief Executive, to intervene publicly in the commercial activities have defeated the original role of the Government as a monitor and referee. Such a bureaucratic practice willed by officialdom with no objective standards is highly undesirable and it has also created an uncertain business environment.

In fact, we should not pin any hopes or expectations on the Competition Policy Advisory Group. Although the Group is chaired by the Financial Secretary, it is only a high-ranking committee in name without any financial or manpower support, nor any power of investigation. Consequently, its duty will only be resigned to keeping an eye on the cases referred to it by various departments. Please note that those cases will still be followed up by the departments concerned. Therefore, the Group will only serve a decorative purpose, even worse than a "toothless tiger" that can at least put up some bluffing efforts.

The composition of the Group is also a big laughing stock. Members of the Group are homogeneously Bureau Secretaries. And apart from that, there are no representatives of the grassroots, public views or small enterprises. With only government officials in the Group, how will the Group be able to monitor the government departments' policies to determine whether they comply with the principle of fair competition?

Maybe because the Competition Policy Advisory Group has so far nothing to do, it has never given any account of its work. Not until November 1998 when the Honourable Fred LI, one of our colleagues in this Council, raised a written question did we learn that the Group had received 10 referrals. But still, we have no say of knowing its progress of work or what actions it has taken.

My fifth point is that we consider the enactment of a fair competition law the only way to deal with this issue. Madam President, without a legal basis, the Government practically cannot stop the anti-competitive practices, nor can it have the power to conduct investigation. Therefore, no matter what improvements the Competition Policy Advisory Group makes, it will never be able to create a fair business environment. Hence, the Democratic Party thinks that Hong Kong must formulate a fair competition law to establish a legal basis for adjudication by consumers and enterprises, and this is the only desirable and workable way to remove acts of unfair competition.

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

Mr LEE Wing-tat moved the following motion:

"That, as the Government vetoed the proposal for enacting a fair competition law in 1997 and set up the Competition Policy Advisory Group instead, but the Group has failed to put forward any measure to deal with unfair competition in various sectors such as energy, freight services, telecommunications, broadcasting and banking, thereby seriously impairing the interests of industrial and commercial enterprises and the public, this Council urges the Government to expeditiously enact a fair competition law and remove the unfair market barriers, so as to encourage enterprises to innovate and promote consumers' rights and interests."

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

MR NG LEUNG-SING (in Cantonese): Madam President, I believe that no one would object to the general principle of "maintaining fair competition". What Members should discuss and the community should concern itself with is how this principle can be materialized so that a real competitive mechanism can be most effectively introduced into the Hong Kong market to bring the greatest benefit to the whole economy, investors of all sectors and all consumers.

Actually, under this principle of fair competition, Hong Kong has two

options. The first is to, taking account of the specific situations, study the rules and operating practices of various markets, clearly identify the factors which obstruct free and fair competition; and after grasping the reactions and policy effects of particular markets, to effect checks and balances and eliminate the unfairness in the trades, promoting fair competition in the market through administrative means or other management measures. The second is to take a broad brush approach by legislation, standardizing all activities in the market economy. To make a choice between these two approaches, we, as Legislative Council Members, have to study the history and evolution of the Hong Kong market where the population is only 6 million instead of hundreds of millions, and prudently consider how to marry it with the practical environment at present and then formulate a law that is all-encompassing and uniform across the board. More importantly, an assessment should be made on what long-term impacts of an all-encompassing law will have on the overall economy and the market operations of various trades in Hong Kong.

At present, the Government has already introduced a competitive mechanism into the operations of certain trades and markets such as the telecommunications market and the fixed legal fees and charges, the effects of which have been seen by everyone. Recently, I believe, more people have come to realize the situation of the telecommunications market. In the report on the Hong Kong Banking Sector Consultancy Study published recently, it is suggested that the interest rate agreement be lifted in three stages. Such approaches of gradually improving the competitive mechanism of various markets is more useful to the practical situation of Hong Kong. With the market maintained in a relatively stable state, we should gradually open up the markets, thereby reducing the possible negative effects brought by the recent economic downturn and external uncertainties.

As regards the proposal to enact a comprehensive fair competition law in Hong Kong, obviously we must consider it very carefully and handle it cautiously. For example, we must carefully define what constitutes anti-competitive market practices to avoid dealing a blow to the normal commercial activities and affecting the confidence of existing investors. It is relatively easy for us to identify anti-competitive acts in a market that lacks a competitive mechanism in the first place. But in a freely competitive environment, certain modes of operation adopted by enterprises that have gained a dominant market position through lawful investments may not be easy for us to determine whether unfair competition does exist. For example, the

anti-trust lawsuit against Microsoft in the United States, which has developed into an enormous controversy, is a worthy case of reference.

As a matter of fact, Hong Kong has always offered a unique attraction to international investors and these investors have together helped promote fair competition in this market. Take the local banking industry as an example. It has made use of the geographic advantage and free market mechanism of Hong Kong to develop this place into one of the largest banking centres in the world. The overseas assets held by local banks and deposit-taking companies exceed US\$600 billion and over 151 international banks, 81 of which belonging to the top 100 banks in the world, have opened offices in Hong Kong. To consumers, because of reasonable competition, the quality of services provided by banks from various countries has generally reached the international level.

On the other hand, in respect of the property industry which has not been mentioned in the motion and which involves the people's greatest expenditure, although there is not a price agreement within the industry and there has always been fair competition in the property market, consumers have contributed huge amounts of money to the profits of this industry and the purchase of property is still a very heavy financial burden to the public. In other words, even with legislative control on fair competition, any talk about public interest is still hot air if the imbalance between the supply and demand situation of the market remained unchanged and the overall administration is not straightened out.

Madam President, in respect of the two approaches mentioned for enhancement of the mechanism for market competition, I can understand that enacting an all-encompassing law on fair competition to protect public interests should be an ideal in the long run. But we need to carry out an in-depth and comprehensive evaluation and study on the possible impacts of an "expeditious" enactment of such a law on the local economy, investments and market operations, and on even whether the people will ultimately benefit from it.

Madam President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, owing to various considerations, more and more companies are engaging in takeovers and mergers around the world, especially in advanced countries, and some even take place across the border. Of course, these companies would defend such actions and say that the merger of two local companies would give them the

edge to compete with a strong rival, or the structure of the company can be streamlined so that operating costs after the merger can be lowered. However, if a company has an overly large share in a certain market, monopolization will emerge to the detriment of consumer interest. Therefore, many countries have introduced fair competition laws to ensure healthy market development and protect the rights and interests of consumers.

Unfortunately, there is no mechanism in Hong Kong to prevent monopolization. Recently, the drawback in this has been totally exposed in the pricing of fuel oil and liquefied petroleum gas by oil companies. In the face of the overpricing of fuel oil, even the Government can only exert some pressure on the oil companies through the public statements made by principal officials, not to mention the ordinary people and consumers who are powerless in this issue. In Hong Kong, monopolization is found not only among oil companies but also among other industries such as freight services, broadcasting, and the engineering sector to which I belong.

The engineering consultancy contracts offered by the Government and public organizations are very often awarded to one or two major engineering consultant companies. Although there is an established set of tendering procedures to be followed, as these major engineering consultant companies have advantage over the smaller companies in respect of their resources or experience gained from their past participation in the works projects of the Government and other public bodies, it is very hard for the latter to compete with them over the contracts of these projects. As a result, smaller companies cannot develop healthily by way of participation in the relevant works projects in order to build up competitiveness against the major companies on a fair ground.

In view of this, I think that the Government and public organizations, especially the latter, should make the standard of their tender appraisals more open and transparent, enhance the scientific assessment mechanism and avoid the more subjective appraisal method, so as to allow the consultant companies to compete in a level playing field. At the same time, the Government and public organizations should adopt a banding system, that is, to divide the companies into different bands according to the value of the contracts so as to give smaller companies a chance to participate in public works projects. Only by ensuring fair competition through a well-conceived mechanism can the quality of the works be guaranteed and the finished product be value for money,

so that the engineering sector can continue to develop in a healthy environment and be maintained at a level on a par with world standards.

In respect of the whole community, we must also formulate a mechanism promptly to prevent any unfair competition in the market and protect the consumers' interests. Nevertheless, while introducing competition into the market, the Government must be very careful in handling the impacts on the market brought by liberalization, ensuring that the quality of the relevant products and services will not be compromised in the pricing competition.

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

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, recently the telecommunications industry has developed in multifarious forms. Every company tries to offer a "lower charge and bigger bargain" on long-distance calls, giving the consumers many more choices. The present situation and the past are practically poles apart. In 1993, the prime rate for a long-distance call to the United States was \$8 per minute. Now, the prime rate offered by the Hongkong Telecommunications Limited is only \$1.79, with a reduction of over 75%. Other telecommunications companies are offering even lower rates. The New World Telephone and City Telecom (Hong Kong) Limited offer the lowest rate at only \$0.66. And of course, the consumers are benefited. This has also enabled other operators to enter the market, injecting yet more vitality into the industry.

Many people query, among the many operating practices that we come in contact with in our everyday life, which one exactly is "anti-competitive behaviour" and which is "abuse of market position". Is all gasoline stations charging a uniform price price-fixing? Is the fact that there is only one driving school a case of monopolization? Should the Government require fuel gas suppliers to lease their pipes to other suppliers? All these questions warrant further investigation. There is no doubt that legislation can give a legal basis to the standard of "fair competition".

From 1992 to 1996, the Consumer Council (CC) conducted a study on the competition environment and operation practices of some major industries. It was found that some of these industries might lack competition. These industries include estate development, supply of fuel gas, electricity, petrol,

port freight services, supermarkets as well as Hong Kong dollar deposit-taking. In its report published in 1996, the CC called for the introduction of a comprehensive competition policy and enactment of a general competitive law.

In regard to legislation, the CC recommended that the law must include the following two provisions:

- (1) To address explicit agreements between firms that are intended or have the effect of preventing, restricting or distorting competition. These include price-fixing, bid-rigging, tie-in sales, exclusive dealership, long-term supply contracts and so on.
- (2) To prohibit any abuse by one or more undertakings of a dominant position that prevent, restrict or distort competition. This would address the behaviour which restricts fair competition in the market through monopoly and collusion.

However, having consulted the fair competition laws of various places, I have found that different countries have varying scopes and scales of restriction on "anti-competitive acts". Many European and Asian countries, such as Japan, Taiwan, the United Kingdom, South Korea, Australia, China and the European Union, and the United States have legislation to protect fair competition. Generally speaking, these fair competition laws mainly prohibit over-concentration in markets and the horizontal or vertical manipulation among firms, aiming to stop the abuse of market power in order to prevent, restrict and distort market competition. Moreover, different places have taken into account their own economic environment and adopted different provisions.

For instance, the Anti-unfair Competition Law of mainland China seeks mainly to stop acts of unfair competition, plug the loopholes in the law, encourage and safeguard fair trade, and also protect the lawful rights and interests of business operators and consumers. The "fair competition policies" and "fair competition laws" of Japan, the United Kingdom, the United States and European Union pay special attention to the excessive concentration of economic power in the market structure. The Fair Trade Act of the United Kingdom stipulates that it is an offence in law if a company possesses a market share of over 25%. The Anti-monopolization Law of Japan only stipulates that if a company possesses a market share of over 50% or its gross sales reaches 50 billion Japanese Yen, it is considered monopolizing the market.

Although the United States does not have any stipulation as to what proportion of market share would constitute an offence against the Anti-trust Law, it has very strict regulation on any attempts to monopolize the market. One example is the recent lawsuit against the Microsoft Company in the United States for the attempt to monopolize the Internet browser market. The Fair Trade Act in Taiwan seems to be more lenient in the sense that any joint acts can be exempted so long as they are proved to be beneficial to the overall economy and public interest.

On the implementation of fair competition laws, some countries only limit it to the merger and joint actions between firms, some look for the impact on the overall economic interests, while some others concern about the interests of the consumers; all in all, the stringency is varied. In formulating the text of a fair competition law, we should consider the practical situation of Hong Kong in addition to drawing reference from the experience of other places. When drawing up the legislation, we still have many other issues to consider and study. From the standpoint of the consumer, they should be given sufficient choices and reasonable pricing; but from the standpoint of the businessmen, they are worried about the impact to be effected by the legislation on their present operation practice. On the whole, there is much that still requires study.

Lastly, I wish to discuss the Competition Authority proposed by the CC, which would be an independent body outside the Civil Service. Madam President, I support the introduction of the legislation, but I do have reservations about the establishment of the Authority. The Authority will have great powers, for other than the powers of adjudication and enforcement, it can also recommend amendments to the law. Should the Authority make any mistakes in its judgment, they could be detrimental to the free economy of Hong Kong.

Madam President, I so submit. Thank you.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, some time ago, Mr LI Ka-shing said that owing to the deterioration of the business environment in Hong Kong, he had shelved a \$10-billion investment project. His remarks aroused wide controversy in the community. However, to the ordinary people, our living environment is also deteriorating. Particularly,

with monopolization being present everywhere in our economy, the ordinary people and small businessmen are constantly exploited and their financial burdens are becoming increasingly heavy.

Talking about monopolization in our economy, we should start with the banks' interest rate agreement. Having the control on the interest rates, banks can reap huge interest rate differential and protect their profits. Ever since the end of 1998, banks' interest rates on loans and mortgages have remained at a high level, and despite the great pressure of public opinion, the banks are still unwilling to promptly scrap the interest rate agreement, give up their economic privileges and ride out the difficult times with the community together. This shows their lack of foresight and even more, a sense of social responsibility.

Petroleum products in Hong Kong are also controlled by an oligopoly. The Shell, Mobil, Caltex, Esso and China Resources have formed a league with respect to the pricing of petrol, diesel and liquefied petroleum gas (LPG). Even when the oil price has fallen significantly, they would rather give out tissue paper and bottled water than lower their prices and refuse to submit any information to the Government to explain why the prices of petroleum products always rise quickly but come down so slowly. Today, a LPG company has cut its price by 40 cents. It is not that it does it for conscience' sake; rather it has been sated with the "feast of monopoly" and now spits out small pieces of meat. This is only a small favour offered to appease the strong criticisms of the community.

The Hong Kong and China Gas Company Limited has over 1.27 million clients, accounting for two thirds of the market. This is an absolute monopoly and the charges of towngas are constantly on the rise. Even today, the Government still fails to introduce natural gas into the fuel gas market to enhance competition for the benefit of consumers. Similarly, the power supply market is also dominated by two companies, the Hongkong Electric Company Limited and China Light and Power Company Limited (CLP), and the real rate of return received by their shareholders is 25%. Madam President, they are able to gain an annual profit of 25% even during the financial crisis. Can they not be described as profiteering? Therefore, to maintain their monopolistic interests in the power market, the two companies still refuse to link up their networks although there is already a serious excess capacity. Where does the public interest lie?

The container ports are also dominated by a few companies. The Hong Kong International Terminals Limited and Modern Terminals Limited occupy a market share of over 60% in Hong Kong. Their service charges are the highest among all countries in Southeast Asia, thus they have imposed a heavy burden on the importers and weakened the competitiveness of the industrial and commercial sectors of Hong Kong. Air freight transport is also monopolized, with the biggest air cargo terminal, the Super Terminal One, monopolizing 85% of all business. The harm of monopolization was well demonstrated by the new airport fiasco, in which it was exactly due to the paralysis of the Super Terminal One that the air cargo services in Hong Kong were brought to the brink of a complete halt. Madam President, the Legislative Council has published the report on the investigation on the new airport today. At the same time when we hold the air cargo company responsible for the chaos, should we also lay the blame on the Government for permitting a monopoly of the air cargo business?

The last one is the telecommunications market. The Hongkong Telecommunications Limited occupies a 98% share of the fixed telecommunications network market, leaving the consumers no choice as regards the local telephone service, and neither is there any competition in telephone charges whatsoever. The Government has not yet decided to fully liberalize the fixed network market. The monopolized situation is still immune to any fundamental challenge.

Madam President, these monopolies are the "three commanders" in the economy. They are entrenched everywhere, in the sea, on land and in the sky in Hong Kong, with their presence being felt in every aspects of our everyday life just like the polluted air. The ordinary people and small businessmen have no choice but to leave themselves open to exploitation in this monopolized environment. Can this be considered a fair community? Can this be considered a free economy? Even our Secretary for Economic Services has no control over these monopolies entrenched in the sea, land and sky. Therefore, the Secretary for Economic Services might as well be renamed as the "Secretary for Monopolistic Services" as what he has charge over are the monopolistic businesses. Hong Kong, even today, is still a paradise for monopolies.

In the past, when the economy was thriving, people's grievances towards the monopolistic utility services could somewhat be appeased. Today, with

the recession, life is hard and people are much more careful and sensitive about every penny they spend. They of course can no longer tolerate their shrinking income being further reduced by the monopolistic utilities services, so anti-monopolization has become a significant economic issue before the Hong Kong people. To break the monopoly, we cannot depend on the conscience of the monopolies. Who would be willing to give up the privileges and interests brought by the monopolies? In fact, the CLP has even requested the Government to extend their Scheme of Control Agreement when it expires 10 years from now. To break the monopoly, we cannot rely on the Government or the pressure of public opinion either. The monopolies are all international companies. They are all used to the pressure of public opinion. When the pressure is too big, they would do some window-dressing and lower their prices a little, but when the pressure is reduced, they would fish in troubled waters and reap huge profits. As the Government has neither the power nor the means to do anything about them, how can it really protect the interest of consumers? To break the monopoly, we must depend on the law and use legislation to maintain an environment where competition is free and fair, to protect the interests of the ordinary people and small businessmen, and to show the international community that after breaking the monopoly, we will have a more competitive business environment where more opportunities and room for development are offered. Hong Kong has to turn from a "city of monopoly" to a capital of freedom before it can inject vitality into its economy. All of these must start from breaking the monopoly.

Madam President, I so submit.

MR BERNARD CHAN: Madam President, I am in support of market liberalization and the introduction of competition. This will maintain Hong Kong as the freest economy in the world. But the opening up of market requires tact and prudence, or we will kill innovation and erase choices — in the end strengthening monopoly in the guise of breaking it. I am speaking with reference to the financial sector, which is subject to critical changes in the next millennium.

The newly released Banking Sector Consultancy Study points out that increased competition will lead to advances in efficiency, innovation and customer service. This is virtually true but not always plausible.

The removal of the cartel over interest rates, to which I lend my total support, allows fair competition for deposits among banks. But it still has its downside. Customers with deposits below the minimum balance are very likely to be charged of administrative fees, including cheque handling fees and transaction charges. This is exactly the case for banks in the United States. Some poor people even fail to open a bank account and receive basic service just because they do not have enough money to cover the cost.

Ironically enough, the course of liberalization may not necessarily benefit the public by and large. We have to face complications arising from the change of rules, just like how we are bearing air pollution and traffic congestion after relaxing the franchise on bus routes.

Another myth of market liberalization is the false equation of size with quality. We tend to believe that the bigger is the better. Under intense competition, most probably only the giants supersede. Not long ago, the enviable success of the Barring, Peregrine, CITIC and the Long-term Capital Management had once fascinated investors worldwide. We trusted the inherent checks and balances in large firms would deter unwise decisions. The sorrowful fact is now known to all of us that a sizeable structure with renowned expertise is not necessarily less risky. Furthermore, large companies with regional business are vulnerable to branch failure out of the territory. The stormy flow of enormous capital can easily disrupt an emerging market in relatively small size, such as Hong Kong.

To maintain a balanced market, we have all reasons to let the small and medium ones survive. Small companies with limited scope of business are not necessarily less prudent. They have the right to be small and to cater for the needs of a specified clientele. Whether a company is sound and fit is not a matter of size, but quality management and good capitalization that count. It is the Government's job to properly monitor all market participants, large or small, rather than sacrificing the less dominant for the sake of easy supervision.

In Hong Kong, small and medium firms with local commitments have been playing an indispensable role in creating vibrancy and in balancing sectional interests. Market regulators may resort to their support while some other forces predominantly control the market. Large and small firms have

been running with very different ideologies, and this has accounted for their diverse practices. Small companies with special emphases on networking and reciprocal relationships are more prone to subordinate commercial interests to humanistic consideration. In fact, their slimmer structure has provided them larger room for manoeuvre, which means more elasticity and less rigidity.

On the insurance front, I have received some reports about how insurers are being discriminated as the banks restrict customers' choice of insurer for the mortgaged property. The dictation has resulted in unfair treatment for insurers who fail to appear on the banks' internal approved lists. I understand that the banks have discretion in treating insurance companies differently, but an open and fair practice is certainly conducive to greater accountability. Customers should be given more options and be benefited from an open competition.

In the meantime, the Government has taken the initiative to overhaul the financial sector. I welcome the opening up of markets. But as everything has a price for it, we should never expect all consumers would gain from the change of rules. Prudence must be taken in the course of market liberalization, or we will create some other problems that even outweigh the gains. Thank you.

MR FRED LI (in Cantonese): Madam President, my remarks will focus on the energy market, covering town gas, electricity, liquefied petroleum gas (LPG) and car petrol, the last two being the topical issues recently.

The energy market of Hong Kong is characterized by many unfair practices, with only the electricity companies coming under government supervision. As for the domestic fuel market, it is virtually monopolized by the Hong Kong and China Gas Company Limited (Towngas), because the LPG market has gradually shrunk in size, and cannot thus compete with Towngas directly. The petroleum products market, which has attracted so much public concern recently, is monopolized by four major multinational oil companies, namely, Shell, Caltex, Mobil and Esso. As a result, the prices of petroleum products in Hong Kong have for years remained at standardized levels. The oil companies have even made it clear that they will only compete with one another in terms of service quality and by offering free gifts, and that they will not compete with their rivals in terms of prices. If the Government can enact

a fair competition law, we will be able to use some objective standards and legal provisions as a means of tackling the unfair competition practices in the energy trade of Hong Kong. This will not only remove market obstacles, but will also eliminate unnecessary regulation, thus further fostering competition in the trade.

With respect to town gas, the Consumer Council conducted a study on competition in the domestic fuel market as early as 1995. The study report indicated that Towngas was having a share of 70% in the domestic fuel market of Hong Kong. Such a market share has of course increased very significantly by now, and Towngas now enjoys a virtual monopoly and a resultant competitive edge. The report recommended that the Government should actively consider the introduction of natural gas into Hong Kong, and introduce competition into the market through a common carrier system. But my view is that before any transmission system is put in place, the Government should first put Towngas under statutory regulation. The report also recommended the establishment of an Energy Management Board, but the Government has only set up an Energy Consultative Committee. In addition, the Government has also refused to put Towngas under statutory regulation. We are extremely disappointed at all this.

The situation remained largely unchanged until June 1998 when the Government announced its position on a common carrier system. The Government announced that it would in principle support the introduction of natural gas through a common carrier system, so as to bring in more competition. But it was also stated that since much would have to depend on the supply of natural gas, further studies were required. So, the Economic Services Bureau has not actually drawn up any specific schedule on the introduction of natural gas.

The Government has ignored the monopolistic situation in the domestic fuel market, refused to supervise Towngas and failed to take any positive steps, for example, by drawing up a specific schedule, for the purpose of introducing competition. This makes us realize that the Government simply does not have a comprehensive policy on fair competition; and, a comprehensive policy on fair competition must be based on a fair competition law.

The Honourable CHEUNG Man-kwong of the Democratic Party has spoken in great detail on the oil companies. So, I will not talk about them in

detail again. The biggest problem now is that we simply do not know whether their recent price reduction of \$0.4 is actually enough, because there is no transparency in the whole market. The oil companies in Hong Kong do not publish any annual reports, and they are not listed companies. I once met with the representatives of two big oil companies, but I failed to get any information on their operating costs. I also met with the representatives of the China Resources Company, a small oil company which has a small market share of just 5% to 6%, and the representatives aired a lot of grievances during the meeting. So, I hope that the Government can listen more to the opinions of small oil companies.

For electricity supply, there are two electricity companies in Hong Kong — the Hongkong Electric Company Limited (HEC) and the China Light and Power Company Limited (CLP). Although they do not enjoy any franchises, they are still able to monopolize the supply of electricity on Hong Kong Island and in Kowloon and the New Territories through their ownership of the electricity transmission networks. Under such a virtual monopoly, the two power companies are protected by their respective scheme of control agreements with the Government, which guarantee that up to the year 2008, they will be able to enjoy annual permitted returns calculated according to the values of their net fixed assets. This has led them to over-invest, resulting in surplus output and increases in electricity charges.

In order to eliminate monopolization and introduce competition, many in the community have pointed that the Government should consider the introduction of interconnection between the two power companies as quickly as possible. They also advocate that following the interconnection, the two power companies should be further urged to separate their electricity transmission and electricity supply operations. And, the Government is also urged to open up the electricity transmission networks of the two power companies, so as to allow other power companies to compete in the market. I believe that competition will bring not only more choices for the public, but will also bring down electricity charges to their direct benefit.

If a fair business environment is to be maintained, the Government must follow market changes very closely, pay attention to all possible proposals on introducing new areas of competition and conduct regular reviews. With the progress brought about the passage of time, some industries may no longer need any form of regulation from the Government because inflexible regulatory

laws themselves may well be the greatest obstacle standing in the way of market liberalization and competition. As far as the electricity market is concerned, I feel that so far, the attitude of the Government towards the introduction of competition has remained rather dubious. When I moved my recent motion debate on this issue, I urged the Government to make an undertaking that it would not renew any scheme of control agreements with the two power companies in 2008, so as to show its determination of introducing competition. But the Government simply refused. So, I cannot help wondering whether the Government has in fact refused to liberalize the market because it wants to protect the interests of some private corporations!

In order to establish some objective criteria, and in order to provide a legal framework to deal with unfair competition practices in the various industries of Hong Kong, so that measures can be drawn up to remove market obstacles and unnecessary regulation, the Democratic Party would like to urge Honourable Members to support the Honourable LEE Wing-tat's motion. That way, we will be able to urge the Government to reconsider the enactment of a fair competition law, thus making it possible for Hong Kong to have a comprehensive policy on fair competition.

With these remarks, I support the motion.

MR JAMES TIEN: Madam President, competition lies at the heart of Hong Kong's financial successes. The Government and the business community should do all they can to promote competition, and indeed a competition policy is already being promulgated by the Government. But to go further to have a competition law to govern "fair competition" would be an overkill.

Currently, there are around 70 countries or economic entities in the world that have enacted a fair competition law. However, most of these countries do not have the level of economic activities that we have. Quite a few of these countries are consistently engaged in litigation, resulting in high business costs and less investment because of the uncertainty. On the other hand, Hong Kong and Singapore are often quoted as having the most competitive economies in the world. But both Hong Kong and Singapore do not have a fair competition law.

We must remember that a competition law inevitably means more

government intervention. It goes against the free market principle which is the ultimate reason for Hong Kong's success.

Madam President, a competition policy consistent with the free market principle would mean free market access and a level playing field. If government regulation is needed at all, its role should be to keep the market being always accessible, rather than to mandate any competitive process or to get involved in assessing the business practices of various industry players. A referee is needed to adjudicate malpractice. But we think that the market should be the best referee, rather than an "authority" composed of bureaucrats.

There may be other reasons for government regulation, such as to maintain the integrity of the system as in banking, or to protect consumers through ensuring product safety. Where regulation is needed, however, a professional and sector specific approach would be much preferred against intervention by a central overseeing authority. In telecommunications, for example, who would be a better regulator of industry competition than the telecommunications regulator, that is, the Office of Telecommunications Authority?

And we should not overlook the substantial progress made since the Consumer Council's last report on competition policy in December 1996. Liberalization of telecommunications and in franchised bus services has already brought substantial benefits to consumers and the business sector at large. And more is to come from the opening up of the television and broadcasting sector which will no doubt be welcomed by the community.

Madam President, of course, there are still many areas where there is still a lot of room for more competitions: electricity, medical doctors, driving schools, grocery retailing, bank interest rates and so on. Indeed, the further liberalization in these sectors is very close to the heart of the majority of the members of the Hong Kong General Chamber of Commerce. There is, for example, a growing body of opinion within the Chamber, particularly the small and medium enterprises, calling for a further liberalization of the seven-day deposit interest rate agreement. Most of us also want to have more transparency about the charges levied by the container terminals. And like other end-users in the community, we wonder if we cannot trade gifts for lower fuel prices from the oil companies when we fill up our cars. Would we benefit from better quality and lower prices from a more liberal approach

towards entry of foreign medical professionals? In a nutshell, how should we encourage more competitions in these sectors? Let me add that the Government is itself a monopoly in a few important service sectors like public transport and housing. Thus, should we be pushing for more competitions in these sectors as well?

But the point is, there is no evidence that competition in these sectors cannot be enhanced without a competition law or a competition authority.

To conclude, instead of a legislative and bureaucratic solution, competition should be driven by a market-oriented, self-regulatory approach. The General Chamber of Commerce, through its service sector arm the Hong Kong Coalition of Service Industries, is working with the Consumer Council to develop benchmark codes of practice to promote competition. That should be a far more preferable route.

With these comments, Madam President, the Liberal Party does not support legislation on competition and will, therefore, vote against the motion.

MR AMBROSE LAU (in Cantonese): Madam President, the former Legislative Council had debated on fair competition and a fair competition law on three occasions. In the debate held by the former Legislative Council on 15 January 1997, the Government said that the proposal for enacting a fair competition law would have far-reaching implications on many sectors in Hong Kong and also compromise the healthy operation of the prevalent market mechanism and economic efficiency. On that basis, the Government vetoed the proposals for enacting a fair competition law, setting up a fair competition commission and an appeal mechanism. It set up instead the Competition Policy Advisory Group.

In his motion, Mr LEE Wing-tat points out that the Group has failed to put forward any measure to deal with unfair competition in various sectors. In my opinion, the definition of its role is indeed quite unclear since its establishment. Despite that, however, monopoly and unfair competition behaviour in various sectors such as telecommunications, banking and energy have been removed by the Government through progressive measures or open urges since the Group came into being. I suggest the Government give the Group a clearer definition of its role in promoting free competition and fair trade so that the Group would not be perceived as a powerless body.

Madam President, as I have pointed out, while we should try our best to

protect consumers' interests, we should encourage fair competition among enterprises in a bid to increase Hong Kong's bargaining power in the international arena. However, such an ideal should be accomplished in a progressive manner rather than in a hurried fashion. In this current debate on whether a fair competition law should be enacted, I insist on the basic principles which I put forward previously and would like to supplement some new viewpoints and arguments.

Madam President, since Hong Kong was a small economy in the past, the Government granted franchises and formulated scheme of control agreements in its dealing with capital-intensive industries so as to give a guaranteed return to the operators. However, with the development of our economy, the expansion of our market and substantial profits reaped by franchised companies or companies operating under scheme of control agreements, some industries have actually entered into secretive price arrangement among themselves in an attempt to make enormous profits. Some oligopolies in individual industries have kept prices up by taking advantage of their monopolistic nature of business. To protect the consumers' interests, the Government should bring in more competition or strengthen supervision on these industries in a progressive manner.

There are a lot of grey areas in the market's actual operation and competition. It is impossible to define whether or not some market practices are unfair. In Hong Kong, one of the freest economies in the world, it is hard to imagine that such a complex market operation can be regulated by one single piece of legislation which will remain effective for all time. Nor is it possible to have a centralized fair competition authority which can arrogate to itself all powers of market intervention.

One of the principles of free market is the survival of the fittest under fair competition. Any investor or operator who takes part in competition would like to expand his market share or reap more profits through competition. Any across-the-board legislation to regulate the complex market operation would create uncertainties for investors and rock their confidence in the first place. They might worry that there is no protection for their business despite their huge investment, or that their hard-earned competitive edge would be superseded due to cut-throat competition. So, it is not advisable for Hong Kong to enact a fair competition law at present. What should be adopted instead is a progressive approach whereby industries proven to be prevalent

with monopolistic operations or unfair competition should be suitably regulated by administrative measures or legislative intervention rather than an attempt to intervene in the complex market operation by an across-the-board legislation which will create uncertainties for investors.

Madam President, to introduce a fair competition law right now will not only compromise Hong Kong's *laissez-faire* policy and erode its competitiveness in the international arena. It will also add to the burden of our Treasury due to immense compensation and give rise to numerous long-drawn-out lawsuits. While some industries have their monopolistic status built on a number of complicated factors, some have been made to exist because of their enormous capital outlay which will only be rewarded after a long period of time. The Government is duty-bound to ensure a fair return for these investors.

Madam President, I have been of the view that to introduce a fair competition strategy and eliminate unfair market obstacles is a move in the right direction and with the trend. But this must be integrated with the reality of Hong Kong. Any hasty introduction of a fair competition law heedless of Hong Kong's actual situation might lead to immense compensation claims against the Government, chaotic market condition and substantial increase in lawsuits. Apart from that, cut-throat competition so created might allow some big corporations to find excuses for layoffs and pay cuts and even lead to bankruptcy of more companies and enterprises. All these possible scenarios should be considered carefully and comprehensively.

Madam President, I suggest that any attempts to break monopoly and unfair market obstacles must be made in a progressive and discriminatory manner. The Government should expedite the study on various feasible measures that can bring in competition and strengthen monitoring on the relevant industries. At the same time, the structure and operation of the Competition Policy Advisory Group should also be improved. In the long term, we can certainly consider the introduction of a fair competition law in due course on the basis that monopoly is to be eradicated progressively. But a hasty introduction of such a piece of legislation now will bring about negative effects which will overwhelm the positive side of it.

Madam President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Madam President, the Democratic Alliance for the Betterment of Hong Kong (DAB) views that as our economy develops, it should in the main follow the path of a market economy and seek to enhance our competitiveness while protecting the interests of both investors and consumers. If a market economy like ours is to fully develop its potentials under the principle of fair competition, all monopolistic enterprises or those having monopolistic tendencies should be put under some form of regulation. The aim is of course to ensure that consumers can always get good services at reasonable prices. The DAB maintains that fair competition can raise the efficiency of production, improve the quality of goods and services, reduce operating costs and promote international trading relations.

The DAB is of the view that before we enact any legislation on fair competition, we must first define market shares very clearly and draw up a set of sensible criteria for monopolistic behaviour, so as to prevent the fair competition law thus enacted from becoming an obstacle to the development of the free market economy. Actually, from our experience, we can tell that while fair competition is most of the time clearly distinguishable from monopolization, the distinction between the two can sometimes be very blurred. I can still remember the price war which erupted among newspapers in Hong Kong some years ago. At that time, price cuts by some newspapers triggered off a wave of similar cuts which saw the closing down of some other newspapers. Some authorities criticized at that time that the price war was a form of unfair competition. But to be very honest, are there just any consumers who would say "no" to price cuts? And, when the opposite is the case, I mean, whenever the industry announces a price increase for all newspapers, is it not true that people will invariably criticize the newspapers for forming a cartel of some kind? For years and until quite recently, monopolistic control has remained a feature of the telecommunications industry; people have never ceased criticizing that despite ever-increasing charges, there have not been any marked improvements in service quality. But the recent liberalization of the telecommunications market has led to a "cut-throat" price war which is intensifying with each day past. Is this a kind of unfair competition? And, who would bother anyway? We may perhaps say that this

is the power of market economics!

Madam President, if we look at the rest of the world, we will see that different places are implementing different fair competition laws with varying degrees of latitude and stringency. For example, the United States and Taiwan are two places where lenient fair competition laws and stringent fair competition laws are found respectively. Under the fair competition law of Taiwan, concerted actions are permitted under some specific circumstances, and so are some monopolistic acts deemed not to be against the spirit of fair competition. In addition, some restrictions on the sources of procurement and the salary levels fixed by trade organizations are exempted if they are allowed under other laws.

In the United States, the organizations involved in the maintenance of fair competition are the Federal Trade Commission and the Anti-trust Division under the Department of Justice. The powers of investigation, enforcement and prosecution are all vested in the Federal Trade Commission. So, we can see that the anti-trust law in the United States is largely executed by the Federal Trade Commission, which possesses huge powers.

By referring to these two examples, the DAB wishes to point out that while we support fair competition, we should still discuss in detail all those questions relating to the actual implementation of any fair competition laws in Hong Kong. How are we going to strike a balance between fair competition and giving maximum freedom to commercial operations? Which set of fair competition laws can best suit the business environment in Hong Kong? What should be the degree of stringency of such laws? All these are questions which deserve our in-depth discussions.

Madam President, I so submit.

MRS SOPHIE LEUNG (in Cantonese): Madam President, Hong Kong is a world famous "free port". In 1998-99, Hong Kong has for the third consecutive year been listed in the *U.S. and Asia Statistical Handbook* published by the Heritage Foundation as the freest economy in the world. We should pride on it and make every effort to safeguard this good reputation of ours, with a view to further enhancing the development of Hong Kong.

If an economy is to develop healthily, fair competition is certainly one of the essential factors; and Hong Kong as a free port is no exception. This is because competition would serve to bring about improvement, encourage innovation, as well as enhance productivity. In regard to the idea of anti-monopolization and fair competition, all of us from the Liberal Party will lend our full support without any reservation; however, we could not support the proposal put forward by Mr LEE Wing-tat to urge the Government to expeditiously enact a fair competition law.

Basically, Hong Kong has already in place a level playing field. Sectors related to the basic necessities of life like clothing, food, shelter and transportation are all conducting business in a fair environment where monopolization does not exist. As regards certain sectors such as telecommunications and so on which have been under criticism, they have also been liberalized. Thanks to the efforts made by the Government of the Special Administrative Region to perfect the level playing field by gradually introducing competition, franchised business operations have been decreasing in number these days. Besides, many sectors have also established relevant statutory bodies to promote fair trade, one good example being the Securities and Futures Commission. As such, I really do not see any need to enact a fair competition law at this stage.

Moreover, we really should not think that laws of such kind will bring all benefits without any ill effects. The United States is the pioneer in fair competition legislation with more than a century's experience. Nevertheless, I could tell Honourable Members that the American academia as well as industrial and commercial sectors have all along been in dispute over the issue for the past century. From the 100 years' of American experience, we could see that any attempt to combat monopolization by enacting a fair competition law may give rise to the following problems:

1. Fair competition laws will trigger off numerous commercial disputes and lawsuits, the enormous costs of which will eventually be transferred into the consumers. According to an unofficial survey, the number of American attorneys living on fair competition-related law cases is five times the total number of solicitors and barristers in the United Kingdom.

2. Fair competition laws may be abused or may even obstruct the development of companies which flourish with shrewd business skills. To rashly liberalize the markets at a time when our enterprises have yet to be fully developed may give rise to a situation in which international enterprises with strong financial power would resort to adopting a low price policy to promote their products and services and thereby knock out the average competitors. Though such kind of competition could cause short-term losses, the international enterprises could use the profits generated from business operations elsewhere to cover the losses. As more local enterprises and other competitors are being knocked out, these international enterprises will then be able to enjoy a larger share of the market and begin to adjust the price levels against the interests of the consumers. The entire process will drive out some enterprises and there are plenty of examples in this connection, one good example being the price war of American airlines in the '80s and PanAm Airline, a name we used to see in old Cantonese movies, was driven out as a result.
3. Fair competition laws, due to their wide coverage, may not be able to cater for the special features and complicated nature of different sectors.

To conclude, I should reiterate that the Liberal Party is in support of fair competition because quality and capability could be enhanced through competition. With regard to the situation in Hong Kong, the level playing field has been improving constantly while many sectors have already been liberalized. It is our hope that the Government would gradually introduce competition "one after another" to those sectors which have yet to be opened up.

Madam President, the introduction of any major changes or laws must be supported with strong justifications. Bearing in mind that the fair competition law does have shortcomings *per se* and is not required from an objective point of view, I do not see any sufficient justification which calls for the introduction of such a law into Hong Kong. I should like to lay down a particular reminder that as Hong Kong is at present in the midst of an economic downturn, enacting a fair competition law will serve to disturb both the commercial sectors in Hong

Kong and their counterparts overseas. In this connection, while enterprises which have managed to achieve certain successes here will be compelled to relocate overseas because of certain worries, the incentive of foreign investors to invest in Hong Kong might be undermined if they have mistaken the move as a resurgence of protectionism. What we should do today is to encourage business investment as well as facilitate the revival of the economy, with a view to generating more financial benefits on the one hand and creating more job opportunities on the other. The last thing we should do is to create uncertainties among the industrial and commercial sectors.

I so submit, Madam President.

MR SIN CHUNG-KAI (in Cantonese): Madam President, I should like to respond to the speeches made by several Honourable Members just now.

With regard to the examples quoted by the Honourable Mrs Sophie LEUNG just now, I think they are open to discussion. The role of the Securities and Futures Commission (SFC) is mainly regulatory for it aims at ensuring the compliance of the code of practice by participants. It is of course possible for the SFC to come across the issue of fair transaction in discharging its duties, but the issue is by no means its major concern.

Mrs Sophie LEUNG has referred to the United States in her examples. While it is true that the Americans spend a lot on lawsuits, businesses and trade sectors resolving disputes through lawsuits is part of the American culture. Therefore it is open to discussion whether the law cases are solely attributable to the fair competition law.

I believe the United States is also aware that if a certain trade or industry is being monopolized, the situation would impact on the country's economy in the long run. Just now many Honourable colleagues have referred to the Microsoft Company (Microsoft) which has monopolized the software industry worldwide. Why does the Government of the United States see it fit to go after an American firm? Because it understands that it would be advantageous to the United States in the long run only when a level playing field could be maintained for the software industry. The company that United States

Government is trying to get at is a local American firm, not a foreign one. Why? Because it could see the problem lies behind the situation.

If the development of the software industry is to be sustained, it is necessary for the industry to have good competition. What is "competition"? To put it in simple words, it is a situation in which everybody is well prepared for contention. Being well prepared for contention is the most important point, since it would serve to enhance productivity. If the market is monopolized, the stability will cause those engaged in the trade to become "lazy bones" because things would remain unchanged regardless of whether they work hard or not. For this reason, we should always keep the competition going.

I should also like to speak on the history of the local economic development as referred to by the Honourable NG Leung-sing. During the '60s and '70s, or even the late '70s, Hong Kong might perhaps need to have a business environment which could ensure foreign investment, but as the economy of Hong Kong has now developed to a more mature stage, the rules of the game might need to be rewritten accordingly. Therefore, more competition should be introduced into Hong Kong as far as practicable. In bringing in competition, however, the economic environment as a whole must be regulated by relevant fair competition laws or the results attained will not be satisfactory. A number of Honourable Members has referred to the need to take into account various issues when considering legislation in this regard. I cannot agree more; we must have thorough discussions about the enactment of fair competition laws.

Nevertheless, I would also like to speak on the economic philosophy of the Liberal Party. I could recall that during 1996-97 when the economy of Hong Kong was doing good and flourishing, the Liberal Party opposed the enactment of anti-trust laws. At the present time when the economy is in a downturn, Members from the Liberal Party are still saying no to the cause. When then will they say yes? I just hope the Honourable Kenneth TING would understand that despite his painstaking efforts to invite his voters to this Council to lodge complaints against the container port operators, nothing has been changed. The Secretary for Economic Services has not spoken for them. Perhaps they follow the recent example of the fuel suppliers and request the Secretary for Economic Services to say something for them, maybe the container port operators would agree to lower the charges then. If this happens all the time, the Secretary for Economic Services will eventually

become an expert in open lobbying, since he is always required to act as a lobbyist. Do we want to do business in such an environment?

On the other hand, some Members have suggested adopting a licensing system to prevent the relevant business operators from engaging in any anti-competitive activities (one example is the telecommunications sector). While this certainly is a feasible option for some sectors, there are yet many other trades and businesses which do not need a licence to operate. In this connection, some business operators could exploit their market dominator status to make some aggressive price-cutting moves. Even if they do not resort to such means, they could still merge different types of services together to achieve their aims. Why is the Microsoft being sued? The reason is plain. The company is being sued for merging Internet Explorer with Windows 98, which is, in simple terms, a measure to push the competitors into a disadvantageous position.

It is time for Hong Kong to investigate how the competitiveness of our businesses and trades could be enhanced through competition, and how the competitive edge of our enterprises could be sharpened as much as possible in the face of competition from other firms. Some have considered the cost of doing business in Hong Kong too high; nevertheless, I do not think this is where the crux of the problem lies. Let me illustrate this with an example. While the operating cost for businesses in Hong Kong is among the highest in the world, four of the 10 most profitable McDonald's are found in Hong Kong. Although this may be attributable to the successful business practices, the competitiveness of the restaurants concerned is indeed very remarkable. As we all know, the McDonald's in Hong Kong are selling their meals at a lower price than their counterparts in the United States. But how could Hong Kong do that? Competition. For the McDonald's need to compete with others in Hong Kong.

In view of the changes in the circumstances, the answers to our cause should not be the same as that two years ago. I could not agree to some of the proposals put forward by the Consumer Council, since it has suggested setting up a fair competition authority to take charge of investigation, prosecution and punishment together. This suggestion by the Consumer Council is not included in our proposal for a fair competition law. We could understand the concerns expressed by some Members just now; however, as a first step, I am afraid the measures proposed by the Financial Secretary are outdated. We

need to make the first step forward and establish a statutory regulatory framework, with a view to advising the business operators of the things that they are allowed to do. Market liberalization is no doubt an important move; however, in so doing, we must make sure that we have in place the rules of the game to enable local enterprises to brave against competition from other international investors and giant companies. This calls for a fair set of game rules. The Honourable Bernard CHAN has also referred to the need for rules just now. This is particularly important to the financial markets, as they will all be liberalized sooner or later, won't they? Other trades and businesses will just be the same. For this reason, I hope that the Government would give the matter second thoughts, since it has vetoed the relevant proposal two years ago. Bearing in mind the changes in the circumstances, in considering the ways to bring in competition, we must have in place a competent set of game rules that could help Hong Kong sharpen its competitive edge.

MR MARTIN LEE (in Cantonese): Madam President, I was once the Chairman of the Consumer Council but I have forgotten the exact number of years ago when I did so. At that time, I proposed the establishment of an anti-trust team and invited Professor Edward CHEN to be the Vice Chairman of the team. Since then, I have been working hard for the gradual disappearance of monopolization in Hong Kong.

I was "fired" soon afterwards but I do not know if it was because I had established this anti-trust team. Fortunately, Professor CHEN took over as the Council Chairman and he continued to make efforts in this respect. At present, Miss Anna WU also continues to do so. In fact, anti-trust efforts benefit the consumers most. We can all see that after the recent removal of monopolization in the mobile phone market, mobile phones are now inexpensively-priced and good services are provided at low charges. How wonderful!

I do not understand why the political parties working for the interests of the industrial and business sectors oppose this motion. Their views on anti-trust are similar to their views on democracy, that both have to be done in a gradual and orderly manner. They support democracy and fair competition but they think that it is best if they are not realized too soon. They actually fear their realization. What do they fear? In fact, big consortia fear democracy and fair competition. Therefore, I believe that we have some ideas

why so many people oppose this motion.

We now have an economic slump, and our Chief Executive has said that democratic progress has to slow down as there is an economic slump. Some Members in this Council are now saying that the progress of fair competition has to slow down as there is an economic slump. Democracy is actually similar to fair competition and they are good for the public and consumers. Therefore, regardless of the success or failure of this motion today, the Democratic Party will continue to fight for democracy and make anti-trust efforts as both are good for the general public. Finally, I am confident that we will definitely be successful today, just wait and see.

Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, I would like to speak in response to the reasons given by some Honourable colleagues for opposing the motion today. Firstly, Mr Ambrose LAU said that the enactment of a fair competition law would give rise to uncertainties as the laws very often did not clearly specify reasonable and unfair competition. He also said that we might as well allow the Government to adopt administrative measures to deal with isolated cases.

What can be more uncertain than allowing the Government to deal with matters with discretion and arbitrarily? Why can we not have comprehensive laws setting out clearly the criteria under which we can apply our professional knowledge and judgment, and make a decision after having grasped the social confines and market supervision?

In fact, statutory regulation is the most unambiguous and we will only know our position and choose to make long-term investments after good, clear and general legal criteria have been set. If we rely on the Government to deal with isolated cases, it might resort to making open statements of coercion this time, or administrative and high-handed measures the next, or pinning on certain trades some other. Is this unambiguous?

Mr Ambrose LAU has also said that if this law is enacted, it will give rise to vicious competition and unemployment. I really find this hard to understand. I must tell Members that we need to enact a fair competition law

precisely because we wish to have fair competition and upset monopolization which smothers fair competition. Competition in a market devoid of competition will upset market operation.

Do Members know what results will fair competition bring? Companies that cannot survive and those which rely on privileges and monopolization will be eliminated but well-managed companies and innovative entrepreneurs will emerge. We can see that our society is in motion and more people will fight for opportunities and be willing to make investments. With an increase in investments, more job opportunities will be created. I really do not understand why some people would say that a fair competition law would give rise to vicious competition and unemployment.

Mr James TIEN and a few other Members of the Liberal Party support fair competition in principle but they do not find legislative means desirable. Mr James TIEN has just said that among the 70 countries that have formulated this law, most are not as prosperous as Hong Kong economically. I can hardly understand this. Are Japan, the United States, Canada and many European Union countries not economically prosperous? Have they not attracted many investors? I really fail to understand his remarks. He has said that the most important point is to leave the best judgment to the market. Undoubtedly, the market is the best umpire but I wonder if he understands the core of the problem. Today, we have to say explicitly that when there is monopolization, the market order will be upset. How can the market give play to its judging function or determine who wins or loses through competition then? Today, we are not asking the Government to intervene in the market but to do what it should do, that is, to maintain market order. What order? Fair competition. People with the abilities should enjoy equal opportunities.

Why do we have to enact an equal opportunity law? For the same philosophy that every one should have an equal opportunity for self-development. The same applies to the market. Every enterprise should have an equal opportunity to enter the market to compete and they should not be smothered by monopolization which upsets equal opportunities and fair competition.

Mr Bernard CHAN supports fair competition and considers it necessary, but he also cautions that the Government must legislate strategically and prudently. We absolutely agree with him but the Government should

definitely not take this as an excuse for not legislating at the moment. Mr CHAN said that this was good but this should not be done now. When in future? We will never get an answer. Mr CHAN has said that the Government has to be strategic and careful, but has he considered how the Government can act strategically and carefully? Take banks as an example. According to some people, in the present economic slump, relaxing the Interest Rate Agreement will strike a blow at banks. However, what about the prosperous time for the banking sector in 1994 and 1995? Many people similarly asked why we needed changes that would strike a blow at banks as banks were operating well. Some people even said at the time that if the Agreement was relaxed, it would have adverse effects on the banking system after all. Actually, with the exception of deposits for less than seven days, the Interest Rate Agreement on other deposits have already been relaxed. We do not find any adverse impact on the banking sector.

Summing up, we agree that the Government has to conduct a careful and comprehensive study on a mode of control but Members should discuss about the appropriate mode of control. However, I believe that the Government should regard legislation as both an end and a means to it. The motion debate today is precisely meant to allow Honourable colleagues to affirm this end and support this means and then study on this basis how the means can be made specific. Therefore, I hope that Honourable colleagues will at least support this specific end and means.

MR LEE CHEUK-YAN (in Cantonese): Madam President, today's motion will probably not be passed in the end. Anything that touches on specific privileges in this Council is doomed to be thrown out. I have seen through the nature of this Council.

A few weeks ago, we discussed the issue of fair competition with the Chief Executive, Mr TUNG Chee-hwa. I told him that comments were frequently made in the community against exorbitant prices and costs in Hong Kong and that if we wanted to enhance competition, costs must be lowered. There were also comments that while property prices had dropped, the wages of employees had not dropped fast enough, even though they were now readjusting. But since the readjustment could not be too fast, Hong Kong was still not competitive enough, they said. I told the Chief Executive that these

comments in the community were very unfair to employees. These people want to lower wages, but some prices will never be lowered. What am I referring to? I am referring to those things that involve monopolization. The two power companies have only frozen their charges. As for petrol prices, although they have been lowered in response to open statements made by the Government, they can be lowered even further. Even the Secretary for Economic Services, Mr Stephen IP, has said so.

The question now is that while they always say that wages must be low, prices need not be lowered when it comes to monopolies. I am afraid that after today's meeting, we will still have to rely on the rule of man and statements by the Government. However, how often can the Government make these statements? Actually, I am also afraid of the Government making such statements. If the Government comments that all wages in Hong Kong must be lowered, we will be quite miserable indeed. Sometimes, these comments can cut both ways. You never know who they will hurt. That is why we do not want to rely on the rule of man in the end. Instead, we want to have the clear rule of law and use the law to regulate fair competition, so that prices will not keep rising due to individual cases of monopolization in the market. If we want to be competitive, we have to lower prices first, instead of just bullying employees who have no powers of resistance. Very often, we see the powerless employees being bullied and their wages suppressed, while no one dares to challenge the privileged. Is this the kind of society that we want?

Today's motion will probably not be passed. I am not trying to lobby colleagues. I just want to expose the nature of this Council to the people. If we really want to change these privileges, it seems that nothing short of a revolution will do the trick. I hope that the people will get this message.

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

(No Member indicated a wish to speak)

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam

President, I have just listened to the valuable opinions of the Honourable LEE Wing-tat and some other Members concerning the motion. First of all, I would like to thank Members for their concern over the competition policy, which is an important issue in Hong Kong. I would like to take this opportunity to set out the Government's position and views on this issue.

The objective of the Hong Kong Special Administrative Region Government's competition policy is to enhance economic efficiency and free flow of trade, thereby also benefiting consumer welfare. The "economic efficiency" we mentioned here refers to the effective allocation of limited resources for the optimum economic benefits of the community as a whole. Mr LEE Wing-tat states in his motion that the aim of enacting a fair competition law is to "encourage enterprises to innovate and promote consumers' rights and interests". This is in line with the objective of the Government's competition policy. However, there is a point I need to stress: the introduction of a competition law is only a means to achieving the above-mentioned objective. The law itself is not an end. If we introduce the competition law without careful consideration, it may benefit some people in the short term, but it may not necessarily benefit the business environment, the consumers and our economy as a whole in the long run.

Hong Kong has all along been practising the fundamental economic principle of allowing the free play of market forces with the Government's intervention kept to the minimum. It is only when the market mechanism does not function properly that the Government may, after careful consideration, act as an overseer or goods/service provider. Moreover, the Government will make painstaking efforts to keep intervention to the minimum with a view to safeguarding the free operation of the market. We firmly believe that this principle can best help enhance market accessibility or market contestability, thereby facilitating the optimization of resources allocation, fostering competition and efficiency, as well as reducing costs and prices. In view of the above considerations, the Government will carefully examine the needs and characteristics of all sectors in order to adopt sector-specific measures for safeguarding healthy competition, so that the market accessibility of new entrants will not be hindered by an unfair market. This policy has long been fully understood and supported by the business sector and general public. It has made significant contribution to the economic growth of Hong Kong. As indicated by a number of authoritative reports on international competitiveness, Hong Kong is recognized as one of the most competitive areas in the world.

We are certainly not complacent with these achievements. On the contrary, we will continue our efforts to protect our free market from unnecessary intervention.

Today's motion is to urge the Government to enact a competition law. Before proceeding to detailed discussion, I would like, first of all, to talk about a fundamental question: What is competition law?

Mr LEE Wing-tat pointed out in the motion that the competition law aims to remove unfair market barriers, so as to encourage enterprises to innovate and to promote consumers' rights and interests. Then, what are unfair market barriers or so-called restrictive practices after all? In a nutshell, restrictive practices may include horizontal agreements (for example, price-fixing and market allocation), verticle restraints (for example, control of resale prices and sole agency) and the abuse of market dominance. However, there is no consensus among international economic organizations and academic circles on the determination of whether a business practice hinders competition and impairs economic efficiency, as well as what is the best approach to deal with these issues. Even in countries with competition laws, the scope of control over restrictive practices differs widely. In the United States, for instance, a business taking up 75% of market share may be considered as dominating the market, whereas in Canada, which neighbours the United States, the criterion is 35%. Besides, many countries differ widely in dealing with issues such as verticle restraints and mergers.

In a modern business environment characterized by rapid changes and market diversification, extensive consultations and thorough considerations are required before we can determine whether the scale of supervision of sectors is reasonable, accurate and appropriate. When the Government examined the proposal for enacting a competition law in 1997, it consulted over 110 representative organizations on the issue. The mainstream opinion of the respondents was that not all horizontal agreements and vertical restrictions were obstacles to competition, and that they might be conducive to enhancing economic efficiency. On the other hand, an all-embracing competition law was likely to put constraints on some harmless economic activities and produce adverse effects.

Moreover, the enforcement of a competition law in such a complicated business environment requires the establishment of an institution with expertise,

adequate resources and investigation authority. Some countries such as South Korea have even designated specific government department and court to deal with competition proceedings. Is it necessary for Hong Kong, renowned for allowing free play of market, to establish a large institution of this nature? If we are not going to set up such organizations, we could, as an alternative, make the law as simple as possible and let the court decide. However, this option only returns to our earlier question: Should we enact an important law which is uncertain of the actual scale of supervision it imposes? As you may agree, if a competition law which is ambiguous and full of grey areas is enacted hastily, not only will it fail to solve the problem but also make the businessmen hesitate to invest in Hong Kong, thus affecting the reputation of Hong Kong as a free market. This is not a consequence we want to see.

Furthermore, we must also take into consideration that under certain circumstances, impetuous banning or prohibition of seemingly restrictive business practices may not necessarily be the best policy for ensuring economic efficiency and may even contravene the principle of safeguarding a free market. Imposing an all-embracing competition law on sectors with limited competition may amount to an overreaction towards a problem. While these sectors may appear to be practising monopolization, restrictive business practices may not actually be involved. It merely reflects that stringent supervision are required for certain sectors. As the actual market condition of each sector varies, it would be difficult for us to predict the impact of individual business practices on competition. Let me give two examples:

- (i) Collusive agreements are generally regarded as one form of practice against the principle of competition. However, if these agreements aim at achieving economies of scale or higher allocation efficiency, and if the structure of the sector concerned can accommodate new entrants, we should analyse their contents carefully instead of just denying or preventing them by invoking the competition policy in its narrow sense.
- (ii) In certain sectors and markets where existing operators have obtained secure positions, new entrants may face difficulty in

market contestability at the start. However, as long as there is no restrictive business practices in the market, we should not strike blows at existing operators and give preferential treatments to new entrants, which is definitely against the principle of fairness. We should let the free play of market mechanism decide who gains market access, remains in business or fails in competition.

In a nutshell, some practices which appear to obstruct, restrict or distort competition may not necessarily be unreasonable. We must analyse them in greater details to ascertain whether they try to monopolize with intent and are detrimental to economic efficiency. The enactment of an all-embracing law to ban such practices would likely become an overkill.

Moreover, overseas experiences indicate that the scope of the competition law of an economy and the size of the organizations concerned may not necessarily be in proportion to the competitiveness of that economy. According to the information of the United Nations, which has a membership of 185, more than 70 economies in the world have competition laws. As pointed out by the Honourable James TIEN, both Hong Kong and Singapore, which are often and widely acclaimed as the most competitive economies, do not have all-embracing laws on competition or anti-monopolization. I trust you will agree that what the Government should do is to ensure a highly open and free market and to provide a level playing field for all business operators.

Having said that, we are not totally denying the merits which an all-embracing competition law may possibly bring. However, as discussed earlier, an all-embracing competition law may create considerable uncertainties, not only to existing operators or prospective new entrants, but also to consumers as well. Hence, we believe that introducing such a piece of legislation at this stage will do more harm than good. We should not turn a blind eye to the drawbacks of an all-embracing competition law and decide hastily on its enactment merely on the basis of its possible merits.

Although we are not in favour of an all-embracing competition law, it does not mean that the Government is not determined to promote economic efficiency and free trade through competition. The "Statement on Competition Policy" announced by the Government last May has clearly set out the objective of our competition policy and offered some specific pointers to facilitate government entities, public- and private-sector bodies, as well as the general

public to comply with the policy. The Statement, prepared by the Competition Policy Advisory Group (COMPAG) headed by the Financial Secretary, was one of COMPAG's important achievements in the past year. The Statement sets out a number of ways employed by the Government to foster competition, including the following.

COMPAG has been reviewing the practices adopted by the Government and other public-sector bodies with a view to identifying the extent of competition promotion. To date, COMPAG has completed a preliminary review on a number of cases involving restrictive practices. It has also examined 28 new measures on pro-competition initiated by various departments. We intend to publish later this year a progress report on COMPAG's work detailing the above-mentioned new measures. We believe that this will deepen the public's understanding of the work, role and operations of COMPAG.

COMPAG will in the meantime initiate pro-competition measures, on a sectoral basis, in the Government and public sector through appropriate legislative and administrative measures.

Let me clarify one point. The Government is neither afraid of nor against introducing legislative amendments to deal with anti-competitive problems. We only think that the extent of restrictive practices in the local market is not as severe as to merit an all-embracing legislative measure. In fact, the Government adopts a pragmatic attitude in dealing with anti-competitive practices in individual sectors. The purpose is to ensure that the policies are sector-specific and do not cause unnecessary distortion to market operation while solving the problems effectively.

In fact, Hong Kong has a number of laws inhibiting unfair, fraudulent or misleading business practices. They include the Trade Descriptions Ordinance, Control of Exemption Clauses Ordinance, Unconscionable Contracts Ordinance, Supply of Services (Implied Terms) Ordinance and Sale of Goods Ordinance, and so on. These Ordinances give direct and effective protection to the rights of consumers. As an example, at present, major telecommunications licences contain clauses on measures for safeguarding competition so as to prohibit the licensees from acting against fair competition, and to prevent a dominant operator from abusing its marketing position.

The Government will also raise public awareness of the importance of

competition for the enhancement of economic efficiency and free trade. For instance, the Office of the Telecommunications Authority will strengthen its publicity work to make the trade and users aware of the requirements of safeguarding competition.

The Government will encourage or persuade the private sector to embrace competition to achieve the objective of enhancing economic efficiency and free trade through voluntary action. For example, the Government is very concerned with the mechanism and transparency of how oil companies set prices in the supply of fuel oil and liquefied petroleum gas (LPG), which the oil companies have recently made positive responses. The Government will continue to keep an eye on the development of this market, and the prices of fuel oil, town gas and LPG, encouraging oil companies to review oil prices and increase the transparency on how the prices are set.

Finally, the Government is very supportive to the Consumer Council's work in drawing up codes of practice, encouraging the private sector to adopt pro-competition measures, such as self-regulatory regimes that preserve and enhance free competition, and monitoring and reviewing business practices in sectors prone to anti-competition behaviour. Moreover, the Government will continue to encourage the Consumer Council to consult relevant Policy Bureaux and departments on suspected business practices, and offer recommendations for COMPAG to consider. Recently, COMPAG has decided to consider to invite representatives from the Consumer Council to attend its meeting when recommendations from the Consumer Council are to be discussed.

The above measures reflect the Government's proactive and pragmatic approach in pursuing its competition policy, that is, under the fundamental principle of keeping interference with market mechanism to the minimum, the Government adopts pro-competition measures to enhance economic efficiency and free flow of trade, thereby also benefiting consumer welfare.

Mr LEE Wing-tat states in his motion that the Government has failed to put forward any measure to deal with unfair competition in various sectors. This is not the case. I have earlier pointed out the measures adopted by the Government in the telecommunications markets and petroleum products. Now I wish to discuss the measures taken by the Government in other markets:

- (i) In the finance sector, the consultancy firm appointed by the Hong

Kong Monetary Authority has completed a study on Hong Kong's banking industry last December. To achieve objectives such as to enhance the competitiveness of local banks and to increase the overall safety and stability of the banking system, the consultancy firm has made a series of recommendations which include to introduce more competition in the banking industry, relax the "one-building" condition and repeal the interest rate rule in phases. The Monetary Authority is now consulting the public on the consultants' recommendations before making a decision.

- (ii) In cargo handling, COMPAG has studied the issue of Terminal Handling Charges and encouraged the liner conferences to increase its transparency and improved communications and consultations with the customers. The Economic Services Bureau has taken a number of measures such as to increase the capacity of the terminals to promote competition and lower the fee levels.
- (iii) In the broadcasting sector, the Information Technology and Broadcasting Bureau (ITBB) has completed a review on television policy by the end of 1998. This study includes the competition policy angle and the Bureau is now implementing the relevant policy decisions as planned.
- (iv) In the energy sector, to promote competition in the gas supply market, the Government has completed a feasibility study on the feasibility of the common carrier system, and is now liaising with Towngas to build up an accounting system so that when there is sufficient supply of natural gas, we can further study the concept of common carrier system. In the provision of electricity, the Government has commissioned a consultant to study interconnection between the electricity companies and the feasibility to promote competition in the market.

Today's motion debate reflects public concern over the measures to be adopted by the Government in relation to competition. It also reminds us of our commitment to fully implementing a competition policy with a view to enhancing economic efficiency and free flow of trade. The Government believes that the best way forward is to adopt a gradual and pragmatic approach in formulating different frameworks which will best encourage healthy

competition among various sectors in our economy. It is our view that the enactment of an all-embracing competition law at this stage is undesirable for it may bring additional regulatory controls to the market, thereby impairing our economic efficiency, inhibiting freedom of contract, limiting consumer's choices as well as disrupting our flexible market mechanism. We believe that a comprehensive competition policy, supported by sector-specific administrative or legislative measures, will best suit the needs of the present economic development in Hong Kong.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you have one minute to reply.

MR LEE WING-TAT (in Cantonese): Madam President, the Secretary's reply today is not much different from the reply given three years ago. It is simply "old wine in a new bottle". On matters of principle, the Secretary's reply is rather weak and feeble. Of course, we agree that we need to hold further discussions on what constitutes monopolization, market barriers and cut-throat aggressive acts. However, we cannot use this as an excuse to turn down the demand for legislation. If the Government really adopts a proactive attitude in this matter, it can introduce a Blue Bill and carry out consultation on legislation for this issue. I am worried that if the Government does not carry out these legislative procedures, it will not be able to formulate a comprehensive competition policy. In that case, we will need the Government, the Chief Executive of the Special Administrative Region and a Policy Secretary to make open statements all the time, interfering with different market prices and asking those monopolizing businesses to cut their prices. Does this count as a competition policy? The Government really needs to proceed carefully.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEE Wing-tat be passed.

Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr James TIEN rose to claim a division.

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

PRESIDENT (in Cantonese): Before I declare that voting shall stop, are there any queries? Voting shall now stop and the result will be displayed.

(Some Members present were talking)

PRESIDENT (in Cantonese): Please be quiet. The meeting is in progress.

Functional Constituencies:

Mr Michael HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mrs Selina CHOW, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Timothy FOK and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Mr Gary CHENG, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Prof NG Ching-fai and Mr CHAN Kam-lam voted for the motion.

Mr TAM Yiu-chung, Mr David CHU and Mr Ambrose LAU voted against the motion.

Mr NG Leung-sing and Mr MA Fung-kwok abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 11 were in favour of the motion and 11 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present, 18 were in favour of the motion, three against it and two abstained. 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.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council. *(Some Members stood up)* We will resume at 2.30 pm on Wednesday, 3 February 1999.

Let me remind Members again that there is no hurry to rise. *(Laughter)*

Adjourned accordingly at twenty-four minutes past Nine o'clock.

Annex I**WRITTEN ANSWER****Translation of written answer by the Secretary for Health and Welfare to Mr Michael HO's supplementary question to Question 2**

According to information provided by the Police Force, the newly amended provisions of the Ordinance and the relevant instructions have been circulated widely within the Force in July 1998. The instructions have emphasized in particular the responsibility of the Force in assisting managers of non-smoking areas to enforce the law, and have also asked police officers to issue oral warnings or summons to people breaking the law on detection of such illegal acts.

Annex II

WRITTEN ANSWER

Written answer by the Secretary for Health and Welfare to Miss Christine LOH's supplementary question to Question 2

Attached please find a table summarizing the expenditure spent by the Hong Kong Council on Smoking and Health on publicity and promotion efforts in the past few years for Members' reference.

Expenditure of the Hong Kong Council
on Smoking and Health on
publicity and promotion efforts from 1994 to 1998

<i>Year</i>	<i>Expenditure (HK\$)</i>
1994	1,595,048
1995	1,529,002
1996	1,946,901
1997	1,878,931
1998	2,221,683

Annex III**WRITTEN ANSWER****Translation of written answer by the Secretary for Health and Welfare to Mr SIN Chung-kai's supplementary question to Question 2**

According to the reply by the Police Force to our Bureau, when the Smoking (Public Health) (Amendment) Ordinance 1997 was implemented last July, the content of the Ordinance and the relevant instructions have already been widely circulated within the Force. Apart from assisting those responsible for managing the non-smoking areas to enforce the law, police officers are also required to issue warnings or summons to people breaking the law on detection of such illegal acts.

Annex IV**IMMIGRATION (AMENDMENT) (NO. 2) BILL 1998****COMMITTEE STAGE**Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In the proposed definition of "APEC business travel card", in paragraph (b)(ii), by deleting "come to" and substituting "enter".</p> <p>(b) In the proposed definition of "travel pass", in paragraph (b), by deleting "come to" and substituting "enter".</p>